

[REDACTED]

From: [REDACTED]
Sent: 17 September 2024 11:22
To: [REDACTED]
Subject: Betteshanger

Hi [REDACTED]

Hope all is good with you.

I want to be more specific with the reason for granting 7 years – can you draft some wording for me please.

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ
Email: [REDACTED]@dover.gov.uk
Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

[REDACTED]

From: [REDACTED]
Sent: 17 July 2024 14:24
To: [REDACTED]
Subject: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Could we have a quick chat re this before I reply?

thanks

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>
Sent: Tuesday, July 16, 2024 9:49 AM
To: [REDACTED]@leighday.co.uk
Cc: [REDACTED]@leighday.co.uk; [REDACTED]@leighday.co.uk; [REDACTED]
[REDACTED]@DOVER.GOV.UK; [REDACTED]@dover.gov.uk
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

[REDACTED] is back in the office today and will contact you ahead of any screening opinion being issued.

Kind Regards



[REDACTED]
Planning Support and Land Charges Manager

Development Management

Dover District Council

Council Offices, White Cliffs Business Park,

Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Mobile: [REDACTED]

Email: [REDACTED]@DOVER.gov.uk

Web: dover.gov.uk

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From: [REDACTED]@leighday.co.uk>

Sent: Tuesday, July 16, 2024 9:24 AM

To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED]
[REDACTED]@DOVER.GOV.UK>

Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: FW: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear all

Following receipt of OOs from [REDACTED] [REDACTED] and [REDACTED] – please kindly see the below email for your urgent attention.

Best wishes,

[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
leighday.co.uk

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Panagram, 27 Goswell Road, London, EC1M 7AJ



From: [REDACTED]

Sent: Tuesday, July 16, 2024 9:19 AM

To: [REDACTED]@DOVER.GOV.UK>

Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@leighday.co.uk>; [REDACTED]

[REDACTED]@leighday.co.uk>; [REDACTED]@dover.gov.uk>; Madeeh [REDACTED]

[REDACTED]@leighday.co.uk>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

We write on behalf of Friends of Betteshanger concerning the two planning applications: DOV/22/01158 and DOV 23/01095.

Following receipt of our client's PAP letter, the Council indicated in its response on 12 June 2024 that it would be undertaking a fresh screening exercise in respect of both the above applications. Friends of Betteshanger are intending to make submissions to the Council setting out points that should be considered as part of this exercise.

We would be grateful for an indication as to when a screening decision can be expected and for confirmation that our client's submissions will be considered.

Many thanks

Associate Solicitor

leighday.co.uk

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From: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Sent: Wednesday, June 12, 2024 1:47 PM

To: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>;

[REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>;

[REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Subject: [EXTERNAL] RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED]

Please find attached the Council's PAP response to your firm's letter of 1 May 2024.

Kind regards

[REDACTED]



Principal Solicitor - Planning

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Mob: [REDACTED]

Email: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Web: <http://dover.gov.uk>

Please consider the Environment before printing this email

From: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Sent: Friday, May 24, 2024 5:46 PM

To: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>
Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED]

We gratefully request an update as to when a pre-action response can be expected.

Many thanks for your assistance.

Best wishes

[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
[leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)

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Panagram, 27 Goswell Road, London, EC1M 7AJ



From: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>
Sent: Friday, May 17, 2024 4:49 PM
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Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>
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Dear [REDACTED]

Thank you for your email.

As your letter of 1 May acknowledges, Dover District Council has not yet made decisions in relation to the planning applications which are the subject of your letter. Accordingly, and noting that it is established (see *R. (on the application of Burkett) v Hammersmith and Fulham LBC*

(No. 1) 3 All ER 97) that the time limit for judicial review applications under CPR r 54.5 runs from the grant of planning permission and not adoption of resolution, the Council considers your letter of claim to be premature. Furthermore, as the six-week period for challenge does not commence until the decisions are issued, the Council does not consider it unreasonable, nor prejudicial to your client's position, for a substantive response to be provided outside of your proposed date for reply. However, we endeavour to provide a substantive response to you as soon as possible, which we anticipate to be towards the end of next week.

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: [REDACTED]@leighday.co.uk>

Sent: Wednesday, May 15, 2024 12:29 PM

To: [REDACTED]@dover.gov.uk>

Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@DOVER.GOV.UK>; [REDACTED]

[REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

Thank you for the below.

The letter was sent under the Pre-Action Protocol for Judicial Review, under which the proposed defendants should normally respond within 14 days, i.e. by today, 15 May 2024. In those circumstances, please can you confirm if a response will be provided by today's deadline and, if not, clarify when it can be expected by?

Many thanks.

Best wishes,

[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
leighday.co.uk

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From: [REDACTED]@dover.gov.uk>

Sent: Wednesday, May 15, 2024 9:39 AM

To: [REDACTED]@leighday.co.uk>

Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@DOVER.GOV.UK>; [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: [EXTERNAL] URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED],

We have received your letter dated 1st May 2024 and are discussing the matters you have raised internally. We will revert with our substantive response in due course.

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: [REDACTED]@leighday.co.uk>

Sent: Wednesday, May 1, 2024 12:39

To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED]@icenciprojects.com
<[REDACTED]@icenciprojects.com>

Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear Dover Council, Betteshanger Country Park and SEAHIVE (c/o Icenci Projects)

Re: Forthcoming grant of planning permission for the erection of a surfing lagoon and pools (DOV/22/01158) and a 120-bed hotel (C1) building with associated facilities (DOV/23/01095)

We write on behalf of Friends of Betteshanger in relation to the above two applications and in accordance with the Judicial Review Pre-Action Protocol. Please see the letter attached for your urgent attention. Given the contents of this letter, we strongly advise it is passed on to your legal department as a matter of priority.

Please kindly:

- Confirm safe receipt on behalf of the proposed Defendant and that no hard copy is required
- Confirm safe receipt on behalf of the Interested Parties. Please note that a hard copy of the enclosed correspondence has also been sent by post to the proposed Interested Parties' registered addresses.
- Provide a response within 14 days, i.e. by **15 May 2024**

Kind regards,

████████████████████
Associate Solicitor

████████████████████
leighday.co.uk

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From: [REDACTED]@leighday.co.uk>
Sent: 17 July 2024 19:14
To: DDC Development Management
Cc: [REDACTED]
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

Many thanks for the below. Please can you confirm as soon as possible when the new screening decision is expected?

Thank you,
[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
leighday.co.uk

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From: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>
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To: [REDACTED]@leighday.co.uk>
Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>; [REDACTED]
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Dear [REDACTED]

[REDACTED] is back in the office today and will contact you ahead of any screening opinion being issued.

Kind Regards



Planning Support and Land Charges Manager
Development Management
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

Tel: [REDACTED]
Mobile: [REDACTED]
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Best wishes,

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[REDACTED]@leighday.co.uk>; [REDACTED]@dover.gov.uk>; [REDACTED]
[REDACTED]@leighday.co.uk>

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Dear [REDACTED]

We write on behalf of Friends of Betteshanger concerning the two planning applications: DOV/22/01158 and DOV 23/01095.

Following receipt of our client's PAP letter, the Council indicated in its response on 12 June 2024 that it would be undertaking a fresh screening exercise in respect of both the above applications. Friends of Betteshanger are intending to make submissions to the Council setting out points that should be considered as part of this exercise.

We would be grateful for an indication as to when a screening decision can be expected and for confirmation that our client's submissions will be considered.

Many thanks

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Associate Solicitor

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Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@leighday.co.uk>; [REDACTED]

[REDACTED]@leighday.co.uk>; [REDACTED]@dover.gov.uk>; Ma [REDACTED]

[REDACTED]@leighday.co.uk>

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Dear [REDACTED]

Please find attached the Council's PAP response to your firm's letter of 1 May 2024.

Kind regards



Principal Solicitor - Planning
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ
Tel: [REDACTED]
Mob: [REDACTED]
Email: [REDACTED]@DOVER.GOV.UK
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Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Many thanks for your assistance.

Best wishes

[REDACTED]
Associate Solicitor

[REDACTED]
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Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@DOVER.GOV.UK>; [REDACTED]

██████████@leighday.co.uk>; ██████████@leighday.co.uk>

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Dear ██████████

Thank you for your email.

As your letter of 1 May acknowledges, Dover District Council has not yet made decisions in relation to the planning applications which are the subject of your letter. Accordingly, and noting that it is established (see *R. (on the application of Burkett) v Hammersmith and Fulham LBC* (No.1) 3 All ER 97) that the time limit for judicial review applications under CPR r 54.5 runs from the grant of planning permission and not adoption of resolution, the Council considers your letter of claim to be premature. Furthermore, as the six-week period for challenge does not commence until the decisions are issued, the Council does not consider it unreasonable, nor prejudicial to your client's position, for a substantive response to be provided outside of your proposed date for reply. However, we endeavour to provide a substantive response to you as soon as possible, which we anticipate to be towards the end of next week.

Kind regards,

██████████



██████████
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: ██████████@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: ██████████@leighday.co.uk>

Sent: Wednesday, May 15, 2024 12:29 PM

To: ██████████@dover.gov.uk>

Cc: ██████████@DOVER.GOV.UK>; ██████████@DOVER.GOV.UK>; ██████████@leighday.co.uk>; ██████████@leighday.co.uk>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear ██████████

Thank you for the below.

The letter was sent under the Pre-Action Protocol for Judicial Review, under which the proposed defendants should normally respond within 14 days, i.e. by today, 15 May 2024. In those circumstances, please can you confirm if a response will be provided by today's deadline and, if not, clarify when it can be expected by?

Many thanks.

Best wishes,

Associate Solicitor

leighday.co.uk

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From: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>

Sent: Wednesday, May 15, 2024 9:39 AM

To: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED]

<[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Subject: [EXTERNAL] URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED],

We have received your letter dated 1st May 2024 and are discussing the matters you have raised internally. We will revert with our substantive response in due course.

Kind regards,



Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)

Web: <http://dover.gov.uk>

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From: [REDACTED]@leighday.co.uk>
Sent: Wednesday, May 1, 2024 12:39
To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED]@icenciprojects.com
<[REDACTED]@icenciprojects.com>
Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>; [REDACTED]
[REDACTED]@leighday.co.uk>
Subject: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear Dover Council, Betteshanger Country Park and SEAHIVE (c/o Icenci Projects)

Re: Forthcoming grant of planning permission for the erection of a surfing lagoon and pools (DOV/22/01158) and a 120-bed hotel (C1) building with associated facilities (DOV/23/01095)

We write on behalf of Friends of Betteshanger in relation to the above two applications and in accordance with the Judicial Review Pre-Action Protocol. Please see the letter attached for your urgent attention. Given the contents of this letter, we strongly advise it is passed on to your legal department as a matter of priority.

Please kindly:

- Confirm safe receipt on behalf of the proposed Defendant and that no hard copy is required
- Confirm safe receipt on behalf of the Interested Parties. Please note that a hard copy of the enclosed correspondence has also been sent by post to the proposed Interested Parties' registered addresses.
- Provide a response within 14 days, i.e. by **15 May 2024**

Kind regards,

[REDACTED]
Associate Solicitor

[REDACTED]
leighday.co.uk

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From: [REDACTED]@akdc.co.uk>
Sent: 18 July 2024 12:06
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Betteshanger SeaHive S.106

Hi all

Sorry to contact you again while you are reviewing the Betteshanger SeaHive S.106, but please could I suggest one further minor addition to the end of Schedule 1, Paragraph 10 (suggested wording below) to clarify the charging which could still take place whilst providing free of charge access to the wider park.

[While there will be no entry charge to the Wider Country Park, a charging regime for parking and the use of some of the facilities within the Wider Country Park can be in place in compliance with Paragraph 10 and this Deed as a whole.](#)

Many thanks

Email: [REDACTED]@akdc.co.uk
Tel: [REDACTED]



On Mon, 8 Jul 2024 at 13:30, [REDACTED]@akdc.co.uk> wrote:
Hi all

I hope you are well - please see attached the latest version of the Betteshanger SeaHive S.106 agreement.

We have accepted your tracked changes wherever possible and the attached version provides a (relatively) clean copy with just the instances where we have proposed further changes shown. Haroon has also helpfully explained our thinking on the proposed further changes in the comments.

Thank you for your help and I look forward to progressing this and the Hotel S.106 shortly. If it would be helpful to discuss any of these final points, please let me know.

Kind regards



Email:  [@akdc.co.uk](mailto: @akdc.co.uk)

Tel: 



From: [REDACTED]@akdc.co.uk>
Sent: 19 July 2024 11:52
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Betteshanger SeaHive S.106

Hi all

Please see below some amended wording to be added to the foot of Schedule 1, Paragraph 10.

Sorry for any confusion caused.

While there will be no entry charge to the Wider Country Park, a charging regime for parking and all other activities other than entrance can be in place in full compliance with Paragraph 10 and this Deed as a whole.

Kind regards

[REDACTED]

[REDACTED]

Email: [REDACTED]@akdc.co.uk
Tel: [REDACTED]



On Thu, 18 Jul 2024 at 12:06, [REDACTED]@akdc.co.uk> wrote:

Hi all

Sorry to contact you again while you are reviewing the Betteshanger SeaHive S.106, but please could I suggest one further minor addition to the end of Schedule 1, Paragraph 10 (suggested wording below) to clarify the charging which could still take place whilst providing free of charge access to the wider park.

[While there will be no entry charge to the Wider Country Park, a charging regime for parking and the use of some of the facilities within the Wider Country Park can be in place in compliance with Paragraph 10 and this Deed as a whole.](#)

Many thanks

[REDACTED]

[REDACTED]

Email: [REDACTED]@akdc.co.uk

Tel: [REDACTED]



On Mon, 8 Jul 2024 at 13:30, [REDACTED]@akdc.co.uk> wrote:

Hi all

I hope you are well - please see attached the latest version of the Betteshanger SeaHive S.106 agreement.

We have accepted your tracked changes wherever possible and the attached version provides a (relatively) clean copy with just the instances where we have proposed further changes shown. Haroon has also helpfully explained our thinking on the proposed further changes in the comments.

Thank you for your help and I look forward to progressing this and the Hotel S.106 shortly. If it would be helpful to discuss any of these final points, please let me know.

Kind regards

[REDACTED]

[REDACTED]

Email: [REDACTED]@akdc.co.uk

Tel: [REDACTED]



From: [REDACTED]@leighday.co.uk>
Sent: 19 July 2024 15:25
To: DDC Development Management
Cc: [REDACTED]
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Follow Up Flag: Follow up
Flag Status: Flagged

Dear all

We would be very grateful for an indication on the expected timing of the new screening decision so that we can properly advise our client.

Please confirm as soon as possible.

Best wishes

[REDACTED]
Associate Solicitor

[REDACTED]
leighday.co.uk

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From: [REDACTED]
Sent: Wednesday, July 17, 2024 7:14 PM
To: 'DDC Development Management' <DevelopmentManagement@DOVER.GOV.UK>
Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>; [REDACTED]
[REDACTED]@DOVER.GOV.UK>; [REDACTED]@doover.gov.uk>
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

Many thanks for the below. Please can you confirm as soon as possible when the new screening decision is expected?

Thank you,

██████████
Associate Solicitor

██████████
leighday.co.uk

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From: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>

Sent: Tuesday, July 16, 2024 9:49 AM

To: ██████████ @leighday.co.uk

Cc: ██████████ @leighday.co.uk; ██████████ @leighday.co.uk; ██████████

██████████ @DOVER.GOV.UK; ██████████ @dover.gov.uk

Subject: [EXTERNAL] RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear ██████████

██████████ is back in the office today and will contact you ahead of any screening opinion being issued.

Kind Regards



██████████
Planning Support and Land Charges Manager

Development Management

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

Tel: ██████████

Mobile: ██████████

Email: ██████████ @DOVER.gov.uk

Web: dover.gov.uk

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From: [REDACTED]@leighday.co.uk>

Sent: Tuesday, July 16, 2024 9:24 AM

To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED]

[REDACTED]@DOVER.GOV.UK>

Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: FW: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear all

Following receipt of OOs from [REDACTED] [REDACTED] and [REDACTED] – please kindly see the below email for your urgent attention.

Best wishes,

[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
leighday.co.uk

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From: [REDACTED]

Sent: Tuesday, July 16, 2024 9:19 AM

To: [REDACTED]@DOVER.GOV.UK>

Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@leighday.co.uk>; [REDACTED]

[REDACTED]@leighday.co.uk>; [REDACTED]@dover.gov.uk>; [REDACTED]

[REDACTED]@leighday.co.uk>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

We write on behalf of Friends of Betteshanger concerning the two planning applications: DOV/22/01158 and DOV 23/01095.

Following receipt of our client's PAP letter, the Council indicated in its response on 12 June 2024 that it would be undertaking a fresh screening exercise in respect of both the above applications. Friends of Betteshanger are intending to make submissions to the Council setting out points that should be considered as part of this exercise.

We would be grateful for an indication as to when a screening decision can be expected and for confirmation that our client's submissions will be considered.

Many thanks

Associate Solicitor

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From: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Sent: Wednesday, June 12, 2024 1:47 PM

To: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>;

[REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>;

[REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Subject: [EXTERNAL] RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED]

Please find attached the Council's PAP response to your firm's letter of 1 May 2024.

Kind regards

[REDACTED]



Principal Solicitor - Planning

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Mob: [REDACTED]

Email: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Web: <http://dover.gov.uk>

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From: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Sent: Friday, May 24, 2024 5:46 PM

To: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>
Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED]

We gratefully request an update as to when a pre-action response can be expected.

Many thanks for your assistance.

Best wishes

[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
[leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)

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From: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>
Sent: Friday, May 17, 2024 4:49 PM
To: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>
Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>
Subject: [EXTERNAL] URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED]

Thank you for your email.

As your letter of 1 May acknowledges, Dover District Council has not yet made decisions in relation to the planning applications which are the subject of your letter. Accordingly, and noting that it is established (see *R. (on the application of Burkett) v Hammersmith and Fulham LBC*

(No. 1) 3 All ER 97) that the time limit for judicial review applications under CPR r 54.5 runs from the grant of planning permission and not adoption of resolution, the Council considers your letter of claim to be premature. Furthermore, as the six-week period for challenge does not commence until the decisions are issued, the Council does not consider it unreasonable, nor prejudicial to your client's position, for a substantive response to be provided outside of your proposed date for reply. However, we endeavour to provide a substantive response to you as soon as possible, which we anticipate to be towards the end of next week.

Kind regards,

[Redacted]



[Redacted]
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [Redacted]@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: [Redacted]@leighday.co.uk>

Sent: Wednesday, May 15, 2024 12:29 PM

To: [Redacted]@dover.gov.uk>

Cc: [Redacted]@DOVER.GOV.UK>; [Redacted]@DOVER.GOV.UK>; [Redacted]

[Redacted]@leighday.co.uk>; [Redacted]@leighday.co.uk>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [Redacted]

Thank you for the below.

The letter was sent under the Pre-Action Protocol for Judicial Review, under which the proposed defendants should normally respond within 14 days, i.e. by today, 15 May 2024. In those circumstances, please can you confirm if a response will be provided by today's deadline and, if not, clarify when it can be expected by?

Many thanks.

Best wishes,

[Redacted]

[Redacted]
Associate Solicitor

[Redacted]
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From: [REDACTED]@dover.gov.uk>
Sent: Wednesday, May 15, 2024 9:39 AM
To: [REDACTED]@leighday.co.uk>
Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@DOVER.GOV.UK>; [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>
Subject: [EXTERNAL] URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED],

We have received your letter dated 1st May 2024 and are discussing the matters you have raised internally. We will revert with our substantive response in due course.

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ
Email: [REDACTED]@dover.gov.uk
Web: <http://dover.gov.uk>

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From: [REDACTED]@leighday.co.uk>
Sent: Wednesday, May 1, 2024 12:39
To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED]@icenciprojects.com
<[\[REDACTED\]@icenciprojects.com](mailto:[REDACTED]@icenciprojects.com)>
Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>; [REDACTED]
[REDACTED]@leighday.co.uk>
Subject: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear Dover Council, Betteshanger Country Park and SEAHIVE (c/o Icenci Projects)

Re: Forthcoming grant of planning permission for the erection of a surfing lagoon and pools (DOV/22/01158) and a 120-bed hotel (C1) building with associated facilities (DOV/23/01095)

We write on behalf of Friends of Betteshanger in relation to the above two applications and in accordance with the Judicial Review Pre-Action Protocol. Please see the letter attached for your urgent attention. Given the contents of this letter, we strongly advise it is passed on to your legal department as a matter of priority.

Please kindly:

- Confirm safe receipt on behalf of the proposed Defendant and that no hard copy is required
- Confirm safe receipt on behalf of the Interested Parties. Please note that a hard copy of the enclosed correspondence has also been sent by post to the proposed Interested Parties' registered addresses.
- Provide a response within 14 days, i.e. by **15 May 2024**

Kind regards,

██████████
Associate Solicitor

██████████
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From: [REDACTED]
Sent: 22 July 2024 14:35
To: [REDACTED]
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Yes, I tend to agree. I can't see that there is any significant advantage to be gained by holding them back.

Dan



[REDACTED]
Principal Solicitor - Planning
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ
Tel: [REDACTED]
Mob: [REDACTED]
Email: [REDACTED]@DOVER.GOV.UK
Web: <http://dover.gov.uk>

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From: [REDACTED]@nexusplanning.co.uk>
Sent: Monday, July 22, 2024 2:33 PM
To: [REDACTED]@DOVER.GOV.UK>;
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

My view is that it would be better to release the revised Screening Opinions sooner rather than later

[REDACTED]

[REDACTED]
Associate Director

M [REDACTED]
E [REDACTED]@nexusplanning.co.uk



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From: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Sent: Monday, July 22, 2024 2:31 PM

To: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@nexusplanning.co.uk](mailto:[REDACTED]@nexusplanning.co.uk)>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Was the plan to let them have the revised screening opinions shortly before we release the planning permissions?



[REDACTED]
Principal Solicitor - Planning

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Mob: [REDACTED]

Email: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Web: <http://dover.gov.uk>

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From: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>

Sent: Monday, July 22, 2024 10:11 AM

To: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@nexusplanning.co.uk](mailto:[REDACTED]@nexusplanning.co.uk)>

Subject: FW: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Morning all,

Please see below, can I leave this with you.

Thanks

Kelly



[REDACTED]
Support Officer

Development Management

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Email: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>

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From: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Sent: Friday, July 19, 2024 3:25 PM

To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>

Cc: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear all

We would be very grateful for an indication on the expected timing of the new screening decision so that we can properly advise our client.

Please confirm as soon as possible.

Best wishes

[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
leighday.co.uk

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From: [REDACTED]

Sent: Wednesday, July 17, 2024 7:14 PM

To: 'DDC Development Management' <DevelopmentManagement@DOVER.GOV.UK>

Cc: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

Many thanks for the below. Please can you confirm as soon as possible when the new screening decision is expected?

Thank you,

[REDACTED]

[REDACTED]
Associate Solicitor

Panagram, 27 Goswell Road, London, EC1M 7AJ



From: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>

Sent: Tuesday, July 16, 2024 9:49 AM

To: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Cc: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>

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Dear [REDACTED]

[REDACTED] is back in the office today and will contact you ahead of any screening opinion being issued.

Kind Regards



[REDACTED]
Planning Support and Land Charges Manager
Development Management

Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

Tel: [REDACTED]
Mobile: [REDACTED]
Email: [REDACTED] <[\[REDACTED\]@DOVER.gov.uk](mailto:[REDACTED]@DOVER.gov.uk)>
Web: dover.gov.uk

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From: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Sent: Tuesday, July 16, 2024 9:24 AM

To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>
Subject: FW: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear all

Following receipt of OOOs from [REDACTED] [REDACTED] and [REDACTED] – please kindly see the below email for your urgent attention.

Best wishes,

[REDACTED]

[REDACTED]
Associate Solicitor

[REDACTED]
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From: [REDACTED]
Sent: Tuesday, July 16, 2024 9:19 AM
To: [REDACTED]@DOVER.GOV.UK>
Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@leighday.co.uk>;
[REDACTED]@leighday.co.uk>; [REDACTED]@dover.gov.uk>; [REDACTED]
[REDACTED]@leighday.co.uk>
Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

We write on behalf of Friends of Betteshanger concerning the two planning applications: DOV/22/01158 and DOV 23/01095.

Following receipt of our client's PAP letter, the Council indicated in its response on 12 June 2024 that it would be undertaking a fresh screening exercise in respect of both the above applications. Friends of Betteshanger are intending to make submissions to the Council setting out points that should be considered as part of this exercise.

We would be grateful for an indication as to when a screening decision can be expected and for confirmation that our client's submissions will be considered.

Many thanks

[REDACTED]

[REDACTED]

Associate Solicitor

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From: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

Sent: Wednesday, June 12, 2024 1:47 PM

To: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>;

[REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>; [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>;

[REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

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Dear [REDACTED]

Please find attached the Council's PAP response to your firm's letter of 1 May 2024.

Kind regards

[REDACTED]



[REDACTED]
Principal Solicitor - Planning

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Mob: [REDACTED]

Email: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>

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From: [REDACTED] <[\[REDACTED\]@leighday.co.uk](mailto:[REDACTED]@leighday.co.uk)>

Sent: Friday, May 24, 2024 5:46 PM

To: [REDACTED] <[\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)>

Cc: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED]

██████████@leighday.co.uk>; ██████████@leighday.co.uk>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear ██████████

We gratefully request an update as to when a pre-action response can be expected.

Many thanks for your assistance.

Best wishes

██████████

██████████
Associate Solicitor

██████████
leighday.co.uk

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From: ██████████@dover.gov.uk>

Sent: Friday, May 17, 2024 4:49 PM

To: ██████████@leighday.co.uk>

Cc: ██████████@DOVER.GOV.UK>; ██████████@DOVER.GOV.UK>; ██████████@leighday.co.uk>; ██████████@leighday.co.uk>

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Dear ██████████

Thank you for your email.

As your letter of 1 May acknowledges, Dover District Council has not yet made decisions in relation to the planning applications which are the subject of your letter. Accordingly, and noting that it is established (see *R. (on the application of Burkett) v Hammersmith and Fulham LBC* (No. 1) 3 All ER 97) that the time limit for judicial review applications under CPR r 54.5 runs from the grant of planning permission and not adoption of resolution, the Council considers your letter

of claim to be premature. Furthermore, as the six-week period for challenge does not commence until the decisions are issued, the Council does not consider it unreasonable, nor prejudicial to your client's position, for a substantive response to be provided outside of your proposed date for reply. However, we endeavour to provide a substantive response to you as soon as possible, which we anticipate to be towards the end of next week.

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: [REDACTED]@leighday.co.uk>

Sent: Wednesday, May 15, 2024 12:29 PM

To: [REDACTED]@dover.gov.uk>

Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@DOVER.GOV.UK>; [REDACTED]

[REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: RE: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

Dear [REDACTED]

Thank you for the below.

The letter was sent under the Pre-Action Protocol for Judicial Review, under which the proposed defendants should normally respond within 14 days, i.e. by today, 15 May 2024. In those circumstances, please can you confirm if a response will be provided by today's deadline and, if not, clarify when it can be expected by?

Many thanks.

Best wishes,

[REDACTED]

[REDACTED]

Associate [REDACTED]

020 7650 1200

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From: [REDACTED]@dover.gov.uk>

Sent: Wednesday, May 15, 2024 9:39 AM

To: [REDACTED]@leighday.co.uk>

Cc: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@DOVER.GOV.UK>; [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: [EXTERNAL] URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear [REDACTED],

We have received your letter dated 1st May 2024 and are discussing the matters you have raised internally. We will revert with our substantive response in due course.

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

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From: [REDACTED]@leighday.co.uk>

Sent: Wednesday, May 1, 2024 12:39

To: DDC Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED]@icenciprojects.com
[REDACTED]@icenciprojects.com>

Cc: [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>; [REDACTED]@leighday.co.uk>

Subject: URGENT: LETTER BEFORE CLAIM - BETTESHANGER COUNTRY PARK

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Dear Dover Council, Betteshanger Country Park and SEAHIVE (c/o Icenci Projects)

Re: Forthcoming grant of planning permission for the erection of a surfing lagoon and pools (DOV/22/01158) and a 120-bed hotel (C1) building with associated facilities (DOV/23/01095)

We write on behalf of Friends of Betteshanger in relation to the above two applications and in accordance with the Judicial Review Pre-Action Protocol. Please see the letter attached for your urgent attention. Given the contents of this letter, we strongly advise it is passed on to your legal department as a matter of priority.

Please kindly:

- Confirm safe receipt on behalf of the proposed Defendant and that no hard copy is required
- Confirm safe receipt on behalf of the Interested Parties. Please note that a hard copy of the enclosed correspondence has also been sent by post to the proposed Interested Parties' registered addresses.
- Provide a response within 14 days, i.e. by **15 May 2024**

Kind regards,

██████████
Associate Solicitor

██████████
leighday.co.uk

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From: [REDACTED]@akdc.co.uk>
Sent: 26 July 2024 11:10
To: [REDACTED]
Subject: Betteshanger S.106

Hi [REDACTED]

In relation to the Country Park Ecological and Biodiversity Management and Monitoring Plan definition, which [REDACTED] has reverted to the previous wording, the principal reason for this is that the plan is specifically for the management and monitoring of the Habitat Compensation Measures (defined on page 14). As set out in the committee report, the other plans and strategies (Fiery Clearwing Strategy, Lizard Orchid Strategy, Reptile Translocation Strategy, Tree Planting Scheme, Turtle Dove Strategy and Visitor Management Strategy) in Schedule 1 have their own corresponding monitoring plans referenced below:

- Fiery Clearwing Moths - management and monitoring secured by point (ii) of the strategy definition (page 13)
- Lizard Orchids - management and monitoring secured by point (ii) of the strategy definition (page 15)
- Reptiles - management and monitoring secured by the fourth bullet point of the strategy definition (page 16) and paragraph 13.3 (page 25)
- Tree Planting - management and maintenance secured at paragraph 14.6 (page 25)
- Turtle Dove - monitoring regime referred to in the fourth bullet point of the strategy definition and Turtle Dove Survey and Monitoring Regime definition (page 17) and secured by paragraph 5.5 and section 6 (page 21).
- Visitor Management - monitoring regime referred to in the fifth bullet point of the strategy definition and Visitor Survey and Monitoring Regime definition (page 18) and secured by paragraph 7.6 and section 8 (page 22).

As such, we thought that the amended wording to make the Management and Monitoring Plan all encompassing would create confusion when each of the strategies have their own monitoring plans and provisions within Schedule 1 (listed above).

The deletion of 'timescale for implementation' has been made as the delivery of the Habitat Compensation Measures is secured by the Habitat and Biodiversity Enhancement Scheme (see definitions on page 14). The biodiversity enhancements to be delivered are described in the S.106 as the Habitat Compensation Measures. The purpose of the Country Park Ecological and Biodiversity Management and Monitoring Plan is to monitor and manage the Habitat Compensation Measures, once delivered.

The terminology used to define each of the plans and the approach taken with each plan was lifted directly from the committee report.

In light of the above, the bullet points relating to actions to achieve biodiversity enhancement across the Wider Country Park and the management and monitoring in respect of lizard orchids, fiery

clearwings and reptiles have been deleted from the Country Park Ecological and Biodiversity Management and Monitoring Plan definition.

I hope this helps to explain our thinking, but I'd be happy to discuss so we can finalise the S.106s asap.

Many thanks



Email:  [@akdc.co.uk](mailto: @akdc.co.uk)

Tel: 



From: [REDACTED]@leighday.co.uk>
Sent: 02 August 2024 17:24
To: DDC Development Management; [REDACTED]; DDC Development Management;
Cc: [REDACTED]
Subject: Friends of Betteshanger - EIA Screening Submission to DCC
Attachments: Friends of Betteshanger - EIA Screening Submission to DCC (02-08-2024) FINAL .pdf
Importance: High

Dear all,

We write on behalf of our client, Friends of Betteshanger, concerning two planning applications: DOV/22/01158 and DOV 23/01095.

Following receipt of our client's PAP letter, the Council indicated in its response on 12 June 2024 that it would be undertaking a fresh screening exercise in respect of both the above applications. Please see the attached submissions on behalf of Friends of Betteshanger setting out points that should be urgently considered as part of this exercise.

Please confirm safe receipt.

Kind regards,

[REDACTED]
Associate Solicitor

[REDACTED]
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Friends of Betteshanger
Submissions to Dover District Council on the EIA Screening Opinion

2 August 2024

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Introduction

We are writing on behalf of Friends of Betteshanger concerning the screening opinion being undertaken by Dover District Council (“DDC”) for two applications: DOV/22/01158 and DOV 23/01095. We request that the points raised in this document are considered as part of the assessment for EIA. They relate to:

- **DOV/22/01158: Surf lagoon, plus cafe/restaurant/bar, lounge, shop, hiring and changing facilities and multi-use space, 15 overnight and holiday pods, learning hive, well-being facilities, bike/pump track and associated roads, paths and cycle parking, together with landscaping and necessary access works and associated site infrastructure. (Re-consultation: additional/revised information including repositioned holiday lodge; revised parking arrangement; updated ecological appraisal; updated flood risk assessment and drainage strategy; habitat regulations assessment; transport response; and visitor management and turtle dove strategy.**
- **DOV/23/01095: Erection of a 120 bed hotel (C1) building with associated spa facilities, gym, restaurant/bar access, landscape and parking.**

The Council’s previous screening opinions dated 4 July 2023 accepted that the two development proposals fell within the scope of Schedule 2, paragraph 12(c) (‘holiday villages and hotel complexes’) and 12(d) (‘theme parks’) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”). We agree with that conclusion.

The two development proposals have an area greater than 0.5 Hectares; the surf lagoon covers an area of 9.6 Hectares¹; the hotel covers an area of 2.6 Hectares² so the development exceeds the threshold for a schedule 2 development.

DDC agreed in a pre-action response³ to re-screen this development.

As an overall comment, Friends of Betteshanger is very concerned by the amount of inadequate quality and quantity of environmental information which is currently available to the decision maker. These gaps are identified below and, together with the likely significant effects of the developments, demonstrate the need for a thorough EIA to be carried out.

EIA Screening Principles

The Precautionary Principle

In deciding whether an EIA is needed DDC will need to have regard to the precautionary principle and to the degree of uncertainty as to environmental impacts at the date of the decision. Depending on the information available, the decision-maker may or may not be able to make a judgment as to the likelihood of significant effects on the environment. There may be cases where the uncertainties are such that a negative screening decision cannot be taken (*R (Loader) v Secretary of State for Communities and Local Government* [2012] EWCA Civ 869).

This was confirmed in *R (on the application of Swire) v Secretary of State for Housing Communities and Local Government* [2020] EWHC (Admin), where the court confirmed that screening authorities should

1 Icen Planning Statement (22/01158) (1/9/23) page 8

2 Icen Planning Statement (23/01095) (2/9/22) page 5

3 Letter dated 12 June 2024

take a precautionary approach and not base their decisions on assumptions that unidentified remediation measures will be successful.

In *R (Champion) v North Norfolk District Council* [2015] UKSC 52, the Supreme Court similarly concluded that if there is material doubt about the effectiveness of any proposed mitigation, then a decision should be made that the application in question involves EIA development and that an environmental statement should be submitted.

Any conclusion as to significant effects on the environment must be supported by adequate and up-to-date information and this relates to many areas like air quality, water treatment, biodiversity, the cumulative effects of planning consents in the area and much else discussed below.

Likely Significant Effects

An EIA must be carried out where a development proposal is likely to have significant effects on the environment. In assessing whether likely significant effects arise, the decision-maker must consider whether there is a real risk or serious possibility of significant effects arising (*R (Bateman) v South Cambridgeshire District Council* [2011] EWCA Civ 157).

The Scope of Development

The identity of a project for the purposes of EIA is not necessarily circumscribed by the ambit of the specific application for planning permission which is under consideration. The objectives of the Directive and the Regulations cannot be circumvented (deliberately or otherwise) by dividing what is in reality a single project into separate parts and treating each of them as a “project” – a process referred to in shorthand as “salami-slicing” (*R (Ashchurch Rural Parish Council) v Tewkesbury BC* [2023] PTSR 1377 at [78]).

R Wingfield v Canterbury CC [2019] EWHC 1975 identified a non-exhaustive list of matters that can be relevant in deciding whether two schemes comprise a single EIA project:

1. Common ownership;
2. Simultaneous determination of planning applications;
3. Functional interdependence, where one part of a development could not function without another; and,
4. Whether each development is a stand-alone project that is justified on its own merits and would be pursued independently of another development.

Cumulative Impacts

Where it is legitimate for two development proposals to be brought forward separately, it is nonetheless important to assess their cumulative impacts. Overlapping environmental effects may exist where there are independent projects nearby to one another, in which case an assessment of cumulative effects will be required (*R (Wingfield) v Canterbury City Council* [2020] JPL 154 at §70).

Applying the principles to the development proposals at Betteshanger Couty Park (BCP)

Scope of Development for EIA Purposes: The two applications form part of a single development.

Although nominally distinct, the two applications, 22/01158 and 23/01095 are clearly part of a single project and part of a single 'theme park' concept and the developer has stated that the planned activities, the surf lagoon and hotel are all necessary to make sufficient profit to keep the park open.

There is a single concept and an integrated set of activities to create a park where visitors can be kept occupied with restaurants, bars, special events like music concerts, motorcycle racing, the mining museum, gyms, spas, surf lagoon, hotel, military assault course, etc. BCP is hard to access from Deal and Sandwich, in open country, between the towns of Deal and Sandwich only accessible on the highly congested A258. Hence, the developer's 'theme park' project that requires that BCP has facilities available on site.

In addition to the above, the factors listed in *Wingfield* clearly point towards the two development proposals in fact being a single project:

Common Ownership

The land parcels where the surf lagoon (DOV/22/01158) and hotel (DOV/23/01095) are proposed to be built were acquired by Quinn Estates in December 2019 using the vehicle, Betteshanger Property Limited (BPL). BPL operate the park through a subsidiary, BCP who have made the application for the hotel. The application for the surf lagoon is the SEAHIVE who will lease the land for the surf lagoon from BCP so it is clear that there is a single owner. The business plan for the park relies on income streams from rents to BCP from the hotel and surf lagoon and the claim made in the BCP Financial Summary⁴ is that these will cross subsidise running events and wildlife management in the park.

Simultaneous Determination of Planning Applications

The planning applications for the surf lagoon and hotel were determined at the same planning committee meeting on 7 March 2024.

Functional interdependence

The surf lagoon and hotel will share much of the infrastructure such as a single Wastewater Treatment Strategy. For example, see section 9.5 of the Flood and Risk Assessment Drainage Strategy for 22/01158 (dated 13/1/23) and 23/01095 (dated 1/9/23) which states for each: "it is concluded that connecting to the existing or replacement wastewater treatment plant to the east of the visitor center, within the Country Park, is likely to present the most viable solution". Similarly, the Officer's Reports for both applications state: "For foul sewerage from the [hotel/development], the approach presented by the 'Flood Risk Assessment and Drainage Strategy' is that it will feed into the existing or upgraded wastewater treatment plant within the Country Park. Any upgrade would be within the confines of the existing arrangement." Both reports recommend a planning condition to ensure details of adequate wastewater treatment facilities are submitted and approved before development commences, although the report for the surf lagoon application also suggests that further environmental consents or permits may be needed although defers to the EA in this respect.⁵

⁴ Azets BCP Financial Summary (23/01095) (6/10/23)

⁵ Officer's Report (22/01158) page 73.

In addition, the projects are also financially interdependent and for the reasons set out below, the hotel and surf lagoon proposals are clearly **not** stand-alone projects that are justified on their own merits.

The two applications are two components of a ‘masterplan’ for making BCP a success as an ongoing concern. The Planning Statement⁶ for the hotel states: *“The application proposal is a critical component of a Wider Masterplan for Betteshanger Country Park to elevate the societal level value of the asset through extending its appeal as an attraction beyond the immediate local community to attract visitors from further afield”*.

This is also made clear in the ‘Financial Summary’ (dated September 2023) compiled by Azets⁷ for the developer which states that the purpose of the developments was to continue the project initiated by South East England Development Agency (SEEDA) and provide a secure future for BCP. This is detailed in the History section of the report.

The Financial Summary⁸ states the purpose of the two planning applications together is:

“To ensure the long-term financial viability, Betteshanger Country Park requires investments in infrastructure, facilities and sustainability initiatives. Prioritising capital projects can enhance visitor experiences and attract a broader audience. Betteshanger Country Park would exhibit promising financial viability through its diverse revenue stream and potential growth opportunities if there were successful in securing planning permission for the development of the surf lagoon and hotel.

By leveraging the opportunity, Betteshanger Country Park can transform their operations through the strategic investment and prudent cost management which is vital for securing the park’s continued success and contribution to the community”.

The Financial Summary⁹ makes it clear that both applications needed to be agreed for the park to be financially viable (according to the developer) and unless both were agreed the park would probably be closed:

“If both of the proposed developments were undertaken then the park is projected to just make enough to carry on and start to repay some of the debt”.

It is clear then that neither application could function independently of the other.

The applications form part of a project to develop the park as a ‘theme park’ attracting visitors by providing a variety of different activities, from events like motorcycle racing, music concerts, military style assault course, film shows to the fitness centre, hotel and surf lagoon etc. These are all part of the same offer and mutually supportive; people staying in the hotel will be attracted by the surf lagoon etc. and vice versa, i.e. visitors to the surf lagoon will be able to stay in the hotel.

The Country Park is in open country and hard to access from Deal and Sandwich on the already congested A258 and the development will provide all facilities on site.

6 Icen Planning Statement (23/01095) (1/9/23) para 1.6, page 2

7 Azets BCP Financial Summary (cited above)

8 Financial Summary (cited above) page 12

9 Financial Summary (cited above) page 11

The planning statement for the hotel development¹⁰ adds: *“In addition, alongside this application is a sister application for a surf lagoon and pools, associated hub and holiday pods, yoga and health and wellness centre.”*

The planning statement for the surf lagoon¹¹ (dated August 2022) states:

“Whilst Betteshanger Country Park has been brought forward partly in accordance with SEEDA’s Masterplan, the economic regeneration of the site has not materialised as envisaged and the economic benefits of the public (and private) investment in infrastructure has yet to be realised.

However, through the tourism and leisure development proposed through this scheme, together with the sister application for a hotel and spa and recent facilities that have opened up, an alternative economic regeneration can be unlocked that is arguably of greater societal value than the economic regeneration project envisaged by SEEDA”.

This demonstrates the economic interdependence between the two applications.

Other Factors

The Applications were submitted simultaneously: The application for the hotel DOV/23/01095 was submitted on 1st September 2023, separately to the surf lagoon proposal, but this application was a version, with minor changes, of an application made on 22/01152, which was rejected by the DDC planning committee in July 13th 2023¹², on the grounds that (1) the proposed development would lead to an unacceptable loss of open space and (2) the proposed development would result in a significant disturbance to habitat that supports a population of turtle doves, contrary to local and national policy.

Use of the same consultants: The planning statements for the applications DOV/22/01152 and DOV/22/01158 were submitted by Icen Projects on 25th August 2022. In addition: both had screening requests prepared by the same environmental consultants; both used the same Water Management System consultants, Herrington; both used the same geological consultants, Ecologia; both used the same Ecological consultants, Aspect; both were discussed together at the two briefing meetings for planning committee members, one with Quinn Estates and one with Friends of Betteshanger, held by DDC; and both were determined at a specially convened planning committee meeting on March 7th 2024.

Description of the project as a single project by DDC’s CEO: The purchase of BCP for £621,977.00 (ex. VAT) by BPL on 2nd December 2019¹³ was supported by DDC whose CEO issued a press statement, also on 2 December 2019¹⁴ stated:

‘Dover District Council has welcomed today’s announcement that the future of Betteshanger Country Park has been secured. Nadeem Aziz, Chief Executive of Dover District Council said “We’ve been involved with the Betteshanger project from the start, So we’re delighted that its future has been secured with new owners and that the Country Park will be fully operational.

“We always recognised that the regeneration of the Betteshanger site had huge potential for tourism, community and sporting hub, and we’re pleased that the new owners have committed to finishing the exciting new visitor center and Kent Mining Museum.

10 Planning statement hotel (23/01095), para 2.6

11 Planning statement surf lagoon (22/01158), para 3.18

12 Minutes – planning committee (13/7/23)

13 Deeds of Sale for BCP 2019

14 Press Release from DDC dated 2/12/19, see: [DDC Welcomes Betteshanger Parks Announcement \(dover.gov.uk\)](https://www.dover.gov.uk/news/2019/12/02/ddc-welcomes-betteshanger-parks-announcement)

“We look forward to working with Quinn Estates to realise the full potential of Betteshanger Country Park”.

Hence the two applications meet the criteria of being a single development and treating them as two separate developments would be ‘salami slicing’.

Cumulative Likely Significant Effects

Even if the applications were considered as independent, standalone projects, there are significant cumulative environmental effects that must be assessed as part of this screening exercise. A full EIA should be carried out as a result.

The LPA must use the criteria in Schedule 3 of the Regulations to determine whether proposals are EIA development. Schedule 3 refers to a number of potential impacts that we will discuss in the following sections:

Sensitive Sites

Under the category of ‘location of development’ the environmental sensitivity of the geographical area likely to be affected by development must be considered.

Government Guidance on Environmental Impact Assessment (the Guidance)¹⁵ defines ‘Sensitive Areas’ as follows:

- Sites of Special Scientific Interest and European sites;
- National Parks, the Broads and Areas of Outstanding Natural Beauty;
- World Heritage Sites and scheduled monuments.

This reflects the statutory definition of ‘sensitive areas’ set out at regulation 2(1) of the EIA Regulations.

However, the Guidance also says that, as a matter of policy:

In certain cases, local designations which are not included in the definition of “sensitive areas”, but which are nonetheless environmentally sensitive, may also be relevant in determining whether an assessment is required.

BCP has the following local designations and our view is that these are relevant in determining whether an EIA is required:

- a) BCP (formerly Fowlmead) is designated as a Regionally Important Geological Site (RIGS)¹⁶ and has features that should trigger a survey and assessment according to DDC Local requirements Biodiversity and Geological Conservation
- b) It is designated as a Country Park
- c) It has been designated an Asset of Community Value by Dover District Council¹⁷.
- d) BCP is also in close proximity to a number of designated European sites and there is a likely risk that the development will have a significant effect on these sites, in particular Thanet Coast and Sandwich Bay SPA and Ramsar and Sandwich Bay SAC, within 1 kilometre of BCP plus the Sandwich Bay and Hacklinge Marshes SSSI. The HRA commissioned by DDC¹⁸ as part

15 Available online: [Environmental Impact Assessment - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

16 See geoconservationkent.org.uk: [Betteshanger Sustainable Parks with Relic Cliff - Joomla!](http://geoconservationkent.org.uk) (geoconservationkent.org.uk)

17 See Asset of Community Value at dover.gov.uk: [Assets of Community Value in Dover District](http://dover.gov.uk)

18 Habitats Regulation Assessment – Regulation 19 evidence base at doverdistrictlocalplan.co.uk: [Regulation 19 Evidence Base \(doverdistrictlocalplan.co.uk\)](http://doverdistrictlocalplan.co.uk)

the regulation 19 evidence base of the emerging Local Plan states that there will be likely significant effects without appropriate mitigation.

- e) It sits within an Impact Risk Zone (IRZ), in relation to Sandwich Bay to Hacklinge Marshes SSSI. IRZs were developed by Natural England as a tool to help assess the risk of developments adversely affecting SSSIs.
- f) It is part of the Lower Stour Wetlands Biodiversity Opportunity Area¹⁹.
- g) It has been designated as part of the Kent Downs and Stour Valley Important Invertebrate Area by Buglife²⁰.
- h) It is sited in the Lydden Turtle Dove friendly zone as designated by the RSPB²¹.
- i) It supports a number of priority habitats including Open Mosaic Habitat, Ponds, Reedbed and Woodland.

Further reasons why BCP should be treated as a ‘sensitive area’:

- a) The Dover solicitor, in the planning committee meeting on March 7th 2024²² to decide the two Betteshanger Park applications, said the following: *“The site is recognised as being of significant ecological importance, analogous or actually of much greater importance than that which would be required to designate it as a Local Nature Reserve”.*
- b) The EIA screening opinion from DDC states: *“The Site’s open and undeveloped nature, designated as open space, increases its environmental sensitivity to the Proposed Development.”*
- c) Natural England²³ considers the Park’s population of Lizard Orchids is of national importance. A request that it should be considered for SSSI status has also been sent to Natural England. The site also supports other protected species such as Water Voles, Fiery Clearwing and Sussex Emerald Moths, Reptiles, Turtle Doves, Beavers, Bats and other Red listed birds.
- d) The Dover SNEO²⁴ considers that BCP would qualify as a Local Wildlife Site for its invertebrate interest.
- e) There is a 2004 section 106 agreement²⁵ which required the designation of the site as a Local Nature Reserve (LNR). This agreement ‘runs with the land’ and the developer has agreed to the stipulations of the section 106 agreement of 2004 by the act of acquiring the site.
- f) It is listed as Protected Open Space in the Dover Local Plan²⁶

The Secretary of State’s view is that in general, EIA will be needed in three main types of cases

- Major development of more than local significance
- Development in particularly environmentally sensitive and vulnerable locations and;
- Development with unusually complex and potentially hazardous environmental effects.

Taking these points in turn; the location of the surf lagoon development at the eastern boundary, rather than its catchment area, the centre of the South East region, will result in additional car miles travelled and increased CO2 and NO2 emissions and additional global warming effects.

19 See Kent Biodiversity Strategy 2020-2045 [Kent Biodiversity Strategy | Kent Nature](#)

20 [Important Invertebrate Areas - Buglife](#)

21 [Home - Operation Turtle Dove](#)

22 Transcript of planning meeting held on 7/3/23

23 Natural England (22/01158) (23/2/23)

24 (12/2/24)

25 This relates to application 02/00905

26 Regulation 19 evidence base: [Open Space and Sport Topic Paper Sept 2022 \(doverdistrictlocalplan.co.uk\)](#)

The large water usage will put additional stress on a region of water stress. The large electricity requirements will contribute to global warming.

As detailed throughout the development will have hugely significant effects on a sensitive environmental location for example on its ecology. The site is of high biodiversity interest supporting species of national and regional importance.

The development is on made ground, containing heavy metals and other toxic materials. The ground where the developments are proposed has not been completely surveyed²⁷. The site has no mains sewer connection and the waste and foul water, including chlorinated water will need to be treated and disposed of into local watercourses.

These watercourses form part of the Stour basin. Further development will result 11.7 hectares of impermeable surface which will create millions of litres of run-off in heavy rainfall events which will need to be disposed of at a much reduced rate²⁸. The combination of made ground containing toxins and the need to treat, store and dispose of wastewater creates a complex and potentially hazardous environmental effect. There are risks during construction from excavating the made ground and these could result in risks to human health as described in the report by Ecologia that requires ground workers to wear PPE²⁹.

Cumulative Impacts with other existing development and/or approved Development.

Under 'Type and Characteristics of the Potential Impact', DDC stated³⁰ in their screening opinions dated 4th July 2023:

The cumulative effects of the Proposed Development and other existing and/or approved development, on likely matters of transport, air quality and noise, are not expected to be significant.

We disagree.

The application submitted by the SeaHive (22/01152) and that of BCP for the 120 bed hotel (23/01095) will have significant cumulative effects.

Increased number of visitors

The threshold for visitor numbers for an EIA is 250,000. The current number of visitors to the park is estimated at 240,000. Add to this number, projected visitors for the hotel of 117,384³¹ and the surf lagoon of 203,000³² and the 250,000 threshold is exceeded by a wide margin.

There will be significant impacts on what is already a very congested local road network. According to Stuart O'Leary's³³ estimate (Head of BCP), there will be an 'escalation of up to and more than 500,000 customers per year, all from as far as London'.

There have been a wide range of estimates given depending on context including a claim by the developer that as many as 700,000 visitors a year will come³⁴. No convincing calculations have been

27 Ecologia (22/1158) Land Contamination Assessment (2/12/22) also (23/01095) (1/9/23)

28 Herrington (22/01158) Flood Risk Assessment and Drainage Strategy (2/9/22) also (23/01095) (1/9/23)

29 Ecologia report (cited above)

30 DDC Screening Option (4/7/23)

31 Aspect Ecology Technical Briefing Note (23/01095) (6/10/23) point 4 Information to Inform a Habitats Regulation Assessment. It is noted with concern that no projected visitor numbers are provided in the Planning Statement for the Hotel development.

32 Planning statement (22/01158), para 4.21

33 In Kent online 22/7/22

34 Kentonline 10/10/23

provided to support these estimates. In fact, because visitor numbers depend on individual decisions it is not possible to make an accurate estimate. What is certain is that the visitor numbers provided in the planning statements for hotel and surf lagoon are needed for the park to break even and for the park to remain open. Hence, the precautionary principle should be applied and the largest number provided by the developer taken.

Air Quality Impacts

Given the location of the site relatively distant from the nearest railway stations (Deal and Sandwich), neither at walking distance from the park, many of the visitors coming 'from as far as London'³⁵ will be coming by car. The most direct routes from London and west Kent into the Deal area would use the M20 or M2 and then either the A258 or A256 or various cut-throughs using country lanes which are already 'rat runs'.

The park is situated on the A258 between Deal and Sandwich and all traffic to the park will need to use this road for at least part of their journey. Due to a large number of developments particularly in North Deal and Sholden and also some in Sandwich, this road is already congested. Congestion and idling traffic has significant impacts on air quality. This congestion, and the associated air quality impacts, will worsen with a number of developments either with planning permission agreed such as the Greenways development (application 20/00419 for 210 houses) or included in the new local plan that will further increase traffic. If the traffic generated by the surf lagoon/hotel development is added it will have a severe effect on local quality of life. In addition, people travelling to the park through narrow country lanes and villages will lead to further issues of congestion.

The continuous increases in planning agreements for new housing many on the A258 between Deal and Sandwich, in particular in Sholden and Mongeham, in close vicinity of BCP, will result in elevated CO₂ and NO₂ levels, added to by the up to 700,000 visitors predicted for the park. The levels of NO₂ recorded at the Manor Roundabout, which is on the northern exit from Deal on the A258 exceeded the Air Quality Standard (AQS) of 40ug/m³ for NO₂ every month for whole of 2022 with a mean adjusted average throughout the year of 37.4 ug/m³. An Air Quality study in 2021³⁶, submitted for the Draft Dover District Local Plan, predicts an exceedance of NO₂ to 40.2 ug/m³ at this site. Since the area has not been declared an Air Quality Management Area, there is a lack of detailed statistics covering the A258 and North Deal/Sholden. It is clear that the trend is upwards and more data needs to be gathered. Decreasing air quality, which is responsible for between 28,000 and 36,000 deaths per year, will present a public health issue and is a significant environmental effect.

Both Greenways (210 houses) and the current application for BCP are 'windfall developments', in that they were not considered or included in the emerging Local Plan and are recently agreed developments. The local plan gives a minimum number for developments and additional developments will need to be added. Not only those recently given planning consent in North Deal but also including the large expansion of Whitfield for housing and the thousands of new houses proposed and currently under construction in nearby Thanet. The cumulative impacts of traffic and pollution on the towns of Walmer, Deal and Sandwich, and the immediate surrounding areas will be hugely significant for air quality levels in the area.

In order to complete a screening opinion DDC will require up to date material concerning a traffic assessment, given the new developments with planning agreements near London Road in Sholden and

35 Kentonline (cited above)

36 Dover District Council Air Quality Inputs, dispersion Modelling Assessment. Bureau Verita UK Ltd. Jan 2021.

generally in the area. This is necessary to properly understand and scrutinise the air quality impacts of the developments.

Landscape and Visual Impact.

The Planning Officer's report³⁷ for the hotel says the following:

"2.114 With the adverse landscape and visual effects identified, the development is considered contrary to Core Strategy Policy DM16, the aims of Policy DM15 in protecting the character / quality of the countryside and draft Local Plan Policies E4 and NE2. This matter is considered further in the planning balance at the end of this report."

And:

"2.102 The Planning Committee resolved in considering the previous application that the hotel development would harm the character and appearance of the Country Park. This is a consideration in the determination of this application."

The site is on elevated ground and will be visible throughout the area. BCP is in a rural area designated as a 'dark skies' area. However, the surf lagoon will be lit by 24 x 12 metre lighting towers³⁸ and these will be visible from surrounding areas and will impact the Park's wildlife especially bats, invertebrates, birds and mammals.

In order to complete the screening opinion DDC will need to assess the impact on landscape especially as the proposed developments are contrary to the Dover Core Strategy³⁹ and Local Plan policies.

Ecology and Nature Conservation

This section considers the cumulative effects of the proposed development on biodiversity as it relates to the following sites:

Development sites:

- BCP applications 22/01158 and 23/01095 for the Hotel and surf lagoon; and
- The Greenways development (20/00419). This is directly related to the development proposals at BCP because biodiversity mitigation schemes for Greenways are to be implemented at BCP.

N.B. Both these sites are part of the now defunct Betteshanger Colliery that closed down in 1989. The Greenways development is on the old pit head area and is now being developed for housing whereas the proposed Country Park developments are on the old spoil tip.

Protected affected sites including:

- The Thanet Coast and Sandwich Bay RAMSAR site
- Sandwich Bay and Hackling Marshes SSSI
- The Thanet Coast and Sandwich Bay SPA
- The Sandwich Bay SAC

37 Planning officers report for (23/01095)

38 LVIA Seahive Addendum (22/1158) (9/3/23)

39 Dover Core Strategy at doverdistrictlocalplan.org

Cumulative impact on protected species:

Impact on Open Mosaic Habitat on Previously Developed land and invertebrate communities. OMH is a priority habitat under section 41 of NERC 2006 and a target habitat under the Kent Biodiversity Strategy 2020-2045. Buglife has included BCP in the Kent Downs and Stour Valley Important Invertebrate Area (IIA) because of the importance of its invertebrate population.

Their website ⁴⁰states:

“Important Invertebrate Areas (IIAs) are places that are home to nationally or internationally significant invertebrate populations and their habitats. ”

This is what the Dover Natural Senior Environment Officer says in her submission⁴¹ relating to 22/01158 the surf lagoon:

“2.1.1. The proposed development will result in the loss of 2.75ha of open mosaic habitat on previously developed land (OMH), a habitat of principal importance for biodiversity (priority habitat) that supports an important invertebrate assemblage. Almost 2ha of the OMH habitat to be lost is assessed as being in good or moderate condition

2.1.2. The OMH within the Country Park is assessed in the submitted ecological reports as of district to county importance. In my view, it is of at least county importance. With respect to the invertebrates within the Country Park, it is concluded in the submitted ecological reports that the site is of county importance, and this was prior to the confirmation of additional invertebrate species including the protected fiery clearwing and Sussex emerald moths, which could further elevate this level of importance. On this basis, the Country Park could be considered as of Local Wildlife Site quality.

2.1.3. Without an adequate and achievable compensation strategy, the loss of habitat from the proposed development site will constitute significant ecological harm to priority habitat and an important invertebrate assemblage.

2.1.4. I have doubts that the applicant’s approach to mitigation, as outlined in the Outline Habitat Compensation Strategy, will adequately compensate for these impacts.”

It should be noted that the Greenways site (20/00419) also had important areas of OMH with a significant assemblage of invertebrates of county importance (see Update Ecological Appraisal Part 2. Application 22/01158). Mitigation for the loss of OMH supporting invertebrates on the Greenways site is being provided at BCP. The cumulative harmful effects on OMH and invertebrates across the two Betteshanger Sites (the Greenways site and the Country Park) will be significant.

It should be noted that since the invertebrate surveys were carried out by the developer Fiery Clearwing moths a schedule 5 species under the Wildlife and Countryside Act 1981 have been recorded on both the Hotel and surf lagoon sites⁴².

Mitigation for the impact on this species will require a license from Natural England.

The cumulative impact on Open Mosaic Habitat found on the two Betteshanger sites (Green ways and the Country Park) and its invertebrate assemblages will result in a significant impact on biodiversity. This cumulative impact needs to be assessed as part of the EIA screening.

⁴⁰ See buglife.org.uk

⁴¹ SNEO (22/01158) (12/2/24)

⁴² Natural England (22/1158) (4/7/23)

Impact on Birds including Turtle Doves.

Turtle Doves will be impacted by both the Greenways development (20/00419) and the Country Park developments (22/01158 and 23/01095). It should be noted that BCP is within the Lydden Turtle Dove Friendly Zone designated under the RSPB's Operation Turtle Dove, which aims to save this species by creating breeding and feeding habitat.

Aspect Ecology's bird survey on the Greenways site (20/00419)⁴³ recorded 4 Turtle Dove territories – one of these territories was removed as part of the Greenways development during the nesting season last year. Mitigation areas have been set up at BCP with the aim of maintaining and expanding Turtle Dove numbers at the Park⁴⁴). However, the mitigation areas are both adjacent to the proposed Hotel and surf lagoon and thus will be subject to greatly increased disturbance.

Two territories have also been recorded at the Park making the two sites together of significant importance for this species. The RSPB and other experts are of the opinion that the proposed developments jeopardise the mitigation scheme and are likely to prevent the maintenance and expansion of Turtle Dove numbers at the Park. This concern appears to be justified as the latest monitoring report by Adonis Blue Environmental Consultants shows that numbers of Turtle Doves at the Park have declined with only one territory being recorded in 2023⁴⁵.

This is what the Dover Senior Natural Environment Officer says in her submission⁴⁶

"2.5. Turtle doves Proposed mitigation: implementation of Visitor Management and Turtle Dove Strategy

2.5.1. The turtle dove is a species of principal importance for biodiversity (priority species) that is the UK's fastest declining bird species in the country and listed as Vulnerable on the IUCN Red List 2.5.2. The proposed development will bring the developed areas of the Country Park in closer proximity to previously agreed mitigation measures for turtle doves. There is potential for disturbance to the existing turtle dove population and the expected turtle dove population (under the previously agreed mitigation for 20/00419) as a result of the expected increase in visitors to the Country Park.

2.5.3. The turtle dove population within the Country Park is assessed in the submitted ecological reports as of local to district importance.

2.5.4. Without an adequate and acceptable mitigation and compensation strategy, which also addresses the potential for the proposed development to affect the efficacy of the previously agreed mitigation, the impact to the turtle dove population within the Country Park will constitute significant ecological harm to a priority species.

2.5.5. I am concerned that the applicant's approach to mitigation, as outlined in the Visitor Management and Turtle Dove Strategy, will not do enough to safeguard and enhance the turtle dove population of the Country Park.

2.5.6. There is a risk that there will be no expansion of turtle dove territories within the Country Park to compensate for the impacts at the Betteshanger Sustainable Park development site under

43 Aspect Ecology's bird survey for application (20/00419). Betteshanger pit head site, also known as Betteshanger Sustainable Park and bought by Quinn Estates in 2019 along with BCP.

44 Application (20/00419) planning condition 54

45 See also Ecological Monitoring Report (20/00419) (29/4/24)

46 SNEO submission (22/01158) (17/2/24)

application 20/00419. There is a risk that the 'predicted baseline' (an increase in existing territories as a result of the previously approved 20/00419 compensation measures) will not be achieved.

2.5.7. The submitted proposals focus on an aim to maintain the 'predicted baseline' to overcome the potential harm to turtle doves. In my view, a further aim should be to increase turtle dove territories from the predicted baseline, taking into account the Country Park and the offsite mitigation areas. This would ensure accordance with the NPPF to "pursue opportunities for securing measurable net gains for biodiversity" and the NERC Act Biodiversity Duty to "conserve and enhance" biodiversity."

See also RSPB submission.⁴⁷

Besides Turtle Doves there will be a negative cumulative impact on other bird species present on the Greenways and Country Park sites. On the Greenways site 19 Red listed species were recorded by the East Kent wildlife Group and on the Country Park Red listed species include skylarks (their nesting sites will be removed under the Seahive proposals) Cuckoo, Linnet, Mistle Thrush, Yellow Hammer and Starling.

The Cumulative impact on Red listed bird species, especially Turtle Dove, present on the two Betteshanger sites (Greenways and the Country Park) will result in significant harm to Turtle Doves and other Red listed bird species. This impact needs to be assessed as part of the EIA screening.

Lizard Orchids and other notable plants.

The population of Lizard Orchids at BCP is the second most important in the UK second only to the colony at Sandwich Bay. Natural England consider it of National importance⁴⁸. Lizard Orchids are a schedule 8 species under the Wildlife and Countryside Act and at BCP it is one of over 20 plants on the Kent Rare Plant Register. Under the Seahive proposals 10-15% of the Lizard Orchid population would be lost.

This is what Natural England states in their submission dated 17th February 2023 (22/01158):

"We recognize that the developer has put forward a package of mitigation and compensation measures and we have provided comments on these in the attached document. We note that the applicant's consultants have stated that it is considered unlikely that the proposals will result in significant harm to biodiversity. However, as set out in the attached document (Lizard Orchid Info note 16th Feb 2023) we consider that the measures that have been put forward would nevertheless result in a negative impact on this population.

This is because:

- 1. Avoidance of harm to lizard orchid has not been addressed.*
- 2. We consider the mitigation measures for the translocation of lizard orchids are unproven, uncertain and at an unprecedented scale.*
- 3. The development proposal is located in the highest value areas of priority Open Mosaic Habitat.*
- 4. Despite the mitigation and compensation measures proposed there will be significant harm to biodiversity."*

On 20th March 2023 (22/01158)⁴⁹ Natural England are still saying:

⁴⁷ RSPB submission (22/01158) (1/2/24)

⁴⁸ Natural England (22/01158) (23/2/23)

⁴⁹ Natural England (22/01158) (20/3/23)

“In summary, we remain concerned that this proposal as currently put forward will not result in the conservation or enhancement of biodiversity.”

On 4th July 2023 Natural England stated⁵⁰:

“In summary the soil tests confirm our concerns regarding the uncertainty in the translocation proposal.”

Despite these concerns expressed by Natural England the DDC Screening Opinion dated 4th July 2023 states⁵¹:

“ii. there are unlikely to be significant environmental effects on ecology and biodiversity when following the approach of the Framework and where there are significant opportunities and possibility to effectivity reduce such impacts;”

R (on the application of Swire) v S of S (2020) would appear to be relevant here. The High Court considered what the correct approach to EIA screening should be when there is uncertainty about the environmental impact of a proposed development. The Court quashed the screening and confirmed that screening authorities should take a precautionary approach and should not base their decisions on the assumption that unidentified remedial measures will be successful.

The cumulative impact on Lizard Orchids constitutes significant harm to biodiversity and as a Schedule 8 species under the Wildlife and Countryside Act 1981 a license will be required from Natural England to implement the proposed mitigation/compensation. Natural England has not said that a license is likely to be granted and is awaiting the results of research trials which may take a number of years. This impact needs to be assessed as part of the EIA screening.

Other notable Plants.

Grass Poly. This rare schedule 8 plant found only in a handful of sites grows on both the Greenways site and the Country Park. In the Country Park it grows in a ditch parallel to the Visitor Center. On the Greenways site a large number of plants were recorded by one of the Kent Plant Recorders for the BSBI on one of the development platforms. These have since been removed and mitigation has been provided. However, it has not been shown that the mitigation has succeeded in producing a self-sustaining population elsewhere on the site or at BCP.

Penny Royal. This is a Schedule 8 species and was recorded by the Kent Plant recorders on the Greenways site but no mitigation has been carried out despite this being part of a condition attached to the planning permission.

The cumulative impact on Grass Poly and Penny Royal constitutes significant harm to a protected species. It should therefore be considered as part of an EIA screening.

Reptiles.

BCP been a receptor site for Reptiles translocated from elsewhere. When the Park was first set up under planning application 02/00905 reptiles were translocated from the pit head area to various sites in the Country Park. The proposed Hotel site was one such area. Under the current proposed development no mitigation is proposed for the loss of reptiles from the Hotel site.

⁵⁰ Natural England (22/01158) (4/7/23)

⁵¹ DDC Screening Opinion dated (22/01158) (4/7/23)

In 2016 over 1000 Common Lizards were translocated from the Discovery Park in Sandwich to BCP under application 14/00058 condition 55, for their long -term protection and in accordance with a proposed long term management strategy. The receptor site at the Park is now adjacent to the proposed surf lagoon site and Lizards have been recorded in good numbers on the proposed surf lagoon site. It is proposed to translocate them again disrupting their feeding and breeding.

We consider that this cumulative effect constitutes significant harm to a species that receives protection under the Wildlife and Countryside Act and as such should be a consideration under EIA assessment.

Water Voles.

Water Voles are present on the Hotel site and will be displaced as a result of the Hotel application. This will require a mitigation license from Natural England. They are an endangered species under schedule 5 of the Wildlife and Countryside Act. Indeed, the Peoples Trust for Endangered Species website⁵² says:

“Water voles have experienced one of the most rapid and serious declines of any British wild mammal ever.”

We consider that, despite the proposed mitigation, the cumulative effect on Water Voles constitutes significant harm to a protected species and therefore should be considered as part of EIA screening.

Bats.

At least 7 different species of bat have been recorded across the two Betteshanger sites (the Greenways development and the Country Park) What is the cumulative impact going to be on Bats as a result of the three planning applications for the Betteshanger sites?

As a European Protected Species (EPS) the cumulative impact on Bats from both Betteshanger sites should be assessed as part of the EIA screening.

Beavers.

Beavers have been recorded on the edge of the proposed Hotel site. They are a EPS yet no survey for beavers has been carried out at the Country Park. They are also present in the RAMSAR site which is part of the Greenways development.

What is the cumulative effect going to be on the local Beaver population? As an EPS the impact on Beavers should be assessed as part of an EIA screening.

Badgers.

Badgers are protected under the Badger Act. Setts and Badger pathways on both the Greenways site and the Hotel site on the Country Park will be disrupted.

What is the cumulative impact going to be on the local Badger population? As a protected species this should be a consideration as part of EIA screening.

Conclusion.

The cumulative harmful effect on biodiversity as described above, of the Betteshanger Park developments (22/01158 and 23/01095) together with the Greenways housing development (20/00419) needs to be assessed as part of a Screening Opinion for an EIA.

⁵² [Water voles - People's Trust for Endangered Species \(ptes.org\)](https://www.ptes.org/)

Cumulative effect on Protected habitats.

The cumulative effects of the proposed developments at BCP (applications 2/01158 and 23/01095) taken together with the Greenways development (20/00419) and other developments in the local area, have not been assessed for their impact on the integrity of the following protected sites:

- Thanet Coast and Sandwich Bay SPA and RAMSAR
- Sandwich Bay SAC
- Sandwich Bay to Hacklinge Marshes SSSI

The Habitat Regulation Assessment⁵³ commissioned by DDC summarises the Potential Likely Significant Effects (LSE) on the Thanet Coast and Sandwich Bay SPA and Ramsar and Sandwich Bay SAC without appropriate mitigation as follows:

| Potential Likely Significant Effects | Thanet Coast and Sandwich Bay SPA & Ramsar | Sandwich Bay SPA |
|--------------------------------------|--|------------------|
| Physical damage & loss | Yes | |
| Non-physical disturbance | Yes | |
| Air pollution | Yes | Yes |
| Recreation | Yes | Yes |
| Water quality | Yes | Yes |

It should be noted that the integrity of the SPA appears to have already been breached as some of the species for which the SPA is designated such as Turnstones and Little Terns, have suffered breeding failures and declines. In a leaflet produced by KCC entitled: Information for Visitors. Sandwich and Pegwell Bay⁵⁴ it states:

*Breeding birds include ringed plover, oystercatcher and little tern (a species specially protected by law under the Wildlife and Countryside Act 1981) **although the latter has not nested successfully for a number of years now.***

*Thanet Coast and Sandwich Bay qualifies as a Ramsar site, a wetland of international importance, as it supports on average 1% of the ruddy turnstone population over winter⁵⁵. **However in the last few years the population here has almost halved** and recreational disturbance, particularly dogs off leads, is likely to be a significant factor in this decline.*

The leaflet goes on to say:

Wild birds are being threatened by human activities such as:

- Dogs playing off the lead on the salt marsh or mudflats
- People, particularly in groups, digging for bait
- Well-meaning individuals—photographers, bird-watchers, nature-lovers and picnickers, just lingering too long or walking through sensitive sites, particularly across the inter-tidal area

⁵³Habitat Regulation Assessment (cited above)

⁵⁴Information provided for Visitors to Sandwich and Pegwell Bay

⁵⁵JNCC jncc.gov.uk

- Watercraft - motorboats, yachts, canoes & kayaks and kite-surfers close to feeding or roosting birds.
- Clearly objects in the air have a large potential for causing disturbance, and kites and 'drones' should never be flown across the bay.

It seems extremely unlikely that, given the local scale of development and the increase in population, that the Thanet Coast and Sandwich Bay SPA Strategic Monitoring and Mitigation Strategy⁵⁶ (SAMM) for delivering, warden-ing and monitoring is going to be effective in protecting the integrity of the sites especially given the above evidence of negative impacts from human disturbance that are already evident.

Besides the recreational impact on biodiversity the cumulative impact on water, physical damage and loss and air pollution also needs to be assessed.

Conclusion.

The cumulative impact of the Betteshanger Park developments (22/01158 and 23/01095, Greenways (20/00419) plus the developments at Sholden and the local area on the integrity of the protected habitats listed above should be assessed as part of a Screening Opinion for EIA.

The use of natural resources, in particular land, soil, water and biodiversity

The use of natural resources in the proposed development will be hugely significant including the impact on existing biodiversity as shown above, and water supplies:

Water consumption

The construction of the wave lagoon, hub building, access works and infrastructure etc. will require many thousands of tons of concrete, which in turn will also require many thousands of litres of water. The water will be supplied Southern Water and in the East Kent region, water is source from aquifers not reservoirs. Southern Water predict a shortfall of 300 million litres per day by 2040, rising to 500 million litres by 2075 on current trends⁵⁷. The proposed solution by Southern Water is to reduce consumption so household water use will need to fall from 132 litres per day to just over 100 litres per day. The surf lagoon will greatly add to water stress.

"By 2040 if we do nothing, we could face a 300 million liters per day water shortfall in water supplies by 2075, this shortfall could increase to over 500 million liters per day.

This is because more water will be needed as population grows and less will be available as the climate changes"

The Kent Environment Strategy⁵⁸ identifies Kent as one of the driest regions in England and Wales. According to plans submitted with the application, the surf lagoon will hold around 30 million litres of water, in an area of the country already water stressed. The water evaporation rate from the large surface area of the surf lagoon, particularly during the summer months, will necessitate replenishing the water levels at regular intervals. For reasons of human health the water will need to be changed at regular intervals.

⁵⁶Sandwich Bay SPA Strategic Monitoring and Mitigation Strategy

⁵⁷ Southern Water Water Resources Management Plan: investors.southernwater.co.uk/our-story/water-resources-management-plan (see section 'Securing a resilient future for water in the South East')

⁵⁸ Kent Environment Strategy, Kent County council (2016)

In order to complete their screening, DDC will need the developer to supply complete figures for water usage. None have been provided in the preliminary studies provided so far by the developers consultants Herrington⁵⁹.

Dover is located in the Environment Agency's Stour Catchment Abstraction Management Strategy⁶⁰, which identifies all the groundwater sources as over abstracted.

Dover District Council's Water Cycle Study⁶¹ (September 2022) states: *"Pressure on water resources is increasing as a result of population growth, an increase in household demand for water and the effects of climate change and rising temperature."*

Groundwater supplies 80% of the district's drinking water. Groundwater also provides important base-flow to the river systems. The groundwater quality across the catchment is at poor status, but the water is treated so there is no risk to drinking water supply.

The Stour Abstraction Licensing Strategy (ALS) calculated resource availability at four different flows, Q95 (lowest), Q70, Q50 and Q30 (highest). It was found that sections of the Dover district have no additional water available for licensing even at highest flow, while at lowest flow the majority of the district has no additional water available for licensing. Under the Q50 and Q70 flows, the only additional water available for licensing is close to Sandwich and is largely 'restricted'."

With hotter, drier summers forecast as a consequence of climate change, safeguarding and securing adequate water supplies for domestic and agriculture use should be a main priority.

Pollution and nuisances

The Entran, request for an EIA screening⁶², states that:

"Following mitigation of these risks within the detailed design stage of the development, including a CEMP, surface water drainage strategy, remediation strategy, Health Safety and environmental practices and preparation of piling risk assessments, significant effects regarding contaminated land are considered unlikely."

This statement is incorrect. The Land Contamination Assessment, produced by Ecolgia⁶³, Phase 1 that accompanies the planning application for the surf lagoon comments that:

"The extensive surface water network lies within short distance of site and no controlled surface water drainage currently in place. Surface water network dominantly lies downslope of Site. Elevated heavy metal leachate concentrations recorded during recent ground investigation works. Medium Pollution of sensitive water resources poses a moderate risk. A low to medium risk to human health and groundwater (principal aquifer at depth) have been identified due to deep made ground works (up to 13.6m) beneath the site.' Moderate risk from hazardous ground gas has been identified... A moderate risk to the surrounding surface water network has been identified with leachable heavy metals."

59 Herrington (cited above). Herrington has produced a number of reports available but none provide plans for any WWTP, nor figures of expected volumes that will need treatment, nor any description of the current WWTP in use and whether it is even possible to scale it up to cope with a massive increase in visitor numbers. It is not reasonable to create a planning condition on the assurances of the developer with no facts provided to allow an evaluation of the implications of impact of processing and disposing of the waste, foul and rainwater into the Stour Inland Basin.

60Environment Agency's Stour Catchment Abstraction Management Strategy gov.uk/government/publications/stour-catchment-flood-management-plan

61 Dover District Council's Water Cycle Study

62 Entran (22/01158) (25/8/22)

63 Ecolgia (cited above)

There is a high risk for potential catastrophic damage to the foundations of the proposed development. The high organic matter present in the colliery spoil, poses a high risk of catastrophic damage to the proposed buildings and an acute risk to human health.

Further Phase 2 ground investigation and contaminated land assessment should be undertaken (particularly across the south of the Site) to fully qualify risks and refine outline Conceptual Site Model (CSM) including further ground gas and groundwater monitoring and assessment. If piling foundation methodology is to be undertaken, a Piling Risk Assessment is likely to be required to assess and mitigate potential risks from explosive ground gases during drilling and qualitatively assess potential risks from elevated heavy metal leachates to controlled waters from creation of preferential pathways."

The substrate for the surf lagoon and hotel is made ground, that is to say randomly dumped materials, a mixture of shale from mine workings with other more toxic materials, dumped over the years. There are no accurate records of what was dumped and the only way to establish what is present is to sink boreholes. The site has not been properly surveyed, in particular there is no survey of the hotel site. Preliminary research indicates heavy metals, much organic waste and sulphur compounds which can corrode foundations and unlined water tanks and pipes, creating a potential health hazard for the public. As far as sulphate and organic compounds are concerned, the Ecologia⁶⁴ report states that there is **'potential for catastrophic damage to proposed foundations'** with **'acute risk for human health'**. Ecologia in their report state that as only a part the site has been surveyed and further studies are needed. The DDC planning report⁶⁵ suggests that surveys and decisions regarding the effects of toxic matter in the substrate can be left as a planning condition. This would be the height of irresponsibility and **further information on potential health risks need to be required for the EIA screening.**

Further risks will take place in construction with the excavation of the site and Ecologia⁶⁶ state that *'appropriate PPE for ground workers to mitigate potential risks from dermal contact, ingestion and inhalation of contaminate materials/soils.'*

The park was established for 'low intensity recreational uses'⁶⁷ and shrubs and trees were planted to consolidate the subsoil. The development of a 'theme park' with intensive usage with music concerts, motorcycle racing, military assault course etc. with many additional users disturbing the subsoil has the potential of releasing toxins into the atmosphere, an especially pressing issue with surf lagoon users who will be wearing swimming wear and potentially coming into close with potential toxic materials.

There is also the risk of pollution to the surrounding Protected Sites (Thanet Coast and Sandwich Bay SPA and Ramsar and Sandwich Bay SAC). Note particularly the problems of water quality in the Stour drainage basin as there is a potential risk from waste and soil water from the surf lagoon and hotel's wastewater management system. There are insufficient details about how the water will be treated given in the various Herrington⁶⁸ reports on flood risks and water management. However, it is clear that wastewater will eventually be discharged into the streams feeding into the Stour basin and is potentially likely to have a significant impact on the above European sites. The wastewater from the surf lagoon will contain Chlorine which cannot be remove in aerobic WWTP. There will also be large volumes of rainwater from the 9.1 hectares covered by the surf lagoon and the 2.6 hectares from the hotel. This will result in millions of litres of run off in periods of heavy rain. No plans have been provided

64Entran, request for an EIA screening, dated 25th August, 2022

65DDC Planning Report

66Ecologia (cited above) page 36

67 See Local Plan 2002 Policy AS2

68 Herrington (cited above)

for water storage tanks or SuDs (which would be doubtful on the site due to potential leaching of heavy metals and toxic materials in the made ground constituting the park's substrate.

According to Herrington⁶⁹, a 6-hour event of heavy rainfall could result in an estimated 8.15 million litres of rainfall. The site is unsuitable for SuDs so this water would need to be disposed of either through natural absorption into areas around the surf lagoon an hotel, likely to cause temporary flooding or disposed of into local streams that are part of the Stour Inland Drainage Basin. Guidelines for greenfield run-off rate is 2-7 litres per hectare. The creation of an impermeable area of 11.7 hectares and the need to dispose of run-off could have a variety of significant environmental impacts.

The report submitted by Herrington⁷⁰ gives no details about the capacity or condition of the current WWTP, neither does it supply information concerning how much capacity will be needed for the 320,000 visitors estimated to be visitors to the 120-bed hotel, surf lagoon, spa, holiday pods, restaurants, cafes, music concerts, etc. To complete a screening, DDC will need to know these figures, especially since the waste and foul water will, after processing, be dumped into streams which are part of the Stour Inland Drainage system, and which connect to a number of European sites in the area.

Significant environmental impact of the individual planning applications

Notwithstanding all of the points raised above, specific impacts are particularly significant for the individual applications. These are set out below.

23/01095: The proposed Hotel application

1. The loss of open space was one of the reasons given for refusing the original Hotel application⁷¹ (22/01152) (see below). These reasons apply equally to the new application 23/01095.

BCP is an area of open space that provides great value and amenity, reflected in it being designated an Asset of Community Value as furthering the social wellbeing or social interests of the local community. The proposed hotel development would result in the loss of part of the designated open space and an incompatible change in the character and appearance of the Country Park due to its scale, intensity of use, level of activity and visitor numbers, and restrictive management measures.

These impacts would harm the amenity and wellbeing enjoyed by users of the Country Park and would be contrary to Policies CP7, DM15 and DM16 of the Dover District Core Strategy (2010); Policies SP2, SP14, E4, PM5, PM6 and NE2 of the Dover District Local Plan (submission draft October 2022); and chapters 8, 12 and 15 of the National Planning Policy Framework (2021).

2. Recreational Disturbance. The hotel will lead to a large increase in the number of visitors coming to the Park, leading to 24 hour activity, light and noise would lead to a significant negative effect on the Park's wildlife, particularly Turtle Doves and other birds, invertebrates, bats, beavers and badgers. These impacts would also harm the amenity and wellbeing enjoyed by users of the Park.

3. Effect on Turtle Doves.

69 Herrington (cited above)

70 Herrington (cited above)

71 DDC planning meeting transcript (cited above)

This is what the RSPB⁷² say in their submission dated 30/10/23:

The plans have serious implications for Turtle Doves. Turtle Dove (Streptopelia turtur) is a RSPB priority species due to the significant population decline of this species both in the UK and across its breeding range. The Turtle Dove is the UK's fastest declining breeding bird and is threatened with global as well as national extinction (IUCN Red List of Endangered Species and UK Red List of Conservation Concern⁷³). Turtle Doves have declined by 98% between 1967 and 2018.

And:

It is the RSPB's considered view that the current surf lagoon and hotel plans will not enable the expansion or even the maintenance of the Turtle Dove population across the wider Country Park.

In their submission of 1st February 2024 which relates to both the Hotel and Surf Lagoon applications: they say:

Turtle dove mitigation proposals remain high risk and inaccurately include measures far off-site The RSPB remains unconvinced by the latest tweaks to the Turtle Dove mitigation proposals.

These concerns are shared by other experts such as the Kent Wildlife Trust⁷⁴ (submission dated 20/2/24 and CPRE Kent⁷⁵

4. Effect on Invertebrates.

The RSPB submission⁷⁶ provides a full account of the likely significant impact on Fiery Clearwing Moths (an endangered species of National importance) the Bright Wave and the Sussex Emerald moth (a protected species under the Wildlife and Countryside Act.

5. Effect on Water Voles.

The Hotel proposal would result in Water Voles being removed from their habitat. On their website the Peoples Trust for Endangered species⁷⁷ states:

"Water voles have experienced one of the most rapid and serious declines of any British wild mammal ever."

They are a protected species under the Wildlife and Countryside Act and a license will be required from Natural England to enable displacement. The surveys carried out by Aspect Ecology⁷⁸ (see Ecological Appraisals) failed to ascertain the size or importance of the population so impacts cannot be assessed with any accuracy.

6. Impact on Bats.

The Hotel development would have a likely significant impact on the important Bat population in this area of the Park particularly due to loss of foraging areas and light pollution. Bats are a European Protected Species.

72 RSPB (22/01158)

73 IUCN Red List of Endangered Species and UK Red List of Conservation Concern

74 Kent Wildlife Trust (22/01158) (20/2/24)

75 CPRE Kent (22/01158) (14/2/24)

76 RSPB (22/01158) (30/10/23)

77 Peoples Trust for Endangered species ptes.org/

78 Aspect Ecology (various) (22/01158), (23/010/95)

7.Effect on Beavers.

Even though Beavers are a European Protected Species and are known to use the area proposed for the Hotel no survey has been carried out to assess the likely impact.

8.Effect on Climate mitigation.

The Arboriculture report⁷⁹ for the proposed Hotel site shows that large numbers of trees and scrub would be removed to make way for the Hotel development. This reduces the sites ability to store carbon and mitigate climate change as well as impacting biodiversity.

9 Effect on Landscape.

The Planning Officer in his report to the Planning committee meeting of March 7th 2024⁸⁰ admits that the proposals are contrary to Dover policy on Landscape.

10. Pollution and ground contamination risks.

There need to be adequate investigation of toxins in made ground; insufficient investigations have been made so far, and potential contamination of soil, waste and rainwater which will be disposed of into the Stour Inland Basin. There will be particular risks in excavating this ground during the construction phase where dust will be created and the ground disturbed. There is a risk of damage to foundations and water pipes and storage tanks caused by sulphur compounds and organic acids present. Visitors to the hotel may come into dermal contact with the substrate,. The large number of additional visitors could disturb some of the toxins present.

There need to be adequate investigation of toxins in made ground and potential contamination of soil, waste and rainwater which will be disposed of into the Stour Inland Basin. See above, particularly, Pollution and Nuisances (p.20-22)

11. Loss of Open Space.

The same arguments apply to the surf lagoon as to the Hotel (see above under Proposed Hotel Loss of Open Space. See further details at p.22.

12. Traffic, Roads and Air Quality.

There will a large increase in road use, in area poorly provided for as far as dualled roads and the result will be 'rat runs', congestion and increased traffic on unlit, quiet country lanes. The hotel being built at such a hard to access site will result in significant effects on air quality and public health from increased traffic, congestion, car emissions. See further details provided above, pages 11-12.

13. Water Management and use

Both applications will share the same WWTP. The 120 bed hotel and associated spa etc. will create large volumes of soil, waste and rainwater. There is no mains sewerage and the processed waste and foul water will be disposed of in the Stour Inland Drainage Basin. See above for more details on water consumption and waste water management. The large use of water needs to be put into the context of an area of water stress, where water is extracted through aquifers and not rainwater harvested in reservoirs (p.19-21).

⁷⁹ Aspect Arboricultural Impact Assessment (22/01158) (2/9/22)

⁸⁰ Officer's Report (23/01095) (1/3/24)

22/01158: The Surf Lagoon

1. Recreational Disturbance.

A large increase in the number of visitors coming to the Park, leading to 24 hour activity, light and noise would lead to a significant negative effect on the Park's wildlife, particularly Turtle Doves and other birds, invertebrates, bats, beavers and badgers. These impacts would also harm the amenity and wellbeing enjoyed by users of the Park.

2. Impact on a Nationally important population of Lizard Orchids protected under schedule 8 of the Wildlife and Countryside Act. 10-15% would be removed under the surf lagoon proposals. Impact on a Nationally important population of Fiery Clearwing moths under the Hotel and surf lagoon proposals.

Concerning Lizard Orchids, Natural England⁸¹ stated the following:

We note that the applicant has stated that it is considered unlikely that the proposals will result in significant harm to biodiversity. However as set out in the attached document (Lizard Orchid Info Note Feb 2023) we consider that the measures that have been put forward would nevertheless result in a negative impact on this population.

This is what Natural England⁸² say regarding Lizard Orchids and Fiery Clearwing moths:

NE needs to be satisfied that the grant of a license is not detrimental to the survival of any population of the species of animal or plant to which the license relates. Currently translocation techniques proposed by the applicant don't have established research and methodologies associated with them that give us confidence that they will work.

And:

The suggested 7 year period during which there is an opportunity for the applicant to demonstrate whether proposed translocation techniques might be successful on this site, would enable NE to make informed evidence led decisions as to whether a license could be issued. This does not mean that NE will issue a license. If the research does not demonstrate to our satisfaction that the methods are successful we would remain unable to issue a license.

3. Effect on Turtle doves and Skylarks.

Impact on Turtle Doves – as above. See various RSPB comments.

Skylark nesting areas would be removed under the surf lagoon proposals. No mitigation is proposed. Skylarks are Red listed.

4. Effect on Sussex Emerald moths and other invertebrates with a conservation designation.

Although the Sussex Emerald has been recorded on the Betteshanger site this protected species under schedule 5 of the Wildlife and Countryside Act, has not been surveyed and therefore the impact of the proposed development is unknown. Over 20 invertebrates with a conservation designation will be significantly impacted by the surf lagoon proposals⁸³.

81 Natural England (22/01152) (17/2/23)

82 Natural England (22/01158) (6/2/24)

83 Buglife (22/01158) (30/11/23)

5. There will be a significant effect on Open Mosaic Habitat (a priority habitat) as over 2.4.5 ha will be removed

6. Effect on Reptiles particularly Common Lizards.

As mentioned above under application 14/00058⁸⁴ condition 55 over 1000 Common Lizards were translocated to an area adjacent to the proposed surf lagoon for their long-term protection. They will now have to be translocated again. We consider this to be a significant impact on a protected species.

All wildlife is likely to be significantly affected by a large increase in visitor numbers and the accompanying 24 hour activity, light and noise.

7. Effect on Landscape.

The surf lagoon in particular will be an intrusion into a largely rural landscape and both developments are contrary to Dover policy on Landscape grounds. Of particular significance are the lighting columns for the surf lagoon which will illuminate an area designated for its 'dark skies'⁸⁵ and have a negative impact on the Park's wildlife, especially bats, invertebrates birds and mammals.

8. Effect on Climate Mitigation.

Many trees and much scrub will be removed to make way for the surf lagoon (See arboricultural report 2/01158) This will have a negative impact on wildlife and also on the Park's ability to sequester carbon. The surf lagoon will use huge amounts of electricity adding to the schemes impact on climate change.

9. Water Management and use

Both applications will share the same WWTP and the surf lagoon will contain 30 million liters of chlorinated water that will need to be replaced from time to time and will be subject to evaporation. As above there are considerable problems with purifying chlorinated water and this can't be achieved with aerobic bacterial plant. There is no mains sewerage and the processed waste and foul water will be disposed of in the Stour Inland Drainage Basin. See above section on Water Consumption. The large use of water needs to be put into the context of an area of water stress, where water is extracted through aquifers and not rainwater harvested in reservoirs (p 19-21)

10. Pollution and ground contamination risks.

There need to be adequate investigation of toxins in made ground; insufficient investigations have been made so far, and there are risks of potential contamination of soil, waste and rainwater which will be disposed of into the Stour Inland Basin. There will be particular risks in excavating this ground during the construction phase where dust will be created and the ground disturbed. There is a risk of damage to foundations and water pipes and storage tanks caused by sulphur compounds and organic acids present. Visitors to the surf lagoon may come into dermal contact with the substrate wearing swimwear. The large number of additional visitors could disturb some of the toxins present. See above, particularly, Pollution and Nuisances (p20-22 of this submission).

11. Loss of Open Space.

⁸⁴ Planning Application (14/00058)

⁸⁵ Dark Skies [cpre.org.uk/what-we-care-about/nature-and-landscapes/dark-skies/englands-light-pollution-dark-skies-map/Dark skies](http://cpre.org.uk/what-we-care-about/nature-and-landscapes/dark-skies/englands-light-pollution-dark-skies-map/Dark%20skies)

The same arguments apply to the surf lagoon as to the Hotel (see above under Proposed Hotel Loss of Open Space. See further details at p.22.

12. Traffic, Roads and Air Quality.

There will a large increase in road use, in area poorly provided for as far as dualled roads and the result will be 'rat runs', congestion and increased traffic on unlit, quiet country lanes. The surf lagoon being built at such a hard to access site will result in significant effects on air quality and public health from increased traffic, congestion, car emissions. See further details provided above, pages 11-12.

Conclusion.

In order to complete a screening opinion for planning applications 22/01158 and 23/01095 we ask that Dover District Council considers all the points made in the above document.

From: [REDACTED]
Sent: 08 August 2024 09:04
To: [REDACTED]
Subject: Betteshanger - planning conditions

Hi [REDACTED]

Thanks for the update.

Do we need to write a quick addendum?

Kind regards,

[REDACTED]



Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: [REDACTED]@nexusplanning.co.uk>
Sent: Wednesday, August 7, 2024 5:00 PM
To: [REDACTED]@dover.gov.uk>
Subject: FW: Betteshanger - planning conditions

Hi [REDACTED]

I had a call from [REDACTED] to explain that the tone of his email was to satisfy expectations of his clients. But the additional PPA fees are agreed, if DDC is able to invoice for the agreed £2,500 amount

[REDACTED]

[REDACTED]
Associate Director

M [REDACTED]
E [REDACTED]@nexusplanning.co.uk





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From: [REDACTED] [@akdc.co.uk](mailto:[REDACTED]@akdc.co.uk)>
Sent: Wednesday, August 7, 2024 4:48 PM
To: [REDACTED] [@nexusplanning.co.uk](mailto:[REDACTED]@nexusplanning.co.uk)>
Cc: [REDACTED] [@doover.gov.uk](mailto:[REDACTED]@doover.gov.uk)>
Subject: Re: Betteshanger - planning conditions

External Email: Please be aware. This email originated from outside the Nexus Planning corporate network. Do not take instructions, click on links or open attachments unless you recognise the sender and know the content is safe.

Hi [REDACTED]

Thank you for your email below.

The delay in drafting conditions is a real concern – the Planning Committee was 22 weeks ago and we had expected and requested the conditions were drafted hand in hand with the s106 as is usually the case, not least because the s106 has been such a time consuming process. The Australian investors continue to remind us that a PPA was agreed for January 2023 and that the submissions were made in September 2022. If we now suggest conditions will take longer than the s106 to be issued then this further harms our relationship with them and their confidence in the scheme.

We need to ensure these conditions are prioritised so that they are resolved whilst the s106 is out for signature – on that basis we can agree the additional fees.

Any further delays are a real concern to us – as we have made clear the investors are blindsided by the complexity of gaining planning permission, the time to reach a decision post committee, the time it takes to get to a committee and in general the impossible nature of planning in the UK compared to elsewhere and we are really concerned that any further requests for delays in getting the permission beyond the completion of the s106 could push them over the edge.

Kind regards

[REDACTED]

Email: [REDACTED] [@akdc.co.uk](mailto:[REDACTED]@akdc.co.uk)
Tel: [REDACTED]



On Wed, 7 Aug 2024 at 15:24, [REDACTED]@nexusplanning.co.uk> wrote:

Hi [REDACTED]

Thank you for your time on the phone this afternoon, providing a general update on progress with both applications.

Full text conditions for both applications need to be drafted, which we have been asked to lead on by DDC subject to securing a small uplift on the PPA contribution amount (to fund that additional resource).

Therefore, could we agree by exchange of emails an extension to the PPAs of £2,500 – that sum to cover both applications. The sum reflects the number of conditions and complexity of some of them. This amount could be split equally between each applicant or (given the landowner is the same) split any other way at your discretion.

I would be pleased to reach agreement on this.

Thanks

[REDACTED]

██████████
Associate Director

M ██████████
E ██████████@nexusplanning.co.uk



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[REDACTED]

From: [REDACTED]
Sent: 09 August 2024 09:09
To: [REDACTED]
Subject: Betteshanger
Attachments: Friends of Betteshanger - EIA Screening Submission to DCC (02-08-2024) FINAL.pdf

Hi Both,
For your interest and awareness only, the attached document is being shared online. I presume we're aware.

Regards

[REDACTED]



[REDACTED]

Strategic Director (Place and Environment)
White Cliffs Business Park, Dover CT16 3PJ
Email: [REDACTED]@[dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)
Tel: [REDACTED]
Web: www.dover.gov.uk

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Friends of Betteshanger
Submissions to Dover District Council on the EIA Screening Opinion

2 August 2024

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Introduction

We are writing on behalf of Friends of Betteshanger concerning the screening opinion being undertaken by Dover District Council (“DDC”) for two applications: DOV/22/01158 and DOV 23/01095. We request that the points raised in this document are considered as part of the assessment for EIA. They relate to:

- **DOV/22/01158: Surf lagoon, plus cafe/restaurant/bar, lounge, shop, hiring and changing facilities and multi-use space, 15 overnight and holiday pods, learning hive, well-being facilities, bike/pump track and associated roads, paths and cycle parking, together with landscaping and necessary access works and associated site infrastructure. (Re-consultation: additional/revised information including repositioned holiday lodge; revised parking arrangement; updated ecological appraisal; updated flood risk assessment and drainage strategy; habitat regulations assessment; transport response; and visitor management and turtle dove strategy.**
- **DOV/23/01095: Erection of a 120 bed hotel (C1) building with associated spa facilities, gym, restaurant/bar access, landscape and parking.**

The Council’s previous screening opinions dated 4 July 2023 accepted that the two development proposals fell within the scope of Schedule 2, paragraph 12(c) (‘holiday villages and hotel complexes’) and 12(d) (‘theme parks’) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”). We agree with that conclusion.

The two development proposals have an area greater than 0.5 Hectares; the surf lagoon covers an area of 9.6 Hectares¹; the hotel covers an area of 2.6 Hectares² so the development exceeds the threshold for a schedule 2 development.

DDC agreed in a pre-action response³ to re-screen this development.

As an overall comment, Friends of Betteshanger is very concerned by the amount of inadequate quality and quantity of environmental information which is currently available to the decision maker. These gaps are identified below and, together with the likely significant effects of the developments, demonstrate the need for a thorough EIA to be carried out.

EIA Screening Principles

The Precautionary Principle

In deciding whether an EIA is needed DDC will need to have regard to the precautionary principle and to the degree of uncertainty as to environmental impacts at the date of the decision. Depending on the information available, the decision-maker may or may not be able to make a judgment as to the likelihood of significant effects on the environment. There may be cases where the uncertainties are such that a negative screening decision cannot be taken (*R (Loader) v Secretary of State for Communities and Local Government* [2012] EWCA Civ 869).

This was confirmed in *R (on the application of Swire) v Secretary of State for Housing Communities and Local Government* [2020] EWHC (Admin), where the court confirmed that screening authorities should

1 Icen Planning Statement (22/01158) (1/9/23) page 8
2 Icen Planning Statement (23/01095) (2/9/22) page 5
3 Letter dated 12 June 2024

take a precautionary approach and not base their decisions on assumptions that unidentified remediation measures will be successful.

In *R (Champion) v North Norfolk District Council* [2015] UKSC 52, the Supreme Court similarly concluded that if there is material doubt about the effectiveness of any proposed mitigation, then a decision should be made that the application in question involves EIA development and that an environmental statement should be submitted.

Any conclusion as to significant effects on the environment must be supported by adequate and up-to-date information and this relates to many areas like air quality, water treatment, biodiversity, the cumulative effects of planning consents in the area and much else discussed below.

Likely Significant Effects

An EIA must be carried out where a development proposal is likely to have significant effects on the environment. In assessing whether likely significant effects arise, the decision-maker must consider whether there is a real risk or serious possibility of significant effects arising (*R (Bateman) v South Cambridgeshire District Council* [2011] EWCA Civ 157).

The Scope of Development

The identity of a project for the purposes of EIA is not necessarily circumscribed by the ambit of the specific application for planning permission which is under consideration. The objectives of the Directive and the Regulations cannot be circumvented (deliberately or otherwise) by dividing what is in reality a single project into separate parts and treating each of them as a “project” – a process referred to in shorthand as “salami-slicing” (*R (Ashchurch Rural Parish Council) v Tewkesbury BC* [2023] PTSR 1377 at [78]).

R Wingfield v Canterbury CC [2019] EWHC 1975 identified a non-exhaustive list of matters that can be relevant in deciding whether two schemes comprise a single EIA project:

1. Common ownership;
2. Simultaneous determination of planning applications;
3. Functional interdependence, where one part of a development could not function without another; and,
4. Whether each development is a stand-alone project that is justified on its own merits and would be pursued independently of another development.

Cumulative Impacts

Where it is legitimate for two development proposals to be brought forward separately, it is nonetheless important to assess their cumulative impacts. Overlapping environmental effects may exist where there are independent projects nearby to one another, in which case an assessment of cumulative effects will be required (*R (Wingfield) v Canterbury City Council* [2020] JPL 154 at §70).

Applying the principles to the development proposals at Betteshanger Couty Park (BCP)

Scope of Development for EIA Purposes: The two applications form part of a single development.

Although nominally distinct, the two applications, 22/01158 and 23/01095 are clearly part of a single project and part of a single 'theme park' concept and the developer has stated that the planned activities, the surf lagoon and hotel are all necessary to make sufficient profit to keep the park open.

There is a single concept and an integrated set of activities to create a park where visitors can be kept occupied with restaurants, bars, special events like music concerts, motorcycle racing, the mining museum, gyms, spas, surf lagoon, hotel, military assault course, etc. BCP is hard to access from Deal and Sandwich, in open country, between the towns of Deal and Sandwich only accessible on the highly congested A258. Hence, the developer's 'theme park' project that requires that BCP has facilities available on site.

In addition to the above, the factors listed in *Wingfield* clearly point towards the two development proposals in fact being a single project:

Common Ownership

The land parcels where the surf lagoon (DOV/22/01158) and hotel (DOV/23/01095) are proposed to be built were acquired by Quinn Estates in December 2019 using the vehicle, Betteshanger Property Limited (BPL). BPL operate the park through a subsidiary, BCP who have made the application for the hotel. The application for the surf lagoon is the SEAHIVE who will lease the land for the surf lagoon from BCP so it is clear that there is a single owner. The business plan for the park relies on income streams from rents to BCP from the hotel and surf lagoon and the claim made in the BCP Financial Summary⁴ is that these will cross subsidise running events and wildlife management in the park.

Simultaneous Determination of Planning Applications

The planning applications for the surf lagoon and hotel were determined at the same planning committee meeting on 7 March 2024.

Functional interdependence

The surf lagoon and hotel will share much of the infrastructure such as a single Wastewater Treatment Strategy. For example, see section 9.5 of the Flood and Risk Assessment Drainage Strategy for 22/01158 (dated 13/1/23) and 23/01095 (dated 1/9/23) which states for each: "it is concluded that connecting to the existing or replacement wastewater treatment plant to the east of the visitor center, within the Country Park, is likely to present the most viable solution". Similarly, the Officer's Reports for both applications state: "For foul sewerage from the [hotel/development], the approach presented by the 'Flood Risk Assessment and Drainage Strategy' is that it will feed into the existing or upgraded wastewater treatment plant within the Country Park. Any upgrade would be within the confines of the existing arrangement." Both reports recommend a planning condition to ensure details of adequate wastewater treatment facilities are submitted and approved before development commences, although the report for the surf lagoon application also suggests that further environmental consents or permits may be needed although defers to the EA in this respect.⁵

⁴ Azets BCP Financial Summary (23/01095) (6/10/23)

⁵ Officer's Report (22/01158) page 73.

In addition, the projects are also financially interdependent and for the reasons set out below, the hotel and surf lagoon proposals are clearly **not** stand-alone projects that are justified on their own merits.

The two applications are two components of a ‘masterplan’ for making BCP a success as an ongoing concern. The Planning Statement⁶ for the hotel states: *“The application proposal is a critical component of a Wider Masterplan for Betteshanger Country Park to elevate the societal level value of the asset through extending its appeal as an attraction beyond the immediate local community to attract visitors from further afield”*.

This is also made clear in the ‘Financial Summary’ (dated September 2023) compiled by Azets⁷ for the developer which states that the purpose of the developments was to continue the project initiated by South East England Development Agency (SEEDA) and provide a secure future for BCP. This is detailed in the History section of the report.

The Financial Summary⁸ states the purpose of the two planning applications together is:

“To ensure the long-term financial viability, Betteshanger Country Park requires investments in infrastructure, facilities and sustainability initiatives. Prioritising capital projects can enhance visitor experiences and attract a broader audience. Betteshanger Country Park would exhibit promising financial viability through its diverse revenue stream and potential growth opportunities if there were successful in securing planning permission for the development of the surf lagoon and hotel.

By leveraging the opportunity, Betteshanger Country Park can transform their operations through the strategic investment and prudent cost management which is vital for securing the park’s continued success and contribution to the community”.

The Financial Summary⁹ makes it clear that both applications needed to be agreed for the park to be financially viable (according to the developer) and unless both were agreed the park would probably be closed:

“If both of the proposed developments were undertaken then the park is projected to just make enough to carry on and start to repay some of the debt”.

It is clear then that neither application could function independently of the other.

The applications form part of a project to develop the park as a ‘theme park’ attracting visitors by providing a variety of different activities, from events like motorcycle racing, music concerts, military style assault course, film shows to the fitness centre, hotel and surf lagoon etc. These are all part of the same offer and mutually supportive; people staying in the hotel will be attracted by the surf lagoon etc. and vice versa, i.e. visitors to the surf lagoon will be able to stay in the hotel.

The Country Park is in open country and hard to access from Deal and Sandwich on the already congested A258 and the development will provide all facilities on site.

6 Icen Planning Statement (23/01095) (1/9/23) para 1.6, page 2

7 Azets BCP Financial Summary (cited above)

8 Financial Summary (cited above) page 12

9 Financial Summary (cited above) page 11

The planning statement for the hotel development¹⁰ adds: *“In addition, alongside this application is a sister application for a surf lagoon and pools, associated hub and holiday pods, yoga and health and wellness centre.”*

The planning statement for the surf lagoon¹¹ (dated August 2022) states:

“Whilst Betteshanger Country Park has been brought forward partly in accordance with SEEDA’s Masterplan, the economic regeneration of the site has not materialised as envisaged and the economic benefits of the public (and private) investment in infrastructure has yet to be realised.

However, through the tourism and leisure development proposed through this scheme, together with the sister application for a hotel and spa and recent facilities that have opened up, an alternative economic regeneration can be unlocked that is arguably of greater societal value than the economic regeneration project envisaged by SEEDA”.

This demonstrates the economic interdependence between the two applications.

Other Factors

The Applications were submitted simultaneously: The application for the hotel DOV/23/01095 was submitted on 1st September 2023, separately to the surf lagoon proposal, but this application was a version, with minor changes, of an application made on 22/01152, which was rejected by the DDC planning committee in July 13th 2023¹², on the grounds that (1) the proposed development would lead to an unacceptable loss of open space and (2) the proposed development would result in a significant disturbance to habitat that supports a population of turtle doves, contrary to local and national policy.

Use of the same consultants: The planning statements for the applications DOV/22/01152 and DOV/22/01158 were submitted by Icen Projects on 25th August 2022. In addition: both had screening requests prepared by the same environmental consultants; both used the same Water Management System consultants, Herrington; both used the same geological consultants, Ecologia; both used the same Ecological consultants, Aspect; both were discussed together at the two briefing meetings for planning committee members, one with Quinn Estates and one with Friends of Betteshanger, held by DDC; and both were determined at a specially convened planning committee meeting on March 7th 2024.

Description of the project as a single project by DDC’s CEO: The purchase of BCP for £621,977.00 (ex. VAT) by BPL on 2nd December 2019¹³ was supported by DDC whose CEO issued a press statement, also on 2 December 2019¹⁴ stated:

‘Dover District Council has welcomed today’s announcement that the future of Betteshanger Country Park has been secured. Nadeem Aziz, Chief Executive of Dover District Council said “We’ve been involved with the Betteshanger project from the start, So we’re delighted that its future has been secured with new owners and that the Country Park will be fully operational.

“We always recognised that the regeneration of the Betteshanger site had huge potential for tourism, community and sporting hub, and we’re pleased that the new owners have committed to finishing the exciting new visitor center and Kent Mining Museum.

10 Planning statement hotel (23/01095), para 2.6

11 Planning statement surf lagoon (22/01158), para 3.18

12 Minutes – planning committee (13/7/23)

13 Deeds of Sale for BCP 2019

14 Press Release from DDC dated 2/12/19, see: [DDC Welcomes Betteshanger Parks Announcement \(dover.gov.uk\)](https://www.dover.gov.uk/news/2019/12/02/ddc-welcomes-betteshanger-parks-announcement)

“We look forward to working with Quinn Estates to realise the full potential of Betteshanger Country Park”.

Hence the two applications meet the criteria of being a single development and treating them as two separate developments would be ‘salami slicing’.

Cumulative Likely Significant Effects

Even if the applications were considered as independent, standalone projects, there are significant cumulative environmental effects that must be assessed as part of this screening exercise. A full EIA should be carried out as a result.

The LPA must use the criteria in Schedule 3 of the Regulations to determine whether proposals are EIA development. Schedule 3 refers to a number of potential impacts that we will discuss in the following sections:

Sensitive Sites

Under the category of ‘location of development’ the environmental sensitivity of the geographical area likely to be affected by development must be considered.

Government Guidance on Environmental Impact Assessment (the Guidance)¹⁵ defines ‘Sensitive Areas’ as follows:

- Sites of Special Scientific Interest and European sites;
- National Parks, the Broads and Areas of Outstanding Natural Beauty;
- World Heritage Sites and scheduled monuments.

This reflects the statutory definition of ‘sensitive areas’ set out at regulation 2(1) of the EIA Regulations.

However, the Guidance also says that, as a matter of policy:

In certain cases, local designations which are not included in the definition of “sensitive areas”, but which are nonetheless environmentally sensitive, may also be relevant in determining whether an assessment is required.

BCP has the following local designations and our view is that these are relevant in determining whether an EIA is required:

- a) BCP (formerly Fowlmead) is designated as a Regionally Important Geological Site (RIGS)¹⁶ and has features that should trigger a survey and assessment according to DDC Local requirements Biodiversity and Geological Conservation
- b) It is designated as a Country Park
- c) It has been designated an Asset of Community Value by Dover District Council¹⁷.
- d) BCP is also in close proximity to a number of designated European sites and there is a likely risk that the development will have a significant effect on these sites, in particular Thanet Coast and Sandwich Bay SPA and Ramsar and Sandwich Bay SAC, within 1 kilometre of BCP plus the Sandwich Bay and Hacklinge Marshes SSSI. The HRA commissioned by DDC¹⁸ as part

15 Available online: [Environmental Impact Assessment - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

16 See geoconservationkent.org.uk: [Betteshanger Sustainable Parks with Relic Cliff - Joomla!](http://geoconservationkent.org.uk) (geoconservationkent.org.uk)

17 See Asset of Community Value at dover.gov.uk: [Assets of Community Value in Dover District](http://dover.gov.uk)

18 Habitats Regulation Assessment – Regulation 19 evidence base at doverdistrictlocalplan.co.uk: [Regulation 19 Evidence Base \(doverdistrictlocalplan.co.uk\)](http://doverdistrictlocalplan.co.uk)

the regulation 19 evidence base of the emerging Local Plan states that there will be likely significant effects without appropriate mitigation.

- e) It sits within an Impact Risk Zone (IRZ), in relation to Sandwich Bay to Hacklinge Marshes SSSI. IRZs were developed by Natural England as a tool to help assess the risk of developments adversely affecting SSSIs.
- f) It is part of the Lower Stour Wetlands Biodiversity Opportunity Area¹⁹.
- g) It has been designated as part of the Kent Downs and Stour Valley Important Invertebrate Area by Buglife²⁰.
- h) It is sited in the Lydden Turtle Dove friendly zone as designated by the RSPB²¹.
- i) It supports a number of priority habitats including Open Mosaic Habitat, Ponds, Reedbed and Woodland.

Further reasons why BCP should be treated as a ‘sensitive area’:

- a) The Dover solicitor, in the planning committee meeting on March 7th 2024²² to decide the two Betteshanger Park applications, said the following: *“The site is recognised as being of significant ecological importance, analogous or actually of much greater importance than that which would be required to designate it as a Local Nature Reserve”*.
- b) The EIA screening opinion from DDC states: *“The Site’s open and undeveloped nature, designated as open space, increases its environmental sensitivity to the Proposed Development.”*
- c) Natural England²³ considers the Park’s population of Lizard Orchids is of national importance. A request that it should be considered for SSSI status has also been sent to Natural England. The site also supports other protected species such as Water Voles, Fiery Clearwing and Sussex Emerald Moths, Reptiles, Turtle Doves, Beavers, Bats and other Red listed birds.
- d) The Dover SNEO²⁴ considers that BCP would qualify as a Local Wildlife Site for its invertebrate interest.
- e) There is a 2004 section 106 agreement²⁵ which required the designation of the site as a Local Nature Reserve (LNR). This agreement ‘runs with the land’ and the developer has agreed to the stipulations of the section 106 agreement of 2004 by the act of acquiring the site.
- f) It is listed as Protected Open Space in the Dover Local Plan²⁶

The Secretary of State’s view is that in general, EIA will be needed in three main types of cases

- Major development of more than local significance
- Development in particularly environmentally sensitive and vulnerable locations and;
- Development with unusually complex and potentially hazardous environmental effects.

Taking these points in turn; the location of the surf lagoon development at the eastern boundary, rather than its catchment area, the centre of the South East region, will result in additional car miles travelled and increased CO2 and NO2 emissions and additional global warming effects.

19 See Kent Biodiversity Strategy 2020-2045 [Kent Biodiversity Strategy | Kent Nature](#)

20 [Important Invertebrate Areas - Buglife](#)

21 [Home - Operation Turtle Dove](#)

22 Transcript of planning meeting held on 7/3/23

23 Natural England (22/01158) (23/2/23)

24 (12/2/24)

25 This relates to application 02/00905

26 Regulation 19 evidence base: [Open Space and Sport Topic Paper Sept 2022 \(doverdistrictlocalplan.co.uk\)](#)

The large water usage will put additional stress on a region of water stress. The large electricity requirements will contribute to global warming.

As detailed throughout the development will have hugely significant effects on a sensitive environmental location for example on its ecology. The site is of high biodiversity interest supporting species of national and regional importance.

The development is on made ground, containing heavy metals and other toxic materials. The ground where the developments are proposed has not been completely surveyed²⁷. The site has no mains sewer connection and the waste and foul water, including chlorinated water will need to be treated and disposed of into local watercourses.

These watercourses form part of the Stour basin. Further development will result 11.7 hectares of impermeable surface which will create millions of litres of run-off in heavy rainfall events which will need to be disposed of at a much reduced rate²⁸. The combination of made ground containing toxins and the need to treat, store and dispose of wastewater creates a complex and potentially hazardous environmental effect. There are risks during construction from excavating the made ground and these could result in risks to human health as described in the report by Ecologia that requires ground workers to wear PPE²⁹.

Cumulative Impacts with other existing development and/or approved Development.

Under 'Type and Characteristics of the Potential Impact', DDC stated³⁰ in their screening opinions dated 4th July 2023:

The cumulative effects of the Proposed Development and other existing and/or approved development, on likely matters of transport, air quality and noise, are not expected to be significant.

We disagree.

The application submitted by the SeaHive (22/01152) and that of BCP for the 120 bed hotel (23/01095) will have significant cumulative effects.

Increased number of visitors

The threshold for visitor numbers for an EIA is 250,000. The current number of visitors to the park is estimated at 240,000. Add to this number, projected visitors for the hotel of 117,384³¹ and the surf lagoon of 203,000³² and the 250,000 threshold is exceeded by a wide margin.

There will be significant impacts on what is already a very congested local road network. According to Stuart O'Leary's³³ estimate (Head of BCP), there will be an 'escalation of up to and more than 500,000 customers per year, all from as far as London'.

There have been a wide range of estimates given depending on context including a claim by the developer that as many as 700,000 visitors a year will come³⁴. No convincing calculations have been

27 Ecologia (22/1158) Land Contamination Assessment (2/12/22) also (23/01095) (1/9/23)

28 Herrington (22/01158) Flood Risk Assessment and Drainage Strategy (2/9/22) also (23/01095) (1/9/23)

29 Ecologia report (cited above)

30 DDC Screening Option (4/7/23)

31 Aspect Ecology Technical Briefing Note (23/01095) (6/10/23) point 4 Information to Inform a Habitats Regulation Assessment. It is noted with concern that no projected visitor numbers are provided in the Planning Statement for the Hotel development.

32 Planning statement (22/01158), para 4.21

33 In Kent online 22/7/22

34 Kentonline 10/10/23

provided to support these estimates. In fact, because visitor numbers depend on individual decisions it is not possible to make an accurate estimate. What is certain is that the visitor numbers provided in the planning statements for hotel and surf lagoon are needed for the park to break even and for the park to remain open. Hence, the precautionary principle should be applied and the largest number provided by the developer taken.

Air Quality Impacts

Given the location of the site relatively distant from the nearest railway stations (Deal and Sandwich), neither at walking distance from the park, many of the visitors coming 'from as far as London'³⁵ will be coming by car. The most direct routes from London and west Kent into the Deal area would use the M20 or M2 and then either the A258 or A256 or various cut-throughs using country lanes which are already 'rat runs'.

The park is situated on the A258 between Deal and Sandwich and all traffic to the park will need to use this road for at least part of their journey. Due to a large number of developments particularly in North Deal and Sholden and also some in Sandwich, this road is already congested. Congestion and idling traffic has significant impacts on air quality. This congestion, and the associated air quality impacts, will worsen with a number of developments either with planning permission agreed such as the Greenways development (application 20/00419 for 210 houses) or included in the new local plan that will further increase traffic. If the traffic generated by the surf lagoon/hotel development is added it will have a severe effect on local quality of life. In addition, people travelling to the park through narrow country lanes and villages will lead to further issues of congestion.

The continuous increases in planning agreements for new housing many on the A258 between Deal and Sandwich, in particular in Sholden and Mongeham, in close vicinity of BCP, will result in elevated CO₂ and NO₂ levels, added to by the up to 700,000 visitors predicted for the park. The levels of NO₂ recorded at the Manor Roundabout, which is on the northern exit from Deal on the A258 exceeded the Air Quality Standard (AQS) of 40ug/m³ for NO₂ every month for whole of 2022 with a mean adjusted average throughout the year of 37.4 ug/m³. An Air Quality study in 2021³⁶, submitted for the Draft Dover District Local Plan, predicts an exceedance of NO₂ to 40.2 ug/m³ at this site. Since the area has not been declared an Air Quality Management Area, there is a lack of detailed statistics covering the A258 and North Deal/Sholden. It is clear that the trend is upwards and more data needs to be gathered. Decreasing air quality, which is responsible for between 28,000 and 36,000 deaths per year, will present a public health issue and is a significant environmental effect.

Both Greenways (210 houses) and the current application for BCP are 'windfall developments', in that they were not considered or included in the emerging Local Plan and are recently agreed developments. The local plan gives a minimum number for developments and additional developments will need to be added. Not only those recently given planning consent in North Deal but also including the large expansion of Whitfield for housing and the thousands of new houses proposed and currently under construction in nearby Thanet. The cumulative impacts of traffic and pollution on the towns of Walmer, Deal and Sandwich, and the immediate surrounding areas will be hugely significant for air quality levels in the area.

In order to complete a screening opinion DDC will require up to date material concerning a traffic assessment, given the new developments with planning agreements near London Road in Sholden and

35 Kentonline (cited above)

36 Dover District Council Air Quality Inputs, dispersion Modelling Assessment. Bureau Verita UK Ltd. Jan 2021.

generally in the area. This is necessary to properly understand and scrutinise the air quality impacts of the developments.

Landscape and Visual Impact.

The Planning Officer's report³⁷ for the hotel says the following:

"2.114 With the adverse landscape and visual effects identified, the development is considered contrary to Core Strategy Policy DM16, the aims of Policy DM15 in protecting the character / quality of the countryside and draft Local Plan Policies E4 and NE2. This matter is considered further in the planning balance at the end of this report."

And:

"2.102 The Planning Committee resolved in considering the previous application that the hotel development would harm the character and appearance of the Country Park. This is a consideration in the determination of this application."

The site is on elevated ground and will be visible throughout the area. BCP is in a rural area designated as a 'dark skies' area. However, the surf lagoon will be lit by 24 x 12 metre lighting towers³⁸ and these will be visible from surrounding areas and will impact the Park's wildlife especially bats, invertebrates, birds and mammals.

In order to complete the screening opinion DDC will need to assess the impact on landscape especially as the proposed developments are contrary to the Dover Core Strategy³⁹ and Local Plan policies.

Ecology and Nature Conservation

This section considers the cumulative effects of the proposed development on biodiversity as it relates to the following sites:

Development sites:

- BCP applications 22/01158 and 23/01095 for the Hotel and surf lagoon; and
- The Greenways development (20/00419). This is directly related to the development proposals at BCP because biodiversity mitigation schemes for Greenways are to be implemented at BCP.

N.B. Both these sites are part of the now defunct Betteshanger Colliery that closed down in 1989. The Greenways development is on the old pit head area and is now being developed for housing whereas the proposed Country Park developments are on the old spoil tip.

Protected affected sites including:

- The Thanet Coast and Sandwich Bay RAMSAR site
- Sandwich Bay and Hackling Marshes SSSI
- The Thanet Coast and Sandwich Bay SPA
- The Sandwich Bay SAC

37 Planning officers report for (23/01095)

38 LVIA Seahive Addendum (22/1158) (9/3/23)

39 Dover Core Strategy at doverdistrictlocalplan.org

Cumulative impact on protected species:

Impact on Open Mosaic Habitat on Previously Developed land and invertebrate communities. OMH is a priority habitat under section 41 of NERC 2006 and a target habitat under the Kent Biodiversity Strategy 2020-2045. Buglife has included BCP in the Kent Downs and Stour Valley Important Invertebrate Area (IIA) because of the importance of its invertebrate population.

Their website ⁴⁰states:

“Important Invertebrate Areas (IIAs) are places that are home to nationally or internationally significant invertebrate populations and their habitats. ”

This is what the Dover Natural Senior Environment Officer says in her submission⁴¹ relating to 22/01158 the surf lagoon:

“2.1.1. The proposed development will result in the loss of 2.75ha of open mosaic habitat on previously developed land (OMH), a habitat of principal importance for biodiversity (priority habitat) that supports an important invertebrate assemblage. Almost 2ha of the OMH habitat to be lost is assessed as being in good or moderate condition

2.1.2. The OMH within the Country Park is assessed in the submitted ecological reports as of district to county importance. In my view, it is of at least county importance. With respect to the invertebrates within the Country Park, it is concluded in the submitted ecological reports that the site is of county importance, and this was prior to the confirmation of additional invertebrate species including the protected fiery clearwing and Sussex emerald moths, which could further elevate this level of importance. On this basis, the Country Park could be considered as of Local Wildlife Site quality.

2.1.3. Without an adequate and achievable compensation strategy, the loss of habitat from the proposed development site will constitute significant ecological harm to priority habitat and an important invertebrate assemblage.

2.1.4. I have doubts that the applicant’s approach to mitigation, as outlined in the Outline Habitat Compensation Strategy, will adequately compensate for these impacts.”

It should be noted that the Greenways site (20/00419) also had important areas of OMH with a significant assemblage of invertebrates of county importance (see Update Ecological Appraisal Part 2. Application 22/01158). Mitigation for the loss of OMH supporting invertebrates on the Greenways site is being provided at BCP. The cumulative harmful effects on OMH and invertebrates across the two Betteshanger Sites (the Greenways site and the Country Park) will be significant.

It should be noted that since the invertebrate surveys were carried out by the developer Fiery Clearwing moths a schedule 5 species under the Wildlife and Countryside Act 1981 have been recorded on both the Hotel and surf lagoon sites⁴².

Mitigation for the impact on this species will require a license from Natural England.

The cumulative impact on Open Mosaic Habitat found on the two Betteshanger sites (Green ways and the Country Park) and its invertebrate assemblages will result in a significant impact on biodiversity. This cumulative impact needs to be assessed as part of the EIA screening.

⁴⁰ See buglife.org.uk

⁴¹ SNEO (22/01158) (12/2/24)

⁴² Natural England (22/1158) (4/7/23)

Impact on Birds including Turtle Doves.

Turtle Doves will be impacted by both the Greenways development (20/00419) and the Country Park developments (22/01158 and 23/01095). It should be noted that BCP is within the Lydden Turtle Dove Friendly Zone designated under the RSPB's Operation Turtle Dove, which aims to save this species by creating breeding and feeding habitat.

Aspect Ecology's bird survey on the Greenways site (20/00419)⁴³ recorded 4 Turtle Dove territories – one of these territories was removed as part of the Greenways development during the nesting season last year. Mitigation areas have been set up at BCP with the aim of maintaining and expanding Turtle Dove numbers at the Park⁴⁴). However, the mitigation areas are both adjacent to the proposed Hotel and surf lagoon and thus will be subject to greatly increased disturbance.

Two territories have also been recorded at the Park making the two sites together of significant importance for this species. The RSPB and other experts are of the opinion that the proposed developments jeopardise the mitigation scheme and are likely to prevent the maintenance and expansion of Turtle Dove numbers at the Park. This concern appears to be justified as the latest monitoring report by Adonis Blue Environmental Consultants shows that numbers of Turtle Doves at the Park have declined with only one territory being recorded in 2023⁴⁵.

This is what the Dover Senior Natural Environment Officer says in her submission⁴⁶

"2.5. Turtle doves Proposed mitigation: implementation of Visitor Management and Turtle Dove Strategy

2.5.1. The turtle dove is a species of principal importance for biodiversity (priority species) that is the UK's fastest declining bird species in the country and listed as Vulnerable on the IUCN Red List 2.5.2. The proposed development will bring the developed areas of the Country Park in closer proximity to previously agreed mitigation measures for turtle doves. There is potential for disturbance to the existing turtle dove population and the expected turtle dove population (under the previously agreed mitigation for 20/00419) as a result of the expected increase in visitors to the Country Park.

2.5.3. The turtle dove population within the Country Park is assessed in the submitted ecological reports as of local to district importance.

2.5.4. Without an adequate and acceptable mitigation and compensation strategy, which also addresses the potential for the proposed development to affect the efficacy of the previously agreed mitigation, the impact to the turtle dove population within the Country Park will constitute significant ecological harm to a priority species.

2.5.5. I am concerned that the applicant's approach to mitigation, as outlined in the Visitor Management and Turtle Dove Strategy, will not do enough to safeguard and enhance the turtle dove population of the Country Park.

2.5.6. There is a risk that there will be no expansion of turtle dove territories within the Country Park to compensate for the impacts at the Betteshanger Sustainable Park development site under

43 Aspect Ecology's bird survey for application (20/00419). Betteshanger pit head site, also known as Betteshanger Sustainable Park and bought by Quinn Estates in 2019 along with BCP.

44 Application (20/00419) planning condition 54

45 See also Ecological Monitoring Report (20/00419) (29/4/24)

46 SNEO submission (22/01158) (17/2/24)

application 20/00419. There is a risk that the ‘predicted baseline’ (an increase in existing territories as a result of the previously approved 20/00419 compensation measures) will not be achieved.

2.5.7. The submitted proposals focus on an aim to maintain the ‘predicted baseline’ to overcome the potential harm to turtle doves. In my view, a further aim should be to increase turtle dove territories from the predicted baseline, taking into account the Country Park and the offsite mitigation areas. This would ensure accordance with the NPPF to “pursue opportunities for securing measurable net gains for biodiversity” and the NERC Act Biodiversity Duty to “conserve and enhance” biodiversity.”

See also RSPB submission.⁴⁷

Besides Turtle Doves there will be a negative cumulative impact on other bird species present on the Greenways and Country Park sites. On the Greenways site 19 Red listed species were recorded by the East Kent wildlife Group and on the Country Park Red listed species include skylarks (their nesting sites will be removed under the Seahive proposals) Cuckoo, Linnet, Mistle Thrush, Yellow Hammer and Starling.

The Cumulative impact on Red listed bird species, especially Turtle Dove, present on the two Betteshanger sites (Greenways and the Country Park) will result in significant harm to Turtle Doves and other Red listed bird species. This impact needs to be assessed as part of the EIA screening.

[Lizard Orchids and other notable plants.](#)

The population of Lizard Orchids at BCP is the second most important in the UK second only to the colony at Sandwich Bay. Natural England consider it of National importance⁴⁸. Lizard Orchids are a schedule 8 species under the Wildlife and Countryside Act and at BCP it is one of over 20 plants on the Kent Rare Plant Register. Under the Seahive proposals 10-15% of the Lizard Orchid population would be lost.

This is what Natural England states in their submission dated 17th February 2023 (22/01158):

“We recognize that the developer has put forward a package of mitigation and compensation measures and we have provided comments on these in the attached document. We note that the applicant’s consultants have stated that it is considered unlikely that the proposals will result in significant harm to biodiversity. However, as set out in the attached document (Lizard Orchid Info note 16th Feb 2023) we consider that the measures that have been put forward would nevertheless result in a negative impact on this population.

This is because:

- 1. Avoidance of harm to lizard orchid has not been addressed.*
- 2. We consider the mitigation measures for the translocation of lizard orchids are unproven, uncertain and at an unprecedented scale.*
- 3. The development proposal is located in the highest value areas of priority Open Mosaic Habitat.*
- 4. Despite the mitigation and compensation measures proposed there will be significant harm to biodiversity.”*

On 20th March 2023 (22/01158)⁴⁹ Natural England are still saying:

⁴⁷ RSPB submission (22/01158) (1/2/24)

⁴⁸ Natural England (22/01158) (23/2/23)

⁴⁹ Natural England (22/01158) (20/3/23)

“In summary, we remain concerned that this proposal as currently put forward will not result in the conservation or enhancement of biodiversity.”

On 4th July 2023 Natural England stated⁵⁰:

“In summary the soil tests confirm our concerns regarding the uncertainty in the translocation proposal.”

Despite these concerns expressed by Natural England the DDC Screening Opinion dated 4th July 2023 states⁵¹:

“ii. there are unlikely to be significant environmental effects on ecology and biodiversity when following the approach of the Framework and where there are significant opportunities and possibility to effectivity reduce such impacts;”

R (on the application of Swire) v S of S (2020) would appear to be relevant here. The High Court considered what the correct approach to EIA screening should be when there is uncertainty about the environmental impact of a proposed development. The Court quashed the screening and confirmed that screening authorities should take a precautionary approach and should not base their decisions on the assumption that unidentified remedial measures will be successful.

The cumulative impact on Lizard Orchids constitutes significant harm to biodiversity and as a Schedule 8 species under the Wildlife and Countryside Act 1981 a license will be required from Natural England to implement the proposed mitigation/compensation. Natural England has not said that a license is likely to be granted and is awaiting the results of research trials which may take a number of years. This impact needs to be assessed as part of the EIA screening.

Other notable Plants.

Grass Poly. This rare schedule 8 plant found only in a handful of sites grows on both the Greenways site and the Country Park. In the Country Park it grows in a ditch parallel to the Visitor Center. On the Greenways site a large number of plants were recorded by one of the Kent Plant Recorders for the BSBI on one of the development platforms. These have since been removed and mitigation has been provided. However, it has not been shown that the mitigation has succeeded in producing a self-sustaining population elsewhere on the site or at BCP.

Penny Royal. This is a Schedule 8 species and was recorded by the Kent Plant recorders on the Greenways site but no mitigation has been carried out despite this being part of a condition attached to the planning permission.

The cumulative impact on Grass Poly and Penny Royal constitutes significant harm to a protected species. It should therefore be considered as part of an EIA screening.

Reptiles.

BCP been a receptor site for Reptiles translocated from elsewhere. When the Park was first set up under planning application 02/00905 reptiles were translocated from the pit head area to various sites in the Country Park. The proposed Hotel site was one such area. Under the current proposed development no mitigation is proposed for the loss of reptiles from the Hotel site.

⁵⁰ Natural England (22/01158) (4/7/23)

⁵¹ DDC Screening Opinion dated (22/01158) (4/7/23)

In 2016 over 1000 Common Lizards were translocated from the Discovery Park in Sandwich to BCP under application 14/00058 condition 55, for their long -term protection and in accordance with a proposed long term management strategy. The receptor site at the Park is now adjacent to the proposed surf lagoon site and Lizards have been recorded in good numbers on the proposed surf lagoon site. It is proposed to translocate them again disrupting their feeding and breeding.

We consider that this cumulative effect constitutes significant harm to a species that receives protection under the Wildlife and Countryside Act and as such should be a consideration under EIA assessment.

Water Voles.

Water Voles are present on the Hotel site and will be displaced as a result of the Hotel application. This will require a mitigation license from Natural England. They are an endangered species under schedule 5 of the Wildlife and Countryside Act. Indeed, the Peoples Trust for Endangered Species website⁵² says:

“Water voles have experienced one of the most rapid and serious declines of any British wild mammal ever.”

We consider that, despite the proposed mitigation, the cumulative effect on Water Voles constitutes significant harm to a protected species and therefore should be considered as part of EIA screening.

Bats.

At least 7 different species of bat have been recorded across the two Betteshanger sites (the Greenways development and the Country Park) What is the cumulative impact going to be on Bats as a result of the three planning applications for the Betteshanger sites?

As a European Protected Species (EPS) the cumulative impact on Bats from both Betteshanger sites should be assessed as part of the EIA screening.

Beavers.

Beavers have been recorded on the edge of the proposed Hotel site. They are a EPS yet no survey for beavers has been carried out at the Country Park. They are also present in the RAMSAR site which is part of the Greenways development.

What is the cumulative effect going to be on the local Beaver population? As an EPS the impact on Beavers should be assessed as part of an EIA screening.

Badgers.

Badgers are protected under the Badger Act. Setts and Badger pathways on both the Greenways site and the Hotel site on the Country Park will be disrupted.

What is the cumulative impact going to be on the local Badger population? As a protected species this should be a consideration as part of EIA screening.

Conclusion.

The cumulative harmful effect on biodiversity as described above, of the Betteshanger Park developments (22/01158 and 23/01095) together with the Greenways housing development (20/00419) needs to be assessed as part of a Screening Opinion for an EIA.

⁵² [Water voles - People's Trust for Endangered Species \(ptes.org\)](https://www.ptes.org/)

Cumulative effect on Protected habitats.

The cumulative effects of the proposed developments at BCP (applications 2/01158 and 23/01095) taken together with the Greenways development (20/00419) and other developments in the local area, have not been assessed for their impact on the integrity of the following protected sites:

- Thanet Coast and Sandwich Bay SPA and RAMSAR
- Sandwich Bay SAC
- Sandwich Bay to Hacklinge Marshes SSSI

The Habitat Regulation Assessment⁵³ commissioned by DDC summarises the Potential Likely Significant Effects (LSE) on the Thanet Coast and Sandwich Bay SPA and Ramsar and Sandwich Bay SAC without appropriate mitigation as follows:

| Potential Likely Significant Effects | Thanet Coast and Sandwich Bay SPA & Ramsar | Sandwich Bay SPA |
|--------------------------------------|--|------------------|
| Physical damage & loss | Yes | |
| Non-physical disturbance | Yes | |
| Air pollution | Yes | Yes |
| Recreation | Yes | Yes |
| Water quality | Yes | Yes |

It should be noted that the integrity of the SPA appears to have already been breached as some of the species for which the SPA is designated such as Turnstones and Little Terns, have suffered breeding failures and declines. In a leaflet produced by KCC entitled: Information for Visitors. Sandwich and Pegwell Bay⁵⁴ it states:

*Breeding birds include ringed plover, oystercatcher and little tern (a species specially protected by law under the Wildlife and Countryside Act 1981) **although the latter has not nested successfully for a number of years now.***

*Thanet Coast and Sandwich Bay qualifies as a Ramsar site, a wetland of international importance, as it supports on average 1% of the ruddy turnstone population over winter⁵⁵. **However in the last few years the population here has almost halved** and recreational disturbance, particularly dogs off leads, is likely to be a significant factor in this decline.*

The leaflet goes on to say:

Wild birds are being threatened by human activities such as:

- Dogs playing off the lead on the salt marsh or mudflats
- People, particularly in groups, digging for bait
- Well-meaning individuals—photographers, bird-watchers, nature-lovers and picnickers, just lingering too long or walking through sensitive sites, particularly across the inter-tidal area

⁵³Habitat Regulation Assessment (cited above)

⁵⁴Information provided for Visitors to Sandwich and Pegwell Bay

⁵⁵JNCC jncc.gov.uk

- Watercraft - motorboats, yachts, canoes & kayaks and kite-surfers close to feeding or roosting birds.
- Clearly objects in the air have a large potential for causing disturbance, and kites and 'drones' should never be flown across the bay.

It seems extremely unlikely that, given the local scale of development and the increase in population, that the Thanet Coast and Sandwich Bay SPA Strategic Monitoring and Mitigation Strategy⁵⁶ (SAMM) for delivering, warden-ing and monitoring is going to be effective in protecting the integrity of the sites especially given the above evidence of negative impacts from human disturbance that are already evident.

Besides the recreational impact on biodiversity the cumulative impact on water, physical damage and loss and air pollution also needs to be assessed.

Conclusion.

The cumulative impact of the Betteshanger Park developments (22/01158 and 23/01095, Greenways (20/00419) plus the developments at Sholden and the local area on the integrity of the protected habitats listed above should be assessed as part of a Screening Opinion for EIA.

The use of natural resources, in particular land, soil, water and biodiversity

The use of natural resources in the proposed development will be hugely significant including the impact on existing biodiversity as shown above, and water supplies:

Water consumption

The construction of the wave lagoon, hub building, access works and infrastructure etc. will require many thousands of tons of concrete, which in turn will also require many thousands of litres of water. The water will be supplied Southern Water and in the East Kent region, water is source from aquifers not reservoirs. Southern Water predict a shortfall of 300 million litres per day by 2040, rising to 500 million litres by 2075 on current trends⁵⁷. The proposed solution by Southern Water is to reduce consumption so household water use will need to fall from 132 litres per day to just over 100 litres per day. The surf lagoon will greatly add to water stress.

"By 2040 if we do nothing, we could face a 300 million liters per day water shortfall in water supplies by 2075, this shortfall could increase to over 500 million liters per day.

This is because more water will be needed as population grows and less will be available as the climate changes"

The Kent Environment Strategy⁵⁸ identifies Kent as one of the driest regions in England and Wales. According to plans submitted with the application, the surf lagoon will hold around 30 million litres of water, in an area of the country already water stressed. The water evaporation rate from the large surface area of the surf lagoon, particularly during the summer months, will necessitate replenishing the water levels at regular intervals. For reasons of human health the water will need to be changed at regular intervals.

⁵⁶Sandwich Bay SPA Strategic Monitoring and Mitigation Strategy

⁵⁷ Southern Water Water Resources Management Plan: investors.southernwater.co.uk/our-story/water-resources-management-plan (see section 'Securing a resilient future for water in the South East')

⁵⁸ Kent Environment Strategy, Kent County council (2016)

In order to complete their screening, DDC will need the developer to supply complete figures for water usage. None have been provided in the preliminary studies provided so far by the developers consultants Herrington⁵⁹.

Dover is located in the Environment Agency's Stour Catchment Abstraction Management Strategy⁶⁰, which identifies all the groundwater sources as over abstracted.

Dover District Council's Water Cycle Study⁶¹ (September 2022) states: *"Pressure on water resources is increasing as a result of population growth, an increase in household demand for water and the effects of climate change and rising temperature."*

Groundwater supplies 80% of the district's drinking water. Groundwater also provides important base-flow to the river systems. The groundwater quality across the catchment is at poor status, but the water is treated so there is no risk to drinking water supply.

The Stour Abstraction Licensing Strategy (ALS) calculated resource availability at four different flows, Q95 (lowest), Q70, Q50 and Q30 (highest). It was found that sections of the Dover district have no additional water available for licensing even at highest flow, while at lowest flow the majority of the district has no additional water available for licensing. Under the Q50 and Q70 flows, the only additional water available for licensing is close to Sandwich and is largely 'restricted'."

With hotter, drier summers forecast as a consequence of climate change, safeguarding and securing adequate water supplies for domestic and agriculture use should be a main priority.

Pollution and nuisances

The Entran, request for an EIA screening⁶², states that:

"Following mitigation of these risks within the detailed design stage of the development, including a CEMP, surface water drainage strategy, remediation strategy, Health Safety and environmental practices and preparation of piling risk assessments, significant effects regarding contaminated land are considered unlikely."

This statement is incorrect. The Land Contamination Assessment, produced by Ecolgia⁶³, Phase 1 that accompanies the planning application for the surf lagoon comments that:

"The extensive surface water network lies within short distance of site and no controlled surface water drainage currently in place. Surface water network dominantly lies downslope of Site. Elevated heavy metal leachate concentrations recorded during recent ground investigation works. Medium Pollution of sensitive water resources poses a moderate risk. A low to medium risk to human health and groundwater (principal aquifer at depth) have been identified due to deep made ground works (up to 13.6m) beneath the site.' Moderate risk from hazardous ground gas has been identified... A moderate risk to the surrounding surface water network has been identified with leachable heavy metals."

59 Herrington (cited above). Herrington has produced a number of reports available but none provide plans for any WWTP, nor figures of expected volumes that will need treatment, nor any description of the current WWTP in use and whether it is even possible to scale it up to cope with a massive increase in visitor numbers. It is not reasonable to create a planning condition on the assurances of the developer with no facts provided to allow an evaluation of the implications of impact of processing and disposing of the waste, foul and rainwater into the Stour Inland Basin.

60Environment Agency's Stour Catchment Abstraction Management Strategy gov.uk/government/publications/stour-catchment-flood-management-plan

61 Dover District Council's Water Cycle Study

62 Entran (22/01158) (25/8/22)

63 Ecolgia (cited above)

There is a high risk for potential catastrophic damage to the foundations of the proposed development. The high organic matter present in the colliery spoil, poses a high risk of catastrophic damage to the proposed buildings and an acute risk to human health.

Further Phase 2 ground investigation and contaminated land assessment should be undertaken (particularly across the south of the Site) to fully qualify risks and refine outline Conceptual Site Model (CSM) including further ground gas and groundwater monitoring and assessment. If piling foundation methodology is to be undertaken, a Piling Risk Assessment is likely to be required to assess and mitigate potential risks from explosive ground gases during drilling and qualitatively assess potential risks from elevated heavy metal leachates to controlled waters from creation of preferential pathways."

The substrate for the surf lagoon and hotel is made ground, that is to say randomly dumped materials, a mixture of shale from mine workings with other more toxic materials, dumped over the years. There are no accurate records of what was dumped and the only way to establish what is present is to sink boreholes. The site has not been properly surveyed, in particular there is no survey of the hotel site. Preliminary research indicates heavy metals, much organic waste and sulphur compounds which can corrode foundations and unlined water tanks and pipes, creating a potential health hazard for the public. As far as sulphate and organic compounds are concerned, the Ecologia⁶⁴ report states that there is **'potential for catastrophic damage to proposed foundations'** with **'acute risk for human health'**. Ecologia in their report state that as only a part the site has been surveyed and further studies are needed. The DDC planning report⁶⁵ suggests that surveys and decisions regarding the effects of toxic matter in the substrate can be left as a planning condition. This would be the height of irresponsibility and **further information on potential health risks need to be required for the EIA screening.**

Further risks will take place in construction with the excavation of the site and Ecologia⁶⁶ state that *'appropriate PPE for ground workers to mitigate potential risks from dermal contact, ingestion and inhalation of contaminate materials/soils.'*

The park was established for 'low intensity recreational uses'⁶⁷ and shrubs and trees were planted to consolidate the subsoil. The development of a 'theme park' with intensive usage with music concerts, motorcycle racing, military assault course etc. with many additional users disturbing the subsoil has the potential of releasing toxins into the atmosphere, an especially pressing issue with surf lagoon users who will be wearing swimming wear and potentially coming into close with potential toxic materials.

There is also the risk of pollution to the surrounding Protected Sites (Thanet Coast and Sandwich Bay SPA and Ramsar and Sandwich Bay SAC). Note particularly the problems of water quality in the Stour drainage basin as there is a potential risk from waste and soil water from the surf lagoon and hotel's wastewater management system. There are insufficient details about how the water will be treated given in the various Herrington⁶⁸ reports on flood risks and water management. However, it is clear that wastewater will eventually be discharged into the streams feeding into the Stour basin and is potentially likely to have a significant impact on the above European sites. The wastewater from the surf lagoon will contain Chlorine which cannot be remove in aerobic WWTP. There will also be large volumes of rainwater from the 9.1 hectares covered by the surf lagoon and the 2.6 hectares from the hotel. This will result in millions of litres of run off in periods of heavy rain. No plans have been provided

64Entran, request for an EIA screening, dated 25th August, 2022

65DDC Planning Report

66Ecologia (cited above) page 36

67 See Local Plan 2002 Policy AS2

68 Herrington (cited above)

for water storage tanks or SuDs (which would be doubtful on the site due to potential leaching of heavy metals and toxic materials in the made ground constituting the park's substrate.

According to Herrington⁶⁹, a 6-hour event of heavy rainfall could result in an estimated 8.15 million litres of rainfall. The site is unsuitable for SuDs so this water would need to be disposed of either through natural absorption into areas around the surf lagoon an hotel, likely to cause temporary flooding or disposed of into local streams that are part of the Stour Inland Drainage Basin. Guidelines for greenfield run-off rate is 2-7 litres per hectare. The creation of an impermeable area of 11.7 hectares and the need to dispose of run-off could have a variety of significant environmental impacts.

The report submitted by Herrington⁷⁰ gives no details about the capacity or condition of the current WWTP, neither does it supply information concerning how much capacity will be needed for the 320,000 visitors estimated to be visitors to the 120-bed hotel, surf lagoon, spa, holiday pods, restaurants, cafes, music concerts, etc. To complete a screening, DDC will need to know these figures, especially since the waste and foul water will, after processing, be dumped into streams which are part of the Stour Inland Drainage system, and which connect to a number of European sites in the area.

Significant environmental impact of the individual planning applications

Notwithstanding all of the points raised above, specific impacts are particularly significant for the individual applications. These are set out below.

23/01095: The proposed Hotel application

1. The loss of open space was one of the reasons given for refusing the original Hotel application⁷¹ (22/01152) (see below). These reasons apply equally to the new application 23/01095.

BCP is an area of open space that provides great value and amenity, reflected in it being designated an Asset of Community Value as furthering the social wellbeing or social interests of the local community. The proposed hotel development would result in the loss of part of the designated open space and an incompatible change in the character and appearance of the Country Park due to its scale, intensity of use, level of activity and visitor numbers, and restrictive management measures.

These impacts would harm the amenity and wellbeing enjoyed by users of the Country Park and would be contrary to Policies CP7, DM15 and DM16 of the Dover District Core Strategy (2010); Policies SP2, SP14, E4, PM5, PM6 and NE2 of the Dover District Local Plan (submission draft October 2022); and chapters 8, 12 and 15 of the National Planning Policy Framework (2021).

2. Recreational Disturbance. The hotel will lead to a large increase in the number of visitors coming to the Park, leading to 24 hour activity, light and noise would lead to a significant negative effect on the Park's wildlife, particularly Turtle Doves and other birds, invertebrates, bats, beavers and badgers. These impacts would also harm the amenity and wellbeing enjoyed by users of the Park.

3. Effect on Turtle Doves.

69 Herrington (cited above)

70 Herrington (cited above)

71 DDC planning meeting transcript (cited above)

This is what the RSPB⁷² say in their submission dated 30/10/23:

The plans have serious implications for Turtle Doves. Turtle Dove (Streptopelia turtur) is a RSPB priority species due to the significant population decline of this species both in the UK and across its breeding range. The Turtle Dove is the UK's fastest declining breeding bird and is threatened with global as well as national extinction (IUCN Red List of Endangered Species and UK Red List of Conservation Concern⁷³). Turtle Doves have declined by 98% between 1967 and 2018.

And:

It is the RSPB's considered view that the current surf lagoon and hotel plans will not enable the expansion or even the maintenance of the Turtle Dove population across the wider Country Park.

In their submission of 1st February 2024 which relates to both the Hotel and Surf Lagoon applications: they say:

Turtle dove mitigation proposals remain high risk and inaccurately include measures far off-site The RSPB remains unconvinced by the latest tweaks to the Turtle Dove mitigation proposals.

These concerns are shared by other experts such as the Kent Wildlife Trust⁷⁴ (submission dated 20/2/24 and CPRE Kent⁷⁵

4. Effect on Invertebrates.

The RSPB submission⁷⁶ provides a full account of the likely significant impact on Fiery Clearwing Moths (an endangered species of National importance) the Bright Wave and the Sussex Emerald moth (a protected species under the Wildlife and Countryside Act.

5. Effect on Water Voles.

The Hotel proposal would result in Water Voles being removed from their habitat. On their website the Peoples Trust for Endangered species⁷⁷ states:

"Water voles have experienced one of the most rapid and serious declines of any British wild mammal ever."

They are a protected species under the Wildlife and Countryside Act and a license will be required from Natural England to enable displacement. The surveys carried out by Aspect Ecology⁷⁸ (see Ecological Appraisals) failed to ascertain the size or importance of the population so impacts cannot be assessed with any accuracy.

6. Impact on Bats.

The Hotel development would have a likely significant impact on the important Bat population in this area of the Park particularly due to loss of foraging areas and light pollution. Bats are a European Protected Species.

72 RSPB (22/01158)

73 IUCN Red List of Endangered Species and UK Red List of Conservation Concern

74 Kent Wildlife Trust (22/01158) (20/2/24)

75 CPRE Kent (22/01158) (14/2/24)

76 RSPB (22/01158) (30/10/23)

77 Peoples Trust for Endangered species ptes.org/

78 Aspect Ecology (various) (22/01158), (23/010/95)

7.Effect on Beavers.

Even though Beavers are a European Protected Species and are known to use the area proposed for the Hotel no survey has been carried out to assess the likely impact.

8.Effect on Climate mitigation.

The Arboriculture report⁷⁹ for the proposed Hotel site shows that large numbers of trees and scrub would be removed to make way for the Hotel development. This reduces the sites ability to store carbon and mitigate climate change as well as impacting biodiversity.

9 Effect on Landscape.

The Planning Officer in his report to the Planning committee meeting of March 7th 2024⁸⁰ admits that the proposals are contrary to Dover policy on Landscape.

10. Pollution and ground contamination risks.

There need to be adequate investigation of toxins in made ground; insufficient investigations have been made so far, and potential contamination of soil, waste and rainwater which will be disposed of into the Stour Inland Basin. There will be particular risks in excavating this ground during the construction phase where dust will be created and the ground disturbed. There is a risk of damage to foundations and water pipes and storage tanks caused by sulphur compounds and organic acids present. Visitors to the hotel may come into dermal contact with the substrate,. The large number of additional visitors could disturb some of the toxins present.

There need to be adequate investigation of toxins in made ground and potential contamination of soil, waste and rainwater which will be disposed of into the Stour Inland Basin. See above, particularly, Pollution and Nuisances (p.20-22)

11. Loss of Open Space.

The same arguments apply to the surf lagoon as to the Hotel (see above under Proposed Hotel Loss of Open Space. See further details at p.22.

12. Traffic, Roads and Air Quality.

There will a large increase in road use, in area poorly provided for as far as dualled roads and the result will be 'rat runs', congestion and increased traffic on unlit, quiet country lanes. The hotel being built at such a hard to access site will result in significant effects on air quality and public health from increased traffic, congestion, car emissions. See further details provided above, pages 11-12.

13. Water Management and use

Both applications will share the same WWTP. The 120 bed hotel and associated spa etc. will create large volumes of soil, waste and rainwater. There is no mains sewerage and the processed waste and foul water will be disposed of in the Stour Inland Drainage Basin. See above for more details on water consumption and waste water management. The large use of water needs to be put into the context of an area of water stress, where water is extracted through aquifers and not rainwater harvested in reservoirs (p.19-21).

⁷⁹ Aspect Arboricultural Impact Assessment (22/01158) (2/9/22)

⁸⁰ Officer's Report (23/01095) (1/3/24)

22/01158: The Surf Lagoon

1. Recreational Disturbance.

A large increase in the number of visitors coming to the Park, leading to 24 hour activity, light and noise would lead to a significant negative effect on the Park's wildlife, particularly Turtle Doves and other birds, invertebrates, bats, beavers and badgers. These impacts would also harm the amenity and wellbeing enjoyed by users of the Park.

2. Impact on a Nationally important population of Lizard Orchids protected under schedule 8 of the Wildlife and Countryside Act. 10-15% would be removed under the surf lagoon proposals. Impact on a Nationally important population of Fiery Clearwing moths under the Hotel and surf lagoon proposals.

Concerning Lizard Orchids, Natural England⁸¹ stated the following:

We note that the applicant has stated that it is considered unlikely that the proposals will result in significant harm to biodiversity. However as set out in the attached document (Lizard Orchid Info Note Feb 2023) we consider that the measures that have been put forward would nevertheless result in a negative impact on this population.

This is what Natural England⁸² say regarding Lizard Orchids and Fiery Clearwing moths:

NE needs to be satisfied that the grant of a license is not detrimental to the survival of any population of the species of animal or plant to which the license relates. Currently translocation techniques proposed by the applicant don't have established research and methodologies associated with them that give us confidence that they will work.

And:

The suggested 7 year period during which there is an opportunity for the applicant to demonstrate whether proposed translocation techniques might be successful on this site, would enable NE to make informed evidence led decisions as to whether a license could be issued. This does not mean that NE will issue a license. If the research does not demonstrate to our satisfaction that the methods are successful we would remain unable to issue a license.

3. Effect on Turtle doves and Skylarks.

Impact on Turtle Doves – as above. See various RSPB comments.

Skylark nesting areas would be removed under the surf lagoon proposals. No mitigation is proposed. Skylarks are Red listed.

4. Effect on Sussex Emerald moths and other invertebrates with a conservation designation.

Although the Sussex Emerald has been recorded on the Betteshanger site this protected species under schedule 5 of the Wildlife and Countryside Act, has not been surveyed and therefore the impact of the proposed development is unknown. Over 20 invertebrates with a conservation designation will be significantly impacted by the surf lagoon proposals⁸³.

81 Natural England (22/01152) (17/2/23)

82 Natural England (22/01158) (6/2/24)

83 Buglife (22/01158) (30/11/23)

5. There will be a significant effect on Open Mosaic Habitat (a priority habitat) as over 2.4.5 ha will be removed

6. Effect on Reptiles particularly Common Lizards.

As mentioned above under application 14/00058⁸⁴ condition 55 over 1000 Common Lizards were translocated to an area adjacent to the proposed surf lagoon for their long-term protection. They will now have to be translocated again. We consider this to be a significant impact on a protected species.

All wildlife is likely to be significantly affected by a large increase in visitor numbers and the accompanying 24 hour activity, light and noise.

7. Effect on Landscape.

The surf lagoon in particular will be an intrusion into a largely rural landscape and both developments are contrary to Dover policy on Landscape grounds. Of particular significance are the lighting columns for the surf lagoon which will illuminate an area designated for its 'dark skies'⁸⁵ and have a negative impact on the Park's wildlife, especially bats, invertebrates birds and mammals.

8. Effect on Climate Mitigation.

Many trees and much scrub will be removed to make way for the surf lagoon (See arboricultural report 2/01158) This will have a negative impact on wildlife and also on the Park's ability to sequester carbon. The surf lagoon will use huge amounts of electricity adding to the schemes impact on climate change.

9. Water Management and use

Both applications will share the same WWTP and the surf lagoon will contain 30 million liters of chlorinated water that will need to be replaced from time to time and will be subject to evaporation. As above there are considerable problems with purifying chlorinated water and this can't be achieved with aerobic bacterial plant. There is no mains sewerage and the processed waste and foul water will be disposed of in the Stour Inland Drainage Basin. See above section on Water Consumption. The large use of water needs to be put into the context of an area of water stress, where water is extracted through aquifers and not rainwater harvested in reservoirs (p 19-21)

10. Pollution and ground contamination risks.

There need to be adequate investigation of toxins in made ground; insufficient investigations have been made so far, and there are risks of potential contamination of soil, waste and rainwater which will be disposed of into the Stour Inland Basin. There will be particular risks in excavating this ground during the construction phase where dust will be created and the ground disturbed. There is a risk of damage to foundations and water pipes and storage tanks caused by sulphur compounds and organic acids present. Visitors to the surf lagoon may come into dermal contact with the substrate wearing swimwear. The large number of additional visitors could disturb some of the toxins present. See above, particularly, Pollution and Nuisances (p20-22 of this submission).

11. Loss of Open Space.

⁸⁴ Planning Application (14/00058)

⁸⁵ Dark Skies [cpre.org.uk/what-we-care-about/nature-and-landscapes/dark-skies/englands-light-pollution-dark-skies-map/Dark skies](http://cpre.org.uk/what-we-care-about/nature-and-landscapes/dark-skies/englands-light-pollution-dark-skies-map/Dark%20skies)

The same arguments apply to the surf lagoon as to the Hotel (see above under Proposed Hotel Loss of Open Space. See further details at p.22.

12. Traffic, Roads and Air Quality.

There will a large increase in road use, in area poorly provided for as far as dualled roads and the result will be 'rat runs', congestion and increased traffic on unlit, quiet country lanes. The surf lagoon being built at such a hard to access site will result in significant effects on air quality and public health from increased traffic, congestion, car emissions. See further details provided above, pages 11-12.

Conclusion.

In order to complete a screening opinion for planning applications 22/01158 and 23/01095 we ask that Dover District Council considers all the points made in the above document.

[REDACTED]

From: [REDACTED]
Sent: 09 August 2024 09:25
To: [REDACTED]
Subject: RE: Betteshanger

Thanks [REDACTED]

Yes they have sent to us and it is with the Barrister to look over. It appears largely along the lines of what they have said to us before.

Kind regards,

[REDACTED]



[REDACTED]
Planning & Development Manager

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: [REDACTED]@DOVER.GOV.UK>
Sent: Friday, August 9, 2024 9:09 AM
To: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@dover.gov.uk>
Subject: Betteshanger

Hi Both,
For your interest and awareness only, the attached document is being shared online. I presume we're aware.

Regards

[REDACTED]



[REDACTED]
Strategic Director (Place and Environment)

White Cliffs Business Park, Dover CT16 3PJ

Email: [REDACTED]@dover.gov.uk

Tel: [REDACTED]

Web: www.dover.gov.uk

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[REDACTED]

From: [REDACTED]
Sent: 09 August 2024 17:50
To: [REDACTED]
Cc: [REDACTED]
Subject: Seahive Development s106 Agreement
Attachments: SeaHive Draft s.106 DDC amends 9 8 24 .docx

Hi [REDACTED]

Please find the latest iteration of the draft attached.

As we have discussed on the phone, I have reinstated some of the previous wording relating to the overarching plan (the Country Park Ecological Management and Monitoring Plan). This is, in my view, what para 2.220 of the committee report was referring to. I have also, following discussion with the Council's SNEO, moved all of the BNG requirements into the provisions of the Habitat and Biodiversity Enhancement and Management Scheme as this is the more logical home for it.

Hopefully, most of the amendments are self-explanatory. There isn't a lot that is new but there is a bit of moving around of provisions.

I do not appear to have [REDACTED] email address so I would be grateful if you would forward it on to him (and to Seahive's solicitor as well).

Kind regards

[REDACTED]



[REDACTED]
Principal Solicitor - Planning
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ
Tel: [REDACTED]
Mob: [REDACTED]
Email: [REDACTED]@DOVER.GOV.UK
Web: <http://dover.gov.uk>

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Knights

DATED

2024

(1) DOVER DISTRICT COUNCIL

and

(2) BETTESHANGER PROPERTY LIMITED

and

(3) THESEAHIVE LIMITED

DEED OF AGREEMENT

Pursuant to Section 106 of The Town and Country Planning Act 1990 (as amended)
relating to land at Betteshanger Country Park, Sandwich Road, Sholden CT14 0BF

PLANNING APPLICATION NUMBER: 22/01158

Seahive Development

Knights
Midland House
West Way
Botley 33672557_1
Oxford OX2 0PH

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Commented [] To be reviewed and updated.

THIS DEED is dated

2024

BETWEEN

- (1) **DOVER DISTRICT COUNCIL** of Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ ("the **Council**");
- (2) **BETTESHANGER PROPERTY LIMITED** incorporated and registered in England and Wales with company registration number 12220590 and whose registered office is at The Cow Shed, Highland Court Farm, Bridge, Canterbury CT4 5HW ("**Owner**"); and
- (3) **THE-SEAHIVE LIMITED** incorporated and registered in England and Wales with company number 13217060 whose registered office is at Nucleus House, 2nd Floor, 2 Lower Mortlake Road, Richmond TW9 2JA ("**Seahive**").

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this Deed:

1.1 Definitions:

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this Deed and for no other purpose, the following operations: operations in connection with any archaeological investigations, habitat creation and planting works of excavation; demolition site clearance; diversion of services; installation of services for construction purposes only; site or soil investigations remedial action in respect of any contamination; landscaping works; provision of construction access; noise attenuation works; or the erection of hoardings and fences and "Commence Development" and "Commenced" shall be construed accordingly.

County Council: The Kent County Council of Sessions House, County Hall, County Hall, Maidstone, Kent ME14 1XQ (or any successor in function for the relevant purposes of this Deed);

Development: means the development of the Site by the erection of a surfing lagoon and pools, hub building (to include

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café/restaurant/bar lounge, shop, hiring and changing facilities and multi-use space), 15 overnight holiday pods, learning hive, yoga studio, fitness/health and wellbeing facilities, bike/pumptrack and associated roads, paths, car and cycle parking, together with landscaping and necessary access works and associated site infrastructure. (Re-consultation: additional/revised information including: re-positioned holiday lodge; revised parking arrangement; updated ecological appraisal; updated flood risk assessment & drainage strategy; habitat regulations assessment information; transport response; and visitor management and turtle dove strategy).

Index Linked:

increased in accordance with the following formula:

Amount payable = the payment specified in this Deed x (A/B) where:

A= the figure for the Retail Prices Index (All Items) that applied immediately preceding the date the payment is due.

B= the figure for the Retail Prices Index (All Items) that applied when the index was last published prior to the date of this Deed.

Interest:

interest at 4% per annum above the base rate from time to time of the Bank of England.

Occupation:

occupation of any building or other part of the Development for the purposes permitted by the Planning Permission or a Section 73 Permission but shall not include occupation for the purposes of construction or fitting out or for marketing purposes or security operations and **Occupy** and **Occupied** shall be construed accordingly.

Planning Application:

means the application for full Planning Permission for the Development submitted to the Council under reference number 22/01158.

Planning Permission:

means any planning permission granted for the Development pursuant to the Planning Application as may from time to time be amended by the approval of a non-material amendment pursuant to Section 96A of the TCPA 1990 and Section 73 Permission unless the Council requires otherwise.

| | |
|-------------------------------|---|
| Site: | land at Betteshanger Country Park, Sandwich Road, Sholden CT14 0BF against which this Deed may be enforced as shown edged red on the Site Plan. |
| Site Plan: | the plan with drawing number 01 annexed hereto at Appendix A. |
| Section 73 Permission: | a planning permission which may be granted by way of approval of an application under Section 73 of the TCPA 1990 permitting the Development subject to conditions which differ from the conditions of the Planning Permission. |
| TCPA 1990: | Town and Country Planning Act 1990. |
| VAT: | means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax. |
| Working Day: | any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England. |

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax but not e-mail.
- 1.11 A reference to **this Deed** or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this Deed) from time to time.
- 1.12 References to clauses and Schedules are to the clauses and Schedules of this Deed.

- 1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. RECITALS

- 2.1 The Owner is the registered proprietor of the freehold of the Site (and of the Wider Country Park as defined in Schedule 1) under title number K816722 subject to the charges described in this Deed (if any) but otherwise free from encumbrances.
- 2.2 The Council is the local planning authority for the purposes of this Deed within the meaning of Part III of the TCPA 1990 for the area within which the Site is situated and by whom the relevant obligations in this Deed are enforceable.

2.3 The County Council is the local highway authority for the purposes of this Deed for the area within which the Site is situated.

2.32.4 Seahive entered into an agreement for lease with the Owner on 26 August 2022 to take a lease of the Site subject to the grant of a satisfactory planning permission.

2.42.5 Seahive by the Planning Application has applied to the Council for Planning Permission for the Development. At a meeting of its Planning Committee on 7 March 2024 the Council resolved to approve the Planning Application subject to the prior completion of this Deed.

2.52.6 The Owner and Seahive have agreed to enter into this Deed pursuant to the provisions of the TCPA 1990 upon the terms and conditions hereinafter appearing with the intent that it should be binding not only upon the Owner but also upon any person deriving title from the Owner as provided by Section 106 of the TCPA 1990 and any persons claiming through under or in trust from them.

3. STATUTORY PROVISIONS

- 3.1 This Deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.
- 3.2 The covenants, restrictions and obligations contained in this Deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by the Owner in the Site and its respective successors and assigns.
- 3.3 The covenants, restrictions and obligations contained in this Deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

4. CONDITIONALITY

This Deed is conditional on:

4.1 the issue of the Planning Permission, and

4.2 Commencement of Development

with the exception of clauses 1 to 4, clause 7, clause 9, clause 10, clause 12.1, clause 13, clause 14, clause 17, clause 18 (which take effect immediately) and paragraphs 2.1, 2.2, 3.1, 3.2, 5.1, 5.2, 6.1, 6.2, 7.1, 7.2, 8.1, 8.2, 11.1, 11.2, 12.1, 12.2, 13.1, 13.2, 14.1 and 14.2 of Schedule 1; paragraph 2 of Schedule 3 and paragraph 2.1 of Schedule 6 which shall come into effect immediately upon the issue of the Planning Permission,

Commented [REDACTED] Review before engrossment.

5. COVENANTS

5.1 The Owner covenants with the Council to observe and perform the obligations set out in Schedules 1, 2, 3, 4, 5 and 6.

5.2 The Council covenants with the Owner to observe and perform the obligations set out in Schedule 7.

5.3 The Owner shall notify the Council as follows:

- (a) of any disposal of its interest in the Site and of the name and address of the new owner and the date of the disposal within 10 Working Days of such disposal;
- (b) of the date of the first Occupation of the Development within 10 Working Days of its occurrence; and
- (c) of the date of Commencement of the Development not less than 10 Working Days before such date occurs.

6. COVENANTS BY SEAHIVE

Seahive acknowledges and declares that this deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Deed and that its agreement for lease shall take effect subject to this Deed provided that Seahive shall otherwise have no liability under this Deed unless it (i) takes possession of the Site or any part of it or (ii) undertakes any part of the Development of the Site or (iii) becomes a successor in title to the Owner in which case if (i) and/or (ii) and/or (iii) apply it too will be bound by the obligations as if it were a person deriving title from the Owner.

7. INTEREST

If any payment which becomes due to the Council under this Deed is not paid by the due date Interest shall be due and payable to the Council -on the relevant amount for the period from the due date until the date of payment.

8. GENERAL PROVISIONS

8.1 Nothing (contained or implied) in this Deed shall fetter or restrict the Council's statutory rights, powers, discretions and responsibilities.

- 8.2 No waiver (whether express or implied) by a party of any breach or default in performing or observing any of the terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent a party from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof.
- 8.3 No person shall be liable for any breach of a covenant, restriction or obligation contained in this Deed after parting with all of its interest in the Site or the part of the Site to which the breach relates, except in respect of any breach subsisting prior to parting with such interest.
- 8.4 Any provision in this Deed restricting a certain action (pending the occurrence of a specific event or otherwise) shall be construed to include a restriction on permitting, allowing or tolerating such an action.
- 8.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed and insofar as reasonably practicable the parties shall amend that clause or clauses in such reasonable manner as achieves the intention of the parties without illegality.
- 8.6 The obligations contained in this Deed shall not be binding upon nor enforceable against:
- 8.6.1 any statutory authority, statutory undertaker, service company or other person who acquires any part of the Site or interest therein for the purposes of undertaking its statutory functions;
- 8.6.2 any Associated Charities (as defined in Schedule 2) or other occupiers who are occupying part of the Development solely for the purposes of providing programmes, courses and events at the Development
- 8.7 If the Planning Permission and all Section 73 Permissions shall expire within the meaning of sections 91, 92 or 93 of the TCPA 1990 or shall at any time be revoked or modified by any statutory procedure without the agreement of the Owner this Deed shall forthwith determine and cease to have further effect (insofar as it has not already been complied with) PROVIDED ALWAYS that the Development has not Commenced.
- 8.8 Nothing in this Deed shall prevent the Owner from developing the Site in accordance with a planning permission other than the Planning Permission or a Section 73 Permission.
- 8.9 Any person or body acquiring the benefit of a legal charge over the Site shall have no liability under this deed unless it takes possession of the Site or part thereof or appoints a receiver in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.
- 8.10 In the event that an application made pursuant to section 73 of the TCPA 1990 for an amendment to the Planning Permission is granted this Deed shall (unless the Council determines that revised planning obligations are required as a result of such amendment) apply to development pursuant to the Section 73 Permission as well as to development pursuant to the Planning Permission without the need for a further deed to be entered into pursuant to section 106 of the TCPA 1990 unless the Council requires otherwise.

9. INDEXATION

- 9.1 All financial contributions payable to the Council shall be Index Linked.
- 9.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

10. LOCAL LAND CHARGE

This Deed is a local land charge and shall be registered as such by the Council.

11. COSTS

The Owner shall prior to completion of this Deed pay the Council's -legal expenses and costs reasonably and properly incurred associated with the preparation of this Deed.

12. REASONABLENESS

- 12.1 Where a matter falls within the party's discretion that party shall exercise such discretion in a reasonable and expeditious manner and shall give any requisite notice of that decision and any other notice provided for by this Deed without undue delay.
- 12.2 Where an action falls to be performed by a party under this Deed such action shall be carried out by that party expeditiously in accordance with the terms of this Deed but in any event as soon as reasonably practicable and without undue delay.

13. CANCELLATION OF ENTRIES

- 13.1 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged (and subject to the payment of the Council's reasonable and proper costs) the Council will issue a written confirmation of such performance or discharge.
- 13.2 Following the performance and full satisfaction of all the terms of this Deed or if this Deed is determined pursuant to clause 8.6-7 (and subject to the payment of the Council's reasonable and proper costs and charges) the Council will on the written request of the Owner cancel all entries made in the local land charges register in respect of this Deed.

14. DISPUTES

- 14.1 Without prejudice to the right of any party to seek the resolution of any matter relating to this Deed by the courts and/or in accordance with Section 106 of the TCPA 1990, any dispute, controversy or claim arising out of or relating to this Deed which cannot first be resolved between the parties, including any question regarding its breach, existence, validity or termination or the legal relationships established by this Deed (other than the amount of the financial contributions payable as set out in this Deed which shall not be in dispute), shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:

- (a) the tribunal shall consist of one arbitrator appointed jointly by the parties;
- (b) in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors;
- (c) the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally); and
- (d) the seat of the arbitration shall be London.

15. AGREEMENTS AND DECLARATIONS

15.1 The parties agree that:

- (a) nothing in this Deed constitutes a planning permission or an obligation to grant planning permission; and
- (b) nothing in this Deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.

16. NOTICES

16.1 Any notice or other communication to be given under this Deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next Working Day delivery service.

16.2 Any notice or other communication to be given under this Deed must be sent to the relevant party as follows:

- (a) to the Council at Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ marked for the attention of the Head of Planning and Development and a copy by email to developercontributions@doover.gov.uk;
- (b) to the Owner such notice shall be sent to the aforementioned address or to such other person as such address as they shall notify in writing to the Council -from time to time;
- (c) to Seahive such notice shall be sent to the aforementioned address or to such other person as such address as they shall notify in writing to the Council -from time to time.

or as otherwise specified by the relevant party by notice in writing to each other party.

16.3 Any notice or other communication given in accordance with clause 16.1 and clause 16.2 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs

before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or

- (b) if sent by pre-paid first class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting.

- 16.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17. THIRD PARTY RIGHTS

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

18. VALUE ADDED TAX

- 18.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.
- 18.2 If any VAT is at any time chargeable on any supply made by the Council or the Owner under or pursuant to this Deed, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

19. GOVERNING LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

SCHEDULE 1 – BIODIVERSITY AND ECOLOGICAL ENHANCEMENTS AND MITIGATION AND PUBLIC ACCESS STRATEGY

1. DEFINITIONS

In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this Deed:

| | |
|---|--|
| Additional Turtle Dove Mitigation Area Plan | the plan with drawing number S6635/MS4 annexed hereto at Appendix D or such other plan as may subsequently be approved by the Council |
| Country Park Ecological and Biodiversity Management and Monitoring Plan | <p>a detailed and holistic programme for the ongoing <u>review</u>, management and monitoring of <u>the Habitat Compensation Measures</u> ecology and biodiversity of the <u>Site</u>, and the Wider Country Park <u>and the Off-Site Enhancement Area</u> which demonstrates how the Strategies and Measures will work in parallel to achieve their objectives <u>together with timescales for implementation of each of the measures</u> to include:</p> <ul style="list-style-type: none"> • the specific management and maintenance arrangements for the Habitat Compensation Measures including the funding arrangements, structure and identity of the body who will be responsible for the onward management of the Habitat Compensation Measures; and • <u>Habitat management objectives and actions to achieve appropriate biodiversity enhancements across the Wider Country Park</u> • <u>management and monitoring in respect of lizard orchids, fiery clearwings and reptiles</u> • <u>ongoing monitoring and reporting review measures (in order to determine the success of the Habitat Compensation Measures in achieving a minimum 10% biodiversity net gain by reference to the baseline position of the Site to be delivered and maintained across the Site/Off Site Enhancement Area) to include, (including the role and responsibilities of the Betteshanger Country Park's</u> |

Commented [REDACTED] Please see comment on Off-Site Enhancement Areas definition below (Page 16) to explain proposed tracked change.

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Commented [REDACTED] Now moved to the definition of Habitat and Biodiversity Enhancement Scheme as this is the mechanism by which the Habitat Compensation Measures will be secured

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| | <p>ecology/wildlife warden) which will incorporate the carrying out of updated condition assessments in accordance with DEFRA's Statutory Biodiversity Metric February 2024 at 1, 2, 3, 4, 5, 6, 8, 10, 15, 20, 25 and 30 years from the date of the Commencement of Development (Monitoring and Review Exercise) including in order to determine the success of the Habitat Compensation Measures in achieving a minimum 10% biodiversity net gain by reference to the baseline position of the Site to be delivered and maintained across the Site/Off Site Enhancement Area</p> <p>and which may be varied from time to time with the written agreement of the Council</p> |
| Fiery Clearwing Licence | a licence issued under Regulation 16 of the Wildlife and Countryside Act 1981 approving and authorising the Fiery Clearwing Strategy |
| Fiery Clearwing Strategy | <p>a strategy for fiery clearwing mitigation / compensation comprising including the translocation of the dock plant from the Site to a new receptor area in order to safeguard fiery clearwing protected species of moth to be set out in the following documents to be submitted as part of the application for the Fiery Clearwing Licence (Fiery Clearwing Strategy Documents):</p> <ul style="list-style-type: none"> (i) a dock translocation plan setting out detailed measures for the translocation/seeding of dock plant in a new and identified receptor area; and (ii) a monitoring and management plan setting out detailed management and monitoring proposals of the measures set out in the dock translocation plan including objectives to be measured and alternative mitigation/compensation proposals in the event any of the stated objectives are not being met |
| Habitat and Biodiversity Enhancement Areas | those areas within the Site and the Off-Site Enhancement Area on which the Habitat Compensation Measures are to be delivered and maintained pursuant to the provisions of this Deed and the Habitat and Biodiversity Enhancement Scheme approved by the Council pursuant to paragraph 2.2 of this Schedule and as shown on the Habitat Compensation Measures Plan |

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Commented [REDACTED] To my mind this is more accurate having regard to para 2.220 of the committee report. The detail which was previously here has been moved to the definition of HBES

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| Habitat and Biodiversity Enhancement Period | a minimum period of 30 years from the date of first Occupation of the Development |
| Habitat and Biodiversity Enhancement Scheme | <p>a scheme to be submitted to the Council for approval in accordance with paragraph <u>32.1</u> of this Schedule the an objective of which will be to achieve a minimum 10% biodiversity net gain for the Site -by reference to the baseline position of the Site to be delivered and maintained on the Site <u>and on the Off-Site</u> Habitat and Biodiversity Enhancement Areas <u>and</u> which will include the following details:</p> <ul style="list-style-type: none"> the Habitat Compensation Measures; and <u>the timing for the delivery of the Habitat Compensation Measures; and</u> <u>the specific management and maintenance arrangements for the Habitat Compensation Measures including the funding arrangements, structure and identity of the body who will be responsible for the onward management of the Habitat Compensation Measures</u> <u>details of the habitat management in respect of the mitigation and compensation measures to be carried out pursuant to the terms of this deed for lizard orchids, fiery clearwings and reptiles</u> <p>and which may be varied from time to time with the written agreement of the Council</p> |
| Habitat and Biodiversity Enhancement Scheme Monitoring Fee | the sum of £4,000 (Four Thousand Pounds) Index Linked payment towards the Council's costs of its ongoing monitoring of the progress of the Habitat Compensation Measures |

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Commented [REDACTED] Not sure why the para reference was changed to 3.1 - 2.1 is definitely the correct reference.

Commented [REDACTED] Agreed

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| Habitat Measures | Compensation | <p>the various biodiversity work and measures to be introduced to the Site and the Off-Site Habitat and Biodiversity Enhancement Areas as shown on the Habitat Compensation Measures Plan and comprising the following (or such other measures as may subsequently be agreed in writing by the Council in the Habitat and Biodiversity Enhancement Scheme approved by the Council pursuant to paragraph 32.2 of this Schedule):</p> <ul style="list-style-type: none"> • provision of a biodiverse green roof to the buildings to be constructed as part of the Development (0.21ha); • creation of open mosaic and brownfield habitat areas in the built development areas (2.09ha) and within the holiday pods surrounds (0.19ha); • mixed scrub planting within the Site (0.06ha); • retention of open mosaic habitat and lizard orchid protection areas within site (0.14ha); • creation of off-Site enhancement features (within the Off-Site Enhancement Area) comprising: <ul style="list-style-type: none"> ◦ enhanced open mosaic habitat (3.15ha); ◦ Restoration of open mosaic habitat within existing scrub (0.77ha); ◦ Restoration of open mosaic habitat within existing grassland (1.39ha); ◦ Additional areas of grassland and scrub enhancement (8.18ha); and ◦ provision of one turtle dove feeding location within the Off-Site Enhancement Area. |
| Habitat Measures Plan | Compensation | the plan with drawing number 6535/TN3 annexed hereto at Appendix B or such other plan as may subsequently be agreed in writing by the Council |
| <u>Hammill Field Plan</u> | | <u>the plan with drawing number 6535/TD1 annexed hereto at Appendix C or such other plan as may subsequently be approved by the Council</u> |
| Lizard Orchid Licence | | a licence issued under Regulation 16 of the Wildlife and Countryside Act 1981 approving and authorising the Lizard Orchid Strategy |
| Lizard Orchid Strategy | | a strategy for the habitat improvement and translocation of the lizard orchids -from the Site to a new receptor area to be set out in the following documents to be submitted -as part of the |

Commented [REDACTED] The definition of HBEA covers this

Commented [REDACTED] Please see comment on Off-Site Enhancement Areas definition below (Page 16) to explain proposed tracked change.

Commented [REDACTED] Agreed

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| | <p>application for the Lizard Orchid Licence (Lizard Orchid Strategy Documents):</p> <p>(i) a lizard orchid habitat enhancement and translocation plan setting out detailed measures for the translocation of lizard orchid in a new and identified receptor area and habitat enhancement; and</p> <p>(ii) a monitoring and management plan setting out detailed management and monitoring proposals of the measures set out in the lizard orchid habitat enhancement and translocation plan including objectives to be measured and alternative mitigation/compensation proposals in the event any of the stated objectives are not being met</p> |
| Neighbouring Development | the proposed development for a hotel and spa which is the subject of planning application reference 23/01095 submitted to the Council and awaiting determination as at the date hereof or of any replacement planning application or variation application |
| Off-Site Enhancement Area | the land <u>outside of the Site</u> on which the off-Site Habitat Compensation Measures are to be delivered and maintained pursuant to the provisions of this Deed and the Habitat and Biodiversity Enhancement Scheme approved by the Council pursuant to paragraph 2.2 of this Schedule <u>being all that land identified on the Habitat Compensation Measures Plan, the land shaded purple on the Hammill Field Plan and the Additional Turtle Dove Mitigation Area Plan outside of the Site</u> |
| Operation Turtle Dove | <u>the project launched on 10 May 2012 which aims to reverse the decline of the turtle dove and which is a partnership between the RSPB, Fair to Nature, Pensthorpe Conservation Trust and Natural ENgland</u> |
| Outline Visitor Management and Turtle Dove Strategy | the document entitled "Outline Visitor Management and Turtle Dove Strategy" produced by Aspect Ecology and dated October 2023 |
| Reptile Translocation Strategy | <p>a detailed strategy for the translocation of reptiles from the Site to an identified receptor site(s) to include the following:</p> <ul style="list-style-type: none"> erection and maintenance of reptile fencing around the perimeter of the Site whilst the Development is under construction; enhancement of the receptor habitat sites (to be identified) to include habitat management to open up basking areas and creation of refugia/hibernaculacapture and translocation of reptiles from the Site; a destructive search to remove remaining reptile habitat within the Site ongoing management and monitoring of the receptor <u>are</u>site(s) provision for remedial habitat enhancement measures |

Commented [REDACTED] These should not be included in the off-site enhancement area as this is the specific area to deliver 10% BNG/offset habitat losses. Hammill Field and additional TD area are in relation to Turtle Dove only for Seahive application and shouldn't be subject to same management/monitoring requirements.

Commented [REDACTED] Agreed. And the TD Strategy definition already includes a bullet specifically requiring the identification of additional land beyond the site and wider country park on which any TD measures are to be delivered.

Commented [REDACTED] Agreed

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| Strategies and Measures | <p>the Fiery Clearwing Strategy, Habitat and Biodiversity Enhancement Scheme, Habitat Compensation Measures, Lizard Orchid Strategy, Reptile Translocation Strategy, Tree Planting Scheme, Turtle Dove Strategy and Visitor Management Strategy together</p> |
| Statutory Body | Natural England (or any successor in function) |
| Technical Note | the Technical Note entitled "Hamill Field – Turtle Dove Enhancements" produced by Aspect Ecology and dated January 2023 |
| Tree Planting Scheme | <p>a scheme setting out provisions for the planting of one new tree for every 500 square metres of commercial floorspace created by the Development which shall include the following details:</p> <ul style="list-style-type: none"> the area(s) of tree planting (with reasonable endeavours to be used to prioritise planting within the Site and planting on the Wider Country Park only carried out where it is not reasonably feasible to plant all or any of the trees on the Site); a calculation to show the number of trees to be planted; the types of trees to be planted (confirming that they are native Kent species, of local provenance from a bio-secure source and standard size in specification as a minimum); a timetable for the planting of the trees; and notification requirements to confirm in writing to the Council once all the trees have been planted |
| Turtle Dove Strategy | <p>a detailed strategy to be produced by reference to the relevant parts of the Outline Visitor Management and Turtle Dove Strategy and the Technical Note and to be submitted to the Council for its approval in accordance with paragraph 5.1 of this Schedule which will include the following details:</p> <ul style="list-style-type: none"> the new turtle dove feeding locations to be established within the Off-Site Enhancement Area (including the specification for these); the establishment and timescale for delivery of turtle dove habitats in any other off-Site locations (including specifications for these); confirmation of the key objectives of the strategy including mitigating the harm to turtle doves and existing turtle dove habitats within the Wider Country Park and increasing/enhancing turtle dove territories |

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Commented [REDACTED] I have removed the reference to a specific location to allow the matter to be addressed simply through the submission of details.

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| | <p>by reference to the baseline position and improving the conservation status of Turtle Doves (the Turtle Dove Strategy Objectives);</p> <ul style="list-style-type: none"> the Turtle Dove Survey and Monitoring Regime <p>and which may be varied from time to time with the written agreement of the Council and which for the avoidance of doubt may be a shared Turtle Dove Strategy with the Neighbouring Development</p> |
| Turtle Dove Strategy Monitoring Fee Period | a minimum period of 30 years from the date of first Occupation of the Development or such other period as may be set out in the Approved Turtle Dove Strategy (as hereinafter defined) |
| Turtle Dove Survey and Monitoring Regime | a detailed programme for the ongoing monitoring of the measures implemented pursuant to the <u>Approved</u> Turtle Dove Strategy and in particular the success of those measures in meeting the Turtle Dove Strategy Objectives |
| Turtle Dove and Visitor Monitoring Fee | the sum of £6,000 (Six Thousand Pounds) Index Linked as payment towards the Council's costs of its ongoing monitoring of the progress of the Turtle Dove Strategy Objectives and Visitor Management Strategy Objectives |
| Visitor Management Strategy | <p>a detailed strategy to be produced by reference to the relevant parts of the Outline Visitor Management and Turtle Dove Strategy and to be submitted to the Council for its approval in accordance with paragraph 7.1 of this Schedule which will include the following details:</p> <ul style="list-style-type: none"> the establishment of different zonal areas for the relevant parts of the <u>Development Site</u> and the Wider country park comprising core visitors zones, informal access areas and restricted access areas (Zones); the proposed measures for the management of visitors to the <u>Development Site</u> and the Wider Country Park by reference to each Zone; confirmation of the key objectives of the strategy including the proper and comprehensive management of visitors to the <u>Development Site</u> and the Wider Country Park having particular regard also to the Turtle Dove Strategy Objectives (the Visitor Management Strategy Objectives) proposals and timescales for the employment of a full time dedicated wildlife warden for the Wider Country Park; and the Visitor Survey and Monitoring Regime <p>and which may be varied from time to time with the written agreement of the Council and which for the avoidance of doubt may be a shared Visitor Management Strategy with the Neighbouring Development</p> |

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| Visitor Survey and Monitoring Regime | a detailed programme for the ongoing monitoring of the measures implemented pursuant to the Visitor Management Strategy and in particular the success of those measures in meeting the Visitor Management Strategy Objectives |
| Wider Country Park | all that land which is situated outside of the Site and shown edged black on the Habitat Compensation Measures Plan |
| Working Day | any day which is not a Saturday, a Sunday, a bank holiday nor a public holiday in England |

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Commented [REDACTED] Agreed

Commented [REDACTED] There is already a WD definition at clause 1 in main body of the deed.

The Owner covenants with the Council:

2. HABITAT AND BIODIVERSITY ENHANCEMENT SCHEME

2.1 To submit a Habitat and Biodiversity Enhancement Scheme to the Council for its approval prior to Commencement of Development.

2.2 Unless previously agreed with the Council in writing not to Commence Development unless and until the Council has approved a Habitat and Biodiversity Enhancement Scheme (the **Approved Habitat and Biodiversity Enhancement Scheme**).

2.3 ~~2.3~~ To implement and comply with the Approved Habitat and Biodiversity Enhancement Scheme and carry out the ongoing monitoring and review of the Habitat and Compensation Measures (in order to determine the success of the Habitat Compensation Measures in achieving a minimum 10% biodiversity net gain by reference to the baseline position of the Site to be delivered and maintained across the Site/Off-Site Enhancement Area) to include the carrying out of updated condition assessments in accordance with DEFRA's Statutory Biodiversity Metric February 2024 at 1, 2, 3, 4, 5, 6, 8, 10, 15, 20, 25 and 30 years from the date of the Commencement of Development (Monitoring and Review Exercise).

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2.4 To submit a report to the Council setting out the findings of each Monitoring and Review Exercise undertaken in accordance with paragraph 2.3 of this Schedule (Biodiversity Report) and where the findings of a Biodiversity Report indicate that the core objectives of the Approved Habitat and Biodiversity Enhancement Scheme are not being met, to use reasonable endeavours to agree a revised Habitat and Biodiversity Enhancement Scheme with the Council in order to address those failings (Revised Habitat and Biodiversity Enhancement Scheme).

2.5 Where a Revised Habitat and Biodiversity Enhancement Scheme is agreed between the Owner and the Council, all references in this Schedule to the Approved Habitat and Biodiversity Enhancement Scheme shall be deemed to refer to the said agreed Revised Habitat and Biodiversity Enhancement Scheme for the purpose of all onward implementation, monitoring and management of the Habitat Compensation Measures and

for the avoidance of doubt, more than one Revised Habitat and Biodiversity Enhancement Scheme may be agreed between the Owner and the Council.

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3. HABITAT COMPENSATION MEASURES

- 3.1 To deliver the Habitat Compensation Measures in accordance with the timetable and details set out in the Approved Habitat and Biodiversity Enhancement Scheme; and
- 3.2 in all other respects to implement the Approved Habitat and Biodiversity Enhancement Scheme in full including maintaining and managing the Habitat and Biodiversity Enhancement Areas in accordance with the Approved Habitat and Biodiversity Enhancement Scheme.

4. COUNTRY PARK ECOLOGICAL AND BIODIVERSITY MANAGEMENT AND MONITORING PLAN AND HABITAT AND BIODIVERSITY ENHANCEMENT SCHEME MONITORING FEE

- 4.1 To submit a Country Park Ecological and Biodiversity Management and Monitoring Plan to the Council for its approval prior to Occupation of the Development.

- 4.2 Unless previously agreed with the Council in writing not to Occupy the Development unless and until the Council has approved a Country Park Ecological and Biodiversity Management and Monitoring Plan (the **Approved Country Park Ecological and Biodiversity Management and Monitoring Plan**).

- 4.3 To implement the Approved Country Park Ecological and Biodiversity Management and Monitoring Plan and comply with all management ~~and~~ maintenance and ongoing review obligations therein for the lifetime of the Development (or as otherwise provided in the Approved Country Park Ecological and Biodiversity Management and Monitoring Plan) ~~(and to carry out ongoing reviews (at 1, 2, 3, 4, 5, 6, 8, 10, 15, 20, 25 and 30 years from the date of the Commencement of Development unless otherwise agreed in writing by the Council), monitoring and assessment of the Habitat Compensation Measures Strategies and Measures in accordance with the Approved Country Park Ecological and Biodiversity Management and Monitoring Plan for a minimum period of 30 years).~~

- 4.4 ~~To submit a report to the Council by the end of each calendar year for all monitoring periods in paragraph 4.3 above setting out the findings of each Monitoring and Review, monitoring and assessment Exercise undertaken in accordance with paragraph 4.3 of this Schedule (Biodiversity Report) and where the findings of a Biodiversity Report indicate that the core objectives of the Approved Habitat and Biodiversity Enhancement Scheme are not being met, to use reasonable endeavours to agree a revised Habitat and Biodiversity Enhancement~~

Commented [REDACTED] The review requirements are a feature of the Country Park Ecological and Biodiversity Management and Monitoring Plan - I have therefore moved this text to the definition of "Country Park Ecological and Biodiversity Management and Monitoring Plan. The obligation at 4.3" is to implement the Approved Country Park Ecological and Biodiversity Management and Monitoring Plan which, by definition, will include the ongoing review requirements.

~~Scheme with the Council in order to address those failings (Revised Habitat and Biodiversity Enhancement Scheme).~~

~~4.5 Where a Revised Habitat and Biodiversity Enhancement Scheme is agreed between the Owner and the Council, all references in this Schedule to the Approved Habitat and Biodiversity Enhancement Scheme shall be deemed to refer to the said agreed Revised Habitat and Biodiversity Enhancement Scheme for the purpose of all onward implementation, monitoring and management of the Habitat Compensation Measures and for the avoidance of doubt, more than one Revised Habitat and Biodiversity Enhancement Scheme may be agreed between the Owner and the Council.~~

~~4.4 4.6~~ To pay a Habitat and Biodiversity Enhancement Scheme Monitoring Fee to the Council within 21 Working Days of receiving the Council's written approval of the Habitat and Biodiversity Enhancement Scheme in accordance with paragraph 2.1 of this Schedule and the Council's written approval of the Country Park Ecological and Biodiversity Management and Monitoring Plan in accordance with paragraph 4.1 of this Schedule and thereafter to pay a Habitat and Biodiversity Enhancement Scheme Monitoring Fee annually to the Council on the anniversary of the payment of the first Habitat and Biodiversity Enhancement Scheme Monitoring Fee for the Habitat and Biodiversity Enhancements Period.

5. TURTLE DOVE STRATEGY

5.1 To submit a Turtle Dove Strategy to the Council for its approval prior to Commencement of Development.

5.2 Unless previously agreed with the Council in writing not to Commence Development unless and until the Council has approved a Turtle Dove Strategy (the **Approved Turtle Dove Strategy**).

5.3 To deliver the turtle dove supplementary feeding locations and habitat creation works (and to complete all associated works) in accordance with the Approved Turtle Dove Strategy prior to Occupation of the Development.

~~To establish the turtle dove habitats in the Off Site Enhancement Area locations as may be provided in accordance with for in the Approved Turtle Dove Strategy.~~

5.4 Unless and to the extent as may otherwise be provided by the Approved Turtle Dove Strategy and not to Occupy any part of the Development until the turtle dove supplementary feeding locations and habitat creation works (and all associated works) have been delivered in accordance with the Approved Turtle Dove Strategy.

5.5 To otherwise implement the Approved Turtle Dove Strategy in full including maintaining and managing the turtle dove habitat creation / enhancement areas and supplementary feeding locations in accordance with the Approved Turtle Dove Strategy.

6. TURTLE DOVE SURVEY AND MONITORING REGIME

Commented [REDACTED] I have deleted on the basis that the management and monitoring plan is not the instrument through which the Habitat Compensation Measures are secured/delivered.

Commented [REDACTED] Reinstated. The HBES is now the securing the HCM

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Commented [REDACTED] Timing of delivery to be determined by approved strategy - see 5.4 ('unless and to the extent' wording).

Commented [REDACTED] Agreed

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Commented [REDACTED] Agreed

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- 6.1 To submit a Turtle Dove Survey and Monitoring Regime to the Council for its approval prior to Commencement of Development.
- 6.2 Unless previously agreed with the Council in writing not to Commence Development unless and until the Council has approved a Turtle Dove Survey and Monitoring Regime (the **Approved Turtle Dove Survey and Monitoring Regime**).
- 6.3 To implement the ongoing review, monitoring and assessment of the Turtle Dove Strategy Objectives (including by reference to the related -Visitor Management- Strategy Objectives) in accordance with the Approved Turtle Dove Strategy.
- 6.4 To submit a report to the Council setting out the findings of each review, monitoring and assessment exercise undertaken in accordance with paragraph 6.3 of this Schedule (**Turtle Dove Report**) and where the findings of a Turtle Dove Report indicate that the Turtle Dove Strategy Objectives are not being met, to use reasonable endeavours to agree a revised Turtle Dove Strategy with the Council which may, inter alia, include funding the creation of off-Site habitat areas in suitable locations (to be agreed in writing by the Council) within the district of Dover and/or reasonable and justified contributions to Operation Turtle Dove where reasonably required in order to address those failings (**Revised Turtle Dove Strategy**).
- 6.5 Where a Revised Turtle Dove Strategy is agreed between the Owner and the Council, all references in this Schedule to the Approved Turtle Dove Strategy shall be deemed to refer to the said agreed Revised Turtle Dove Strategy for the purpose of all onward implementation, monitoring and management of the Turtle Dove Strategy Objectives and for the avoidance of doubt, more than one Revised Turtle Dove Strategy may be agreed between the Owner and the Council.

7. VISITOR MANAGEMENT STRATEGY

- 7.1 To submit a Visitor Management Strategy to the Council for its approval prior to Commencement of Development.
- 7.2 Unless previously agreed with the Council in writing not to Commence Development unless and until the Council has approved a Visitor Management Strategy (the **Approved Visitor Management Strategy**).
- 7.3 To deliver the measures and works required in order to establish the Zones in accordance with the Approved Visitor Management Strategy.
- 7.4 Unless and to the extent as may otherwise be provided by the Approved -Visitor Management Strategy not to Occupy any part of the Development until the measures and works required to establish the Zones have been delivered in accordance with the Approved Visitor Management Strategy.

~~7.4~~

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- 7.5 To employ a wildlife warden on a full-time basis ~~for the lifetime of the Development~~ in accordance with the Approved Visitor Management Strategy.

Commented [REDACTED] Timeframe will ultimately be determined by the approved strategy (which may well be for the lifetime of the development)

Commented [REDACTED] Agreed

- 7.6 To otherwise implement the Approved Visitor Management Strategy in full including maintaining and managing the Zones in accordance with the Approved Visitor Management Strategy.

8. VISITOR SURVEY AND MONITORING REGIME

- 8.1 To submit a Visitor Survey and Monitoring Regime to the Council for its approval prior to Commencement of Development.

- 8.2 Unless previously agreed with the Council in writing not to Commence Development unless and until the Council has approved a Visitor Survey and Monitoring Regime (the **Approved Visitor Survey and Monitoring Regime**).

- 8.3 To implement the ongoing review, monitoring and assessment of the Visitor Management Strategy Objectives (including by reference to the related Turtle Dove Strategy Objectives) in accordance with the Approved Visitor Management Strategy.

- 8.4 To submit a report to the Council setting out the findings of each review, monitoring and assessment exercise undertaken in accordance with paragraph 8.3 of this Schedule (**Visitor Report**) and where the findings of a Visitor Report indicate that the Visitor Strategy Objectives are not being met, to use reasonable endeavours to agree a revised Visitor Management Strategy with the Council where reasonably required in order to address those failings (**Revised Visitor Management Strategy**).

- 8.5 Where a Revised Visitor Management Strategy is agreed between the Owner and the Council, all references in this Schedule to the Approved Visitor Management Strategy shall be deemed to refer to the said agreed Revised Visitor Management Strategy for the purpose of all onward implementation, monitoring and management of the Visitor Strategy Objectives and for the avoidance of doubt, more than one Revised Visitor Management Strategy may be agreed between the Owner and the Council.

9. TURTLE DOVE AND VISITOR STRATEGY MONITORING FEE

Within 21 Working Days of the later of receiving the Council's written approval of the following:

- (i) Turtle Dove Strategy in accordance with paragraph 5.1 of this Schedule;
- (ii) Turtle Dove Survey and Monitoring Regime in accordance with paragraph 6.1 of this Schedule;
- (iii) Visitor Management Strategy in accordance with paragraph 7.1 of this Schedule; and

- (iv) Visitor Survey and Monitoring Regime in accordance with paragraph 8.1 of this Schedule

to pay a Turtle Dove and Visitor Monitoring Fee to the Council and thereafter to pay a Turtle Dove and Visitor Monitoring Fee annually to the Council on the anniversary of the payment of the first Turtle Dove and Visitor Monitoring Fee for the Turtle Dove Strategy [Monitoring Fee](#) Period.

10. PUBLIC ACCESS

To allow the public to access the Wider Country Park free of charge (subject to the requirements of the Approved Visitor Management Strategy and the usual opening/operational hours of the Wider Country Park) and to ensure that this right of access is maintained for the [operational](#) lifetime of the Development provided always that the Owner will be entitled to restrict public access to all or specific parts of the Wider Country Park as appropriate for the following:

- (i) ~~for~~ special/private events up to a maximum of 40 days per annum (unless otherwise agreed with the Council in writing);
- (ii) the maintenance, repair, renewal, cleaning or other required works to the Wider Country Park subject to having first notified the Council in writing;
- (iii) in cases of emergency or danger to the public;
- (iv) in the interests of security and to ensure public safety; and
- (v) works to any part or parts of the Development abutting such areas (including works of maintenance, repair, alterations or other structural or non-structural works and/or alterations) for such period or periods as may be reasonably required to carry out the works/assessments subject to having first notified the Council in writing

[and for the avoidance of doubt nothing in this paragraph 10 or elsewhere in this Deed shall prevent the ability to impose car parking charges for the use of any car parks or other parking facilities associated with the Development or the Wider Country Park.](#)

11. FIERY CLEARWING STRATEGY

- 11.1 To notify the Council of the submission of the Fiery Clearwing Strategy Documents to the Statutory Body within 14 days of their submission.
- 11.2 To submit a copy of the Fiery Clearwing Strategy Documents [approved by the Statutory Body](#) (~~"the Approved Fiery Clearwing Strategy"~~) to the Council as soon as reasonably practicable

following the submission of the application issuing of for the Fiery Clearwing Licence to by the Statutory Body.

- 11.3 Unless previously agreed with the Council in writing not to Commence Development unless and until the Fiery Clearwing Licence has been issued by the Statutory Body.

- ~~11.4~~ 11.4 To ~~implement the Approved Fiery Clearwing Strategy~~ comply with the terms of the Fiery Clearwing Licence in full and comply with all obligations therein for the lifetime of the Development (or otherwise as provided by the Fiery Clearwing Licence).

12. LIZARD ORCHID STRATEGY

- 12.1 To notify the Council of the submission of the Lizard Orchid Strategy Documents to the Statutory Body within 14 days of their submission.

- 12.2 To submit a copy of the Lizard Orchid Strategy Documents approved by the Statutory Body ("the Approved Lizard Orchid Strategy") to the Council as soon as reasonably practicable following the submission issuing of the application for the Lizard Orchid Licence to by the Statutory Body.

- 12.3 Unless previously agreed with the Council in writing not to Commence Development unless and until the Lizard Orchid Licence has been issued by the Statutory Body.

- ~~12.4~~ 12.4 To comply with the terms of the Lizard Orchid Licence ~~implement the Approved Lizard Orchid Strategy in full and comply with all obligations therein~~ for the lifetime of the Development (or otherwise as provided by the Lizard Orchid Licence).

13. REPTILE TRANSLOCATION STRATEGY

- 13.1 To submit a Reptile Translocation Strategy to the Council for its approval prior to Commencement of Development.

- 13.2 Unless previously agreed with the Council in writing not to Commence Development unless and until the Council has approved a Reptile Translocation Strategy (the **Approved Reptile Translocation Strategy**).

- 13.3 To establish the receptor area(s) and undertake the translocation measures and set out in the Approved Reptile Translocation Strategy (including the monitoring and management measures set out therein) for the lifetime of the Development.

14. TREE PLANTING

Commented [REDACTED]: There may be to-ing and fro-ing between the developer and NE before the final strategy is approved and licence granted. If we only have the first submitted version we may not know all of the details that NE have agreed to.

I suggest that we seek notification that the Strategy has been submitted to NE and then require the submission of the final version on which basis the licence has been issued. I also suggest that we seek submission of the licence, or is this already a condition? - there is provision for seeking licences by condition in BS42020:2013 code of practice for planning and development, along with supporting case law

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Commented [REDACTED]: As above for fiery clearing... There may be to-ing and fro-ing between the developer and NE before the final strategy is approved and licence granted. If we only have the first submitted version we may not know all of the details that NE have agreed to.

I suggest that we seek notification that the Strategy has been submitted to NE and then require the submission of the final version on which basis the licence has been issued. I also suggest that we seek submission of the licence, or is this already a condition? - there is provision for seeking licences by condition in BS42020:2013 code of practice for planning and development, along with supporting case law

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- 14.1 To submit a Tree Planting Scheme to the Council for its approval prior to the Occupation of the Development.
- 14.2 Unless previously agreed with the Council in writing not to Occupy the Development unless and until the Council has approved a Tree Planting Scheme (the **Approved Tree Planting Scheme**).
- 14.3 To undertake the planting of trees in accordance with the Approved Tree Planting Scheme and to ensure that the said trees are retained for the operation lifetime of the Development.
- 14.4 To notify the Council of the planting of the trees in accordance with the notification requirements set out in the Approved Tree Planting Scheme.
- 14.5 To otherwise implement, comply with and observe the requirements of the Approved Tree Planting Scheme.
- 14.6 To manage and maintain (and where applicable replace) the trees planted pursuant to the Approved Tree Planting Scheme in accordance with the landscape management scheme approved by the Council pursuant to condition 1 of the Planning Permission.

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Commented [REDACTED] To be confirmed.

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SCHEDULE 2 - COMMUNITY INITIATIVES AND APPRENTICESHIP SCHEMES

1. DEFINITIONS

In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this Deed:

| | |
|---|--|
| Apprenticeship | Apprenticeship places created at the Development pursuant to the Apprenticeship Scheme and Apprenticeships and Apprentices shall be construed accordingly |
| Apprenticeship Scheme | an apprenticeship scheme aimed at school leavers within the Council's administrative area for the creation of a selection of roles and career paths in the operational business(es) of the Development |
| Associated Charities | selected/specialist charities whose purposes are aligned with the Development's surf therapy and educational objectives |
| Carer | a person responsible for assisting a disabled visitor to the Development |
| Carer's Ticket | a ticket or other form of authority admitting entry to the Development specifically assigned to a Carer |
| Discounted Meals | discounted teatime meals at the Development's café/restaurant for Under Privileged School Children during Term Time |
| Discounted Programme Meals | the details relating to the Discounted Meals including the discount to be offered, the meals which will be the subject of the discount, the time slots during which the meals will be available and the capacity limits which will apply |
| Out of School Activity Programme | a free activity programmes (to include an environment for children to learn and provision of creative / engaging learning activities linked to key subject areas) at the Development delivered in accordance with the Government's Holiday Activities and Food Programme (HAF) (or any successor or replacement or equivalent programme or initiative) for Under Privileged School Children during School Holiday Periods each programme to include one free meal per child visiting |
| School Children | children up to the age of 16 who attend and are pupils registered at a Qualifying School |
| School Holiday Periods | the periods during which Qualifying Schools have ended their school term for the Easter, Christmas and summer breaks and School Holiday Period shall be construed accordingly |
| Surf Sessions | the 2,500 free of charge surf sessions (which could also incorporate a lesson)- to be made available per annum- for School Children from a Qualifying School- during Term Time as part of an organised school trip, combined with a broader experience on the day incorporating an ocean awareness and safety course, lessons around conservation and environmental impacts or other outdoor activities |
| Surf Sessions Scheme | a scheme setting out a programme of Surf Sessions at the Development and how that programme will be made available to School Children from a Qualifying School during Term Time which shall include details of those measures which will be taken to engage with and publicise the Surf Sessions to Qualifying Schools to- maximise the take up of the Surf Sessions (which may be varied from time to time with the written agreement of the Council) |
| Under Privileged School Children | School Children who are in receipt of means-related free school meals at their school |

| | |
|--------------------------|---|
| Qualifying School | any state school for the provision of primary or secondary education within the administrative area of the Council and Qualifying Schools shall be construed accordingly |
| Term Time | Mondays to Thursdays during the term time periods for the Qualifying Schools (all periods outside of the School Holiday Periods and half-term school holidays) |

The Owner covenants with the Council:

2. APPRENTICESHIP SCHEME

- 2.1 To submit an Apprenticeship Scheme to the Council for its approval prior to Occupation of any part of the Development.
- 2.2 Unless otherwise agreed with the Council not to Occupy any part of Development unless and until the Council has approved an Apprenticeship Scheme (the **Approved Apprenticeship Scheme**).

2.3

2.42.3 To implement the Approved Apprenticeship Scheme for the operational lifetime of the Development or as otherwise agreed with the Council.

2.52.4 To maintain an annual record of all Apprenticeships created by the Approved Apprenticeship Scheme and of the progress of all Apprentices and where requested, to provide a copy of the same to the Council.

3. ASSOCIATED CHARITIES

- 3.1 To offer Associated Charities (free of charge) space(s) within the Development from which to run programmes, courses and events.
- 3.2 Upon request by the Council, to provide details of the Associated Charities who are occupying/have occupied the Development and the activities undertaken by those Associated Charities within the 12 month period preceding the said request.

4. CARERS

To allow all disabled visitors to the Development to obtain a free of charge Carer's Ticket to allow a Carer to accompany them on their visit to the Development subject to one of the following forms of documentation being provided (or such other form of documentation as may reasonably be accepted by the Owner):

- Entitlement to Disability Living Allowance for children under 16 or DLA/Personal Independent Payments (PIP) for those aged 16-64, either in the form of a letter stating that the benefit has been awarded, or the actual Allowance book;

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- Attendance Allowance or Carer's Allowance letter of award;
- Incapacity Benefit books, or a letter notifying the recipient that the benefit has been awarded Incapacity Benefit or Employment and Support Allowance (ESA);
- a Blue Badge issued pursuant to the Disabled Persons' Parking Badges Act 2013;
- In the case of visual impairment, a BD8 registration card or a Certificate of Visual Impairment (CVI);
- A local authority registration document;
- A recognised Assistance Dog ID Card; [or](#)
- Credability's Access Card

5. DISCOUNTED MEALS PROGRAMME

- 5.1 To provide a Discounted Meals Programme to the Council prior to the Occupation of the Development.
- 5.2 To Implement the Discounted Meals Programme for the [operational](#) lifetime of the Development or as otherwise agreed in writing by the Council.

6. OUT OF SCHOOL ACTIVITY PROGRAMMES

- 6.1 For the [operational](#) lifetime of the Development or as otherwise agreed with the Council, to organise and provide a minimum of one Out of School Activity Programme for up to 50 Under Privileged School Children per School Holiday Period PROVIDED ALWAYS that this is subject to any reasonable limitation that may be required to facilitate necessary maintenance or repair of the Development or as may be impacted by adverse weather.
- 6.2 Upon request by the Council, to provide details of each Out of School Activity Programme organised within the 12 month period preceding the said request.

7. SURF SESSIONS

- 7.1 To submit a Surf Sessions Scheme to the Council for its approval prior to Occupation of any part of the Development.
- 7.2 Unless otherwise agreed with the Council not to Occupy any part of Development unless and until the Council has approved a Surf Sessions Scheme (the **Approved Surf Sessions Scheme**).
- 7.3 To implement the Approved Surf Sessions Scheme for the [operational](#) lifetime of the Development or as otherwise agreed with the Council.

SCHEDULE 3 - SAMM CONTRIBUTION

DEFINITIONS

- 1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this Deed:

| | |
|--------------------------|--|
| SAMM Strategy | The Council's Thanet Coast and Sandwich Bay SPA Strategic Access Mitigation and Monitoring Strategy dated March 2023 |
| SAMM Contribution | the sum of £13,425 (Thirteen Thousand Four Hundred and Twenty Five Pounds) toward the mitigation measures set out in the SAMM Strategy |

2. PAYMENT OF CONTRIBUTION

The Owner covenants with the Council to pay the SAMM Contribution to the Council prior to the Commencement of Development and not to Commence Development until the SAMM Contribution has been paid to the Council.

SCHEDULE 4 – SHUTTLE BUS SERVICE

1. DEFINITIONS

In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this Deed:

| | |
|---------------------------------|---|
| Neighbouring Development | the proposed development for a hotel and spa which is the subject of planning application reference 23/010995 submitted to the Council and awaiting determination as at the date hereof or of any replacement planning application or variation application |
| Shuttle Bus Service | a flexible -shuttle bus service that may be a shared service with the Neighbouring Development which is designed around the needs of employees working at the Development and Neighbouring Development (where the service is shared) |

2. SHUTTLE BUS SERVICE

The Owner covenants with the Council as follows:

- 2.1 Prior to first Occupation of the Development to submit to the Council an assessment of the transport needs of the workforce of the Development or the aggregate workforce of the Development and the Neighbouring Development
- 2.2 Where the assessment submitted in accordance with paragraph 2.1 identifies a reasonable need for a Shuttle Bus Service details of the scope and extent of that Shuttle Bus Service shall be submitted to the Council by the Owner and the Shuttle Bus Service shall be provided in accordance with these details
- 2.3 The assessment submitted in accordance with paragraph 2.1 shall be repeated on a bi-annual basis and submitted to the Council
- 2.4 In the event a bi-annual assessment submitted in accordance with paragraph 2.3 identifies any change in reasonable need for a Shuttle Bus Service details of the scope and extent of that Shuttle Bus Service shall be submitted to the Council by the Owner and the Shuttle Bus Service shall be provided or revised (where one is already in place) -in accordance with these details

PROVIDED ALWAYS that where an assessment identifies no reasonable need for a Shuttle Bus Service the Owner shall not be required to provide or continue to provide a Shuttle Bus Service

SCHEDULE 5 - WHITFIELD A2 ROUNDABOUT WORKS CONTRIBUTION

1. DEFINITIONS

In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this Deed:

| | |
|---|--|
| Whitfield A2 Roundabout Works Contribution | the sum of £27,000 (Twenty Seven Thousand Pounds) towards improvement works at the A2 Whitfield Roundabout |
|---|--|

2. PAYMENT OF CONTRIBUTION

The Owner covenants with the Council to pay the Whitfield A2 Roundabout Works Contribution to the Council prior to Occupation of the Development and not to Occupy the Development until the Whitfield A2 ~~Junction Roundabout~~ Works Contribution has been paid to the Council.

SCHEDULE 6 – HIGHWAY WORKS

1. DEFINITIONS

In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this Deed:

| | |
|---|--|
| Highway Works | highway mitigation works at the A256/Northbourne Road Mitigation junction in accordance with the Highway Works Drawing |
| Highway Works Agreement | an agreement entered into with the County Council pursuant to section 278 and/or section 38 of the Highways Act 1980 in order to secure the Highway Works |
| Highway Works Drawing | drawing reference 22-034-003 annexed hereto at Appendix DC |
| Neighbouring Development | the proposed development for a hotel and spa which is the subject of planning application reference 23/010995 submitted to the Council and awaiting determination as at the date hereof or of any replacement planning application or variation application |
| Occupation of Neighbouring Development | occupation of any building or other part of the Neighbouring Development for the purposes permitted by the relevant planning permission(s) but shall not include occupation for the purposes of construction or fitting out or for marketing purposes or security operations |

The Owner covenants with the Council:

2. DELIVERY OF HIGHWAY WORKS

- 2.1 To use reasonable endeavours to enter into a Highway Works Agreement as soon as reasonably practicable following the grant of Planning Permission.
- 2.2 Not to commence the Highway Works until the Highway Works Agreement has been completed.
- 2.3 To construct and deliver the Highway Works in accordance with the Highway Works Agreement prior to (cumulatively) the Occupation of the Development and the Occupation of the Neighbouring Development.
- 2.4 Where Occupation of the Neighbouring Development occurs prior to the Occupation of the Development, not to Occupy the Development until the Highway Works have been constructed and completed in accordance with paragraph 2.3 above.

SCHEDULE 7 – COUNCIL'S COVENANTS

The Council covenants with the Owner:

1. Following written request from the Owner repay to the Owner (for the purposes of this Schedule meaning the person, persons or company that paid the relevant contribution) such amount of any contribution made by them to the Council under this Deed and which has not been expended at the date of such written request together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law provided always that no such request will be made prior to the expiry of ~~ten~~five years of the date of receipt by the Council of such payment. Any contribution or part of a contribution which the Council has ~~committed~~contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the Council prior to that date. If capital works have been carried out then commuted sums for maintenance will not be returnable under this paragraph ~~AND FURTHER PROVIDED THAT the Council shall not be obliged pursuant to this paragraph to return monies that do not relate to Council functions or have been passed to persons/bodies other than the Council.~~

Commented [REDACTED] Proposed paragraphs 1, 2 and 4 have been rejected as DDC retain this contribution and commissions the works itself.

Commented [REDACTED] Thanks for confirming. On that basis, I have deleted last line of the paragraph as it will not be relevant. Instructions sought on 10 v 5 years.

'Contracted' preferred to 'committed' given vagueness of the latter term.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a Deed by affixing the)
common seal of DOVER DISTRICT)
COUNCIL in the presence of)
)

Authorised Signatory

)
)

Signature

EXECUTED as a Deed by)
BETTESHANGER PROPERTY)
LIMITED acting by a director

Director Signature

In the Presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

EXECUTED as a Deed by)
THESEAHIVE **LIMITED** acting by a)
director

Director Signature

In the Presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

APPENDIX A - SITE PLAN

APPENDIX B – HABITAT COMPENSATION MEASURES PLAN

APPENDIX C – HIGHWAY WORKS DRAWING

[REDACTED]

From: [REDACTED]
Sent: 20 August 2024 14:06
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Betteshanger - Planning Conditions
Attachments: [REDACTED] [to applicant] Draft conditions - 23-01095 - Hotel Scheme.docx; [REDACTED] [to applicant] Draft conditions - 22-01158 - Wave Pool Scheme.docx

Hi [REDACTED]

I have spoken to [REDACTED] and she is happy with adding wording along the lines you suggested "as informed by an updated survey where necessary" to the individual species conditions and the CEMP condition. If you are happy to amend, please do, if not, [REDACTED] can you amend on your return.

Many thanks

[REDACTED]



[REDACTED]
Planning & Development Manager
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ
Email: [REDACTED]@dover.gov.uk
Web: <http://dover.gov.uk>

My working days are Tuesday to Friday

From: [REDACTED]
Sent: Tuesday, August 20, 2024 8:39 AM
To: [REDACTED]@akdc.co.uk>
Cc: [REDACTED]@dover.gov.uk>
Subject: RE: Betteshanger - Planning Conditions

Thanks [REDACTED] for the comments back on the conditions.

I have responded in line below – and with those comments there should, I hope, be agreement.

Re any need for updated surveys and your comments, we may need to have a further discussion with the ecology officer. Will update further.

Enclosed is an updated schedule for each development, with changes tracked for easy reference

Best

[REDACTED]

From: [REDACTED]@akdc.co.uk>
Sent: Monday, August 19, 2024 4:37 PM
To: [REDACTED]@nexusplanning.co.uk>
Cc: [REDACTED]@dover.gov.uk>
Subject: Re: Betteshanger - Planning Conditions

External Email: Please be aware. This email originated from outside the Nexus Planning corporate network. Do not take instructions, click on links or open attachments unless you recognise the sender and know the content is safe.

Hi [REDACTED]

Thank you for the draft lists of planning conditions for both applications. Please see below my comments on The SeaHive conditions. The Hotel planning conditions are agreed subject to any amendments agreed to the corresponding conditions which are shared by both applications being made.

Overall, we are happy that the conditions have been tightly drafted to focus on what they need to secure and wherever possible have avoided prior to commencement triggers unless absolutely necessary. The conditions also closely reflect the committee report conditions lists with only a small number of additions (restoration plan no.46 and finished floor levels no.47 in the case of The SeaHive; green roof no.6, finished floor levels nos. 43 & 45 and EA flood warning service no. 44 for the Hotel):

Condition 9 (Hotel Condition 10) - Our energy consultant has advised that 9 months is more realistic than the 3 months provided. The post-construction certificates have a 8-week timescale but as soon as a clarification is requested the 8-week clock restarts. From his experiences elsewhere, 9 months has been provided by condition and it is unusual for the certificates to be resolved within 3 months.

[We have frequently seen three months as a timetable. Nine months feels too long from occupation – suggest six](#)

Condition 10 (Hotel Condition 12) - There is duplication of the tree planting requirement from Schedule 1, Clause 14 of the S.106 here, but I think this can be accepted as the S.106 wording cross-references back to the approved soft landscaping planning condition details.

[Noted](#)

Condition 18 - No demolition is proposed or secured by the permission so I suggest that references are removed.

[Agreed – reference to demolition removed](#)

Conditions 20-25, 36 and 38-40 - all refer to 'public, visitors or guests' or 'public or visitors'. I'm not sure of the need to differentiate these terms for The SeaHive and perhaps we could simplify references throughout to just 'prior to first use'.

[This wording was at the preference of DDC officers: minded to keep as currently drafted](#)

Condition 21 (Hotel Condition 23) - Small typo, 'cycle parking' rather than 'cycling parking'.

Noted - amended

Condition 24 - The third bullet point refers to the Travel Plan Coordinator for the Hotel rather than surf resort.

Noted - amended

Condition 36 - Reduction of water usage 'as far as reasonable(typo) possible'. Is it possible for this to be more measurable/quantified or will everyone just need to behave reasonably when the details reserved by this condition are agreed?

By definition a condition cannot be unreasonable; and the condition by including 'as far as reasonably possible' further emphasises this. In this context, I would rather keep it open for you to suggest measures that are likely to only be known during the detailed design / fitout stage of development.

Condition 42 - I think guidance A1:2019 needs to be added as it is a relevant supplement/update to the standard quoted in this condition. BS guidance talks about designing to 5db below the 'typical' or 'prevailing' background noise level, which would suggest the average or mid-point in the noise data, not the 'minimum' referred to in this condition. I would suggest that 'minimum' is replaced with 'average', but if this is a standard requirement from DDC Environmental Health we would be able to accept either as in practice we don't foresee an issue.

From my experience this is fairly standard working. If, as you foresee, there would not be any issue with compliance, prefer to keep condition as drafted.

Condition 44 - Reference to Hotel should be surf wellness resort.

Noted (thanks) and updated

In terms of update surveys, there are some specific requirements for update surveys set out by the conditions in relation to Sussex Emerald, Badger and Beaver, whilst we would expect documents such as a CEMP and other mitigation strategies to be informed by appropriately up-to-date surveys. As such, we had anticipated update surveys would be undertaken in regard to habitats, breeding birds, riparian mammals (Water Vole, Otter and Beaver), reptiles, Fiery Clearwing and Sussex Emerald.

I don't see that a specific condition needs to be added relating to update surveys, although if you are seeking further comfort, wording such as 'to be informed by updated surveys as required' could be added to conditions such as the CEMP?

If it would be possible to send a final version of the conditions before the decisions are issued, that would be much appreciated so I can circulate to our team.

In terms of the S.106, this is just with The SeaHive's Directors for a final check today, but I should be able to get our final (relatively minor) changes and comments back to [REDACTED] by the end of tomorrow. If we could push to agree the S.106s this week, that would be great and would relieve a lot of pressure at our end.

Many thanks

[REDACTED]

[REDACTED]

Email: [REDACTED] [@akdc.co.uk](mailto:[REDACTED]@akdc.co.uk)

Tel: [REDACTED]



On Thu, 15 Aug 2024 at 15:46, [REDACTED] [@nexusplanning.co.uk](mailto:[REDACTED]@nexusplanning.co.uk)> wrote:

Hi [REDACTED]

Please find enclosed a draft schedule of conditions for each scheme.


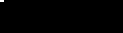
One matter still live with officers, not reflected in the enclosed, is whether or not ecological survey work would need to be updated and reported if more than 18 months old ahead of commencement. No position on this has yet been reached, but I wanted to issue the conditions as currently drafted without further delay.

Any comments welcome.

Thanks




Associate Director

M 
E @nexusplanning.co.uk



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DOV/22/01158 Construction of a surfing lagoon etc.
Draft Planning Conditions
~~15/08/24~~20/08/24

1. The development hereby permitted shall be begun before the expiration of 7 years from the date of this decision.

Reason: To comply with the requirements of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (or any legislation revoking or re-enacting that legislation with or without modification).

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

- 21.0170 – 01 Site Location Plan
- 21.0170 – 03 – A Existing Site / Block Plan
- 21.0170 – 05 – B Proposed Site / Block Plan
- 21.0170 – 06 Proposed Site Sections A-A & B-B
- 21.0170 – 07 Proposed Site Sections C-C & D-D
- 21.0170 – 08 – P2 Proposed Site Context Plan
- 21.0170 – 10 Proposed Ground Floor Plan
- 21.0170 – 11 Proposed First Floor Plan
- 21.0170 – 12 Proposed Roof Plan
- 21.0170 – 15 Proposed East & West Elevations
- 21.0170 – 16 – A Proposed North & South Elevation and Section
- 21.0170 – 17 Wellness Centre – Proposed Ground Floor Plan
- 21.0170 – 18 Wellness Centre – Proposed Roof Plan
- 21.0170 – 19 Wellness Centre – Proposed Elevation A-A, B-B & C-C
- 21.0170 – 20 Wellness Centre – Proposed Elevation D-D & Section 1-1
- 21.0170 – 21 Learning Hub – Plans, Elevations & Section
- 21.0170 – 22 – A Holiday Lodge (8 person)
- 21.0170 – 23 – A Holiday Lodge (4 person)
- 21.0170 – 24 Board Storage & Repair & Practice Area
- WGC-EDL-ZZ-ZZ-DR-L-0100 R2 Landscape Masterplan
- KEN-DR-CIN-0300 Cove and Associated Areas
- KEN-DR-CIN-0310 Dimensions
- KEN-DR-CIN-0311 Sections
- KEN-DR-CIN-0320 Elements Identification
- KEN-DR-CIN-0320 Core Service Area

Reason: For the avoidance of doubt

3. No development above ground level of any building shall take place until samples of materials to be used in the construction of the external surfaces, including decking areas, of that building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

4. No development above ground level of any building shall take place, until details of the window frames and doors of that building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

5. No development above ground level shall take place, until details of the green roof on buildings across the site have been submitted to and approved in writing by the local planning authority. The green roofs shall provide a mosaic of bare substrate, recolonising vegetation, grassland and wildflowers, together with rubble and log piles. Details shall include areas of planting, species of plant, creation of habitat features, means of establishment and management of the habitats and habitat features. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and biodiversity, with regard to paragraphs 131 and 186 of the National Planning Policy Framework and draft Local Plan Policy PM1.

6. No development above ground level shall take place, until details of the materials and finish of the pedestrian bridge link have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Development shall not be occupied until the bridge link is in place and open for use.

Reason: In the interests of visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

7. No development above ground level shall take place, until details of the boundary treatment / screening of the wave pool plant enclosure, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, with the approved boundary treatment / screening to be in place before occupation.

Reason: In the interests of visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

8. No development above ground level shall take place until a scheme has been submitted to and approved in writing by the local planning authority setting out the measures to be taken to demonstrate compliance with the principles of Secured by Design. The development shall be carried out and thereafter maintained in accordance with the approved details, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the development seeks to address measures for the prevention of crime, with regard to paragraph 135 of the National Planning Policy Framework and draft Local Plan Policy SP2.

9. No development above ground level shall take place until a 'design stage certificate' (prepared by an accredited Building Research Establishment Assessor), demonstrating that the main hub building will achieve a minimum BREEAM rating of Very Good, has been submitted to and approved in writing by the local planning authority.

Within 63 months of the main hub building first being brought into use, evidence shall be submitted in the form of a 'post construction certificate' (prepared by an accredited Building Research Establishment Assessor) to demonstrate full compliance with the specified BREEAM standard for the development.

Reason: To ensure high standards of sustainable design and construction, with regard to Core Strategy Policy CP5 and draft Local Plan Policy CC1.

10. No development above ground level shall take place until a scheme for the landscaping (including tree planting) of the site is submitted to and approved in writing by the local planning authority. These details shall include:

i) schedules of new trees, shrubs and other species to be planted (noting species that shall be native, of local provenance and appropriate to their location; plant sizes; and numbers/densities);

ii) the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread);

iii) habitat enhancement measures, including integrated bird bricks and bat boxes, bee bricks and brownfield habitat features;

iv) any earth moving operations and finished levels/contours;

v) hard landscaping materials including for all made surfaces, retaining walls and steps / ramps across the site; and

vi) an implementation programme.

The scheme shall be carried out and completed prior to the development first being brought into use and thereafter maintained in accordance with the approved scheme.

In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the occupation of the development, a new tree or shrub or equivalent number of trees or shrubs, of a species and position first approved by the local planning authority, shall be planted and properly maintained.

Reason: In the interests of visual amenity and to help to assimilate the development into its surroundings, with regard to paragraph 135 of the National Planning Policy Framework and draft Local Plan Policy PM1.

11. No development above ground level shall take place, until details of the landscaped bunding and boundary treatment of the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, with the approved boundary treatment to be in place before occupation.

Reason: In the interests of visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

12. No development shall commence until a tree and hedge protection scheme has been submitted to and approved in writing by the local planning authority. The protection scheme shall identify the retained trees and hedges; a timetable for the works; and where excavations or changes to land levels or underground works are proposed that might affect the root protection area, the scheme shall detail the appropriate working methods (the arboricultural method statement) in accordance with British Standard BS 5837: 2012 (Trees in relation to design, demolition and construction). The scheme for the protection of the retained trees and hedges shall be carried out as approved.

In this condition "retained tree or hedge" means an existing tree or hedgerow which is to be retained in accordance with the submitted and approved plans and particulars.

If any retained tree or hedgerow is cut down, uprooted or destroyed or dies within 5 years of the completion of development, the tree/hedgerow shall be replaced by a tree/hedgerow of a similar type and species in the next planting season after the damage or loss.

Reason: To protect and prevent damage to existing trees and hedges on the application site, in the interests of visual and rural amenity, with regard to paragraph 136 of the National Planning Policy Framework and draft Local Plan Policy PM1.

13. No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken, mitigation of environmental risks including to groundwater, and the methodology by which such piling will be carried out) has first been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To ensure piling construction methods associated with the development do not pose an undue risk to the environment, with regard to paragraph 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

14. No development shall commence until an intrusive geoenvironmental investigation and risk assessment has been undertaken by competent persons and a written report of the findings have been submitted to and approved in writing by the local planning authority. The submitted report shall include (i) an assessment of the nature, extent, scale and origin of any contamination on the site; and (ii) an assessment of any potential risks to human health, property (existing or proposed – including buildings, crops, livestock, pets, woodland and service lines and pipes), adjoining land, ground waters and surface waters, ecological systems and archaeological sites.

All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment or biodiversity, with

regard to paragraph 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

15. If an intrusive geoenvironmental investigation and risk assessment shows that remediation is necessary, no development shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings / other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority

Such a scheme shall include details of all works to be undertaken, proposed remediation objectives / remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works.

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment or biodiversity, with regard to paragraph 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

16. No development shall commence until a verification report (demonstrating completion of the works of the approved remediation scheme and the effectiveness of the remediation (if necessary following details pursuant to Condition 14 and 15) has been submitted to and approved in writing by the local planning authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority. Any material imported to the site shall be laboratory certified as suitable for use.

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment, with regard to paragraph 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

17. If, during the course of construction of the approved development, unforeseen contamination on the site is found to be present or caused, the occurrence shall be reported immediately to the local planning authority. Development shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The approved remediation scheme shall be carried out; and a verification report to demonstrate the success of the remediation scheme submitted to and approved in writing by the local planning authority, before the development is resumed or continued.

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment, with regard to paragraph 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

18. No development shall take place until an 'environmental ~~demolition~~/construction management plan' has been submitted to and approved in writing by the local planning authority. The said plan shall include details of:

- routing of vehicles to / from site; parking and turning areas for HGV's and site personnel;
- timing of HGV movements;
- provision and location of wheel washing facilities;
- temporary traffic management / signage as necessary;
- hoarding, construction compounds and temporary buildings;
- storage areas for chemicals and fuels;
- location of the refuelling of vehicles;
- disposal of water used for construction purposes;
- temporary lighting;
- measures for the control of dust;
- measures to control / minimise construction noise;
- working hours; and
- procedures for complaint management.

The approved 'environmental ~~demolition~~/construction management plan' shall be fully complied with throughout the demolition and construction period.

Reason: These details are required prior to the commencement of development in the interests of minimising the impact of the development during the ~~demolition~~/construction phase.

19. No development shall commence until details of the management of surface water during the construction phase of development have been submitted to and approved in writing by the local planning authority. The construction phase of the development shall only be carried out in accordance with the approved surface water details.

Reason: To protect the surrounding environment and biodiversity from flood risk and pollution cause by unmanaged surface runoff during the construction phase of development, with regard to paragraph 175 and 186 of the National Planning Policy Framework and draft Local Plan Policy NE5.

20. The development hereby permitted shall not be open to the public, visitors or guests until the car parking spaces shown on the approved plans have been provided. Thereafter those space retained shall be retained only for the purposes of car parking in relation with the development hereby permitted and the wider country park.

Reason: In the interests of providing appropriate car parking for the management of the country park and highway safety and convenience, with regard to draft Local Plan Policy TI3.

21. The development hereby permitted shall not be open to the public, visitors or guests until cycle parking has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. Thereafter the approved cycle~~ing~~ parking shall be retained and used only for the purposes of cycle parking.

Reason: In the interests of promoting cycling as a sustainable means of travel, with regard to draft Local Plan Policy TI1.

22. The development hereby permitted shall not be open to the public, visitors or guests until electric vehicle charging infrastructure has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. Thereafter the approved electric vehicle charging infrastructure shall be maintained and kept available for the charging of electric vehicles.

Reason: In the interests of facilitating the use of electric vehicles as a more sustainable means of travel, with regard to draft Local Plan Policy TI1.

23. The development hereby permitted shall not be open to the public, visitors or guests until a 'car parking management plan' and associated 'signage strategy' have been submitted to and approved in writing by the local planning authority. The development shall only be operated in accordance with the approved 'car parking management plan'; and signage required in connection with the 'signage strategy' shall be carried before the development hereby permitted is first open to the public, visitors or guests.

Reason: In the interests of providing appropriate car parking for the management of the country park and highway safety and convenience, with regard to draft Local Plan Policy TI3.

24. Prior to the development hereby permitted first being open to the public or visitors, a 'travel plan' shall be submitted to and approved in writing by the local planning authority. The travel plan shall include:

- the identification of targets for trip reduction and modal shift;
- measures to be implemented to meet those targets;
- details of a travel plan coordinator as part of the management of the ~~hotel~~ development;
- a timetable / phasing of the implementation of the measures;
- mechanisms for monitoring and review;
- mechanisms for reporting;
- remedial measures to be applied in the event that targets are not met; and
- the mechanisms to secure variations to the 'full travel plan' following monitoring and reviews.

The development shall only be occupied and managed in accordance with the approved 'travel plan', unless otherwise previously agreed in writing by the local planning authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport, with regard to draft Local Plan Policy TI1.

25. Prior to the development hereby permitted first being open to the public, visitors or guests, lighting details and a strategy for its operation, and an associated impact assessment for biodiversity, relating the site and adjacent land, shall be submitted to and approved in writing by the local planning authority. The lighting details and strategy shall:

a) identify those areas/features on site that, due to their potential for use by bats, are particularly sensitive to lighting impacts (including any biodiversity enhancement features);

b) include modelled illuminance from all proposed light sources, taking into account site configuration, physical screening and glazing measures to be used;

c) demonstrate how and where external lighting will be installed with regard to 'Guidance Note 08/23 Bats and Artificial Lighting at Night' (Bat Conservation Trust and Institution of Lighting Professionals) to minimise lighting impacts on sensitive biodiversity receptors.

All external lighting will be installed and thereafter maintained in accordance with the approved details and strategy, unless otherwise previously agreed in writing by the local planning authority.

Reason: In the interests of the visual amenity of the site / surrounding area; and to avoid significant ecological impacts to the site / surrounding area, with regard to paragraph 180 of the National Planning Policy Framework and draft Local Plan Policy NE2.

26. No external lighting of the surfing lagoon shall take place before 06.30 or after 21.30 each day.

Reason: In the interests of the visual amenity of the site / surrounding area; and to avoid significant ecological impacts to the site / surrounding area, with regard to paragraph 180 of the National Planning Policy Framework and draft Local Plan Policy NE2.

27. No development shall commence, including site / vegetation clearance, until details that a protected species licence has been obtained (issued by Natural England under Regulation 16 of the Wildlife and Countryside Act 1981 (as amended)), in respect of impacts of the development on fiery clearwing moths, have been submitted to the local planning authority.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

28. The development hereby permitted shall not commence until surveys for Sussex emerald moths have been undertaken and the results submitted to and approved in writing by the local planning authority to demonstrate that development will have no significant impact on Sussex emerald moths. The surveys shall be undertaken within 18 months prior to the commencement of development. Where the survey results indicate that Sussex emerald moths are present and will be impacted by the approved development, the local planning authority shall be provided with the Sussex emerald

moth Licence issued by Natural England under Regulation 16 of the Wildlife and Countryside Act 1981 (as amended).

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

29. No development shall commence, including site / vegetation clearance, until details that a protected species licence has been obtained (issued by Natural England under Regulation 16 of the Wildlife and Countryside Act 1981 (as amended)), in respect of the impacts of the development on lizard orchids, have been submitted to the local planning authority.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

30. The development hereby permitted shall not commence until a detailed scheme of mitigation in respect of avoiding significant impacts to reptiles, including the approach to clearing habitat from the site and translocation of reptiles as necessary, and to include a timetable for any works, has been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

31. No development shall commence until additional survey and assessment work, along with any mitigation measures, in respect of potential impacts of development to badgers, has been submitted to and approved in writing by the local planning authority. Any mitigation measures identified shall be carried out in accordance with the approved 'additional survey and assessment work'.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

32. Development shall not be occupied until a scheme of compensatory habitat creation in respect of skylarks has been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

33. The development hereby permitted shall not commence until an 'ecological construction management plan' has been submitted to and approved in writing by the local planning authority. The plan shall include measures to avoid / minimise the potential for impacts to species including badgers, hedgehogs, brown hares, harvest

mice and toads and shall refer to the specific protected species mitigation strategies, where relevant. The plan shall include:

- risk assessment of potentially damaging construction activities;
- identification of 'biodiversity protection zones';
- practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- the location and timing of sensitive works to avoid harm to biodiversity features;
- times during construction when specialist ecologists need to be present on site to oversee works;
- responsible persons and lines of communication;
- the role and responsibilities on site of an 'ecological clerk of works' (ECoW) or similarly competent person.

The approved 'ecological construction management plan' shall be fully complied with throughout the construction period.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

34. No vegetation clearance shall take place during bird nesting season (between 1st March and 31st August, inclusive, each year) unless carried out under professional ecological supervision and following assessment of the vegetation to be cleared. Should nesting birds in the vegetation intended for removal be found, the nests shall be protected with a buffer and clearance only undertaken once the young have fledged and a professional ecologist has agreed in writing to the developer that nesting birds are no longer present in the vegetation.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

35. No development shall commence until a detailed method statement to remove as necessary and prevent the spread of invasive species of cotoneaster and Japanese knotweed on and/or off site, has been submitted to and approved in writing by the local planning authority. Development shall only be carried out in accordance with the approved details.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

36. Prior to the development hereby permitted first being open to the public, visitors or guests, measures (physical measures relating to the fabric of the development; and management measures relating to the operation of the development) to maximise the efficiency of water use (to reduce the water usage of the development as far as reasonably possible) shall be submitted to and approved in writing by the local planning authority. The approved physical and management measures shall be in place before the development is first brought into use and thereafter retained and maintained.

Reason: To promote water efficiency, with regard to paragraph 157 of the National Planning Policy Framework and draft Local Plan Policy SP1.

37. The development hereby permitted shall not commence until a detailed sustainable surface water drainage scheme (SuDS), to include a timetable for any works, has been submitted to and approved in writing by the local planning authority.

The SuDS shall demonstrate that surface water can be accommodated and disposed of for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be without increase to flood risk on or off-site.

The SuDS shall also demonstrate (i) that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and (ii) appropriate operational, maintenance and access requirements for each drainage feature are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The SuDS shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, with regard to paragraph 175 of the National Planning Policy Framework and draft Local Plan Policy NE5. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

38. Prior to the development hereby permitted first being open to the public, visitors or guests, a 'verification and management report', pertaining to the sustainable surface water drainage scheme (SuDS), prepared by a suitably competent person, shall be submitted to and approved in writing by the local planning authority.

The 'verification and management report' shall demonstrate that the SuDS constructed is consistent with that which was approved, with information and evidence (including photographs) of: details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of the scheme; and the submission of an operation and maintenance manual for the SuDS as constructed.

Reason: To ensure that flood risks from development to the future users of the site and neighbouring land are minimised; together with those risks to controlled waters, property and ecological systems; and to ensure that the development as constructed is compliant with and subsequently maintained in accordance with the approved SuDS, with regard to paragraph 175 of the National Planning Policy Framework and draft Local Plan Policy NE5.

39. The development hereby permitted shall not commence until details of foul drainage provision, adequate to serve the development, have been submitted to and approved in writing by the local planning authority. Prior to the development first being brought into use for the public, guests or visitors, the foul drainage provision shall be carried out in accordance with the approved details.

Reason: In order to ensure that the development is adequately served by drainage infrastructure in the interests of public health and the prevention of flooding generally, with regard to paragraph 175 of the National Planning Policy Framework and draft Local Plan Policy NE5.

40. The operators of the development hereby permitted shall sign up to the Environment Agency's flood warning service; and the development shall not be brought into use to the public, guests and visitors until a flood risk management plan, to include actions to be taken by the management of the development on warning of or actual flood event, has been submitted and approved in writing by the local planning authority.

The development shall be operated in accordance with the approved flood risk management plan unless otherwise previously agreed in writing with the local planning authority.

Reason: To ensure risks of flooding are minimised, with regard to paragraph 173 of the National Planning Policy Framework.

41. The development hereby permitted shall not commence until details of availability and evidence of agreement of adequate water supply to serve the development have been submitted to and confirmed in writing by the local planning authority.

Reason: To ensure there will be adequate water provision / utility, in accordance with draft Local Plan Policy SP1.

42. No fixed plant shall be installed until an assessment of the fixed plant, in accordance with BS4142: 2014 'methods for rating and assessing industrial and commercial sound', and noise mitigation measures (so that the rated noise level does not exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any façade / window of any residential premises and other such noise sensitive property) has been submitted to and approved in writing by the local planning authority.

In this assessment, background noise levels should be expressed in terms of the lowest LA90 15 mins during the proposed hours of operation; and the plant-specific noise level should be expressed as LAeqT and shall be representative of the plant operating at its maximum.

The fixed plant and mitigation measure shall be carried out in accordance with the approved details and maintained, unless otherwise previously agreed in writing with the local planning authority.

Reason: To maintain a suitable acoustic environment, with regard to paragraph 191 of the National Planning Policy Framework.

43. The development hereby permitted shall not commence until (i) a programme of investigative archaeological work, which has first been submitted to and approved in writing by the local planning authority, has been carried out and completed; and (ii) the recorded findings/evaluation of that investigative archaeological work, including any safeguarding measures necessary to ensure preservation in situ of any important

archaeological remains, have been submitted to, and agreed in writing by, the local planning authority.

Reason: To ensure that any features of archaeological interest are properly examined and recorded, with regard to paragraph 200 of the National Planning Policy Framework and draft Local Plan Policy SP15.

44. The operators of the ~~hotel~~ development shall put in place and implement a policy in perpetuity to not allow dogs to stay overnight at the ~~hotel~~ holiday lodges.

Reason: To manage visitor and recreational pressure at, and disturbance of, Betteshanger Country Park, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

45. No four wheel vehicles for recreational purposes (electric or otherwise) shall be used within Betteshanger Country Park, beyond use of the main access roadway and main car parking area.

Reason: To manage visitor and recreational pressure at, and disturbance of, Betteshanger Country Park, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

46. In the event that the operation of the surf lagoon ceases permanently following being brought into use; or development is commenced and construction works permanently cease without the surf lagoon being brought into use; a landscape and ecological restoration plan for the site, including timetable for the restoration works, shall be submitted to and approved in writing by the local planning authority.

The restoration works shall be carried out in accordance with the approved details.

Reason: To maintain the landscape and ecological value of the site in the event that development permanently ceases, with regard to paragraph 180 of the National Planning Policy Framework and draft Local Plan Policy NE2.

47. The development hereby permitted shall not commence until details of the finished ground floor level of the buildings and surf lagoon, expressed as AOD with reference to the existing and proposed surrounding ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved finished ground levels, unless otherwise previously agreed in writing with the local planning authority.

Reason: In the interests of good design and visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

DOV/23/01095 Erection of a 120 bed hotel etc.
Draft Planning Conditions
15/08/2420/08/24

1. The development hereby permitted shall be begun before the expiration of 7 years from the date of this decision.

Reason: To comply with the requirements of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (or any legislation revoking or re-enacting that legislation with or without modification).

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

| | |
|------------------|--|
| 22.0035 – 01 | Site Location Plan |
| 22.0035 – 02 – B | Existing and Proposed Block Plans |
| 22.0035 – 03 – B | Existing Site Plan |
| 22.0035 – 05 – F | Proposed Site Plan |
| 22.0035 – 10 – B | Proposed Lower Ground Floor Plan |
| 22.0035 – 11 – B | Proposed Ground Floor Plan |
| 22.0035 – 12 – B | Proposed First Floor Plan |
| 22.0035 – 13 – B | Proposed Second Floor Plan |
| 22.0035 – 14 – B | Proposed Mezzanine Floor Plan |
| 22.0035 – 15 – D | Proposed Roof Plan |
| 22.0035 – 16 – E | Proposed Elevations |
| 22.0035 – 17 – C | Proposed Elevations |
| 22.0035 – 18 – D | Proposed Internal Elevations 1-1 & 2-2 |
| 22.0035 – 19 – A | Proposed Section 3-3 & 4-4 |
| 22.0035 – 20 | Room Typologies |
| 22.0035 – 21 | Proposed Section 5-5 |

Reason: For the avoidance of doubt

3. No development above ground level shall take place until samples of materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

4. No development above ground level shall take place until details of the joinery and finish of the expressed timber frame, supporting the central atrium space, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

5. No development above ground level shall take place until details of the materials, joinery and finish of the window frames, window louvres and balconies (balustrades, soffits and side partitions), to include 1:20 cross sectional details, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

6. No development above ground level shall take place, until details of the green roof have been submitted to and approved in writing by the local planning authority. The green roof shall provide a mosaic of bare substrate, recolonising vegetation, grassland and wildflowers, together with rubble and log piles. Details shall include areas of planting, species of plant, creation of habitat features, means of establishment and management of the habitats and habitat features. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and biodiversity, with regard to paragraphs 131 and 186 of the National Planning Policy Framework and draft Local Plan Policy PM1.

7. No development above ground level shall take place until details of the depth and materials of the window reveals, to include 1:20 cross sectional details, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.

8. No development above ground level shall take place until a scheme has been submitted to and approved in writing by the local planning authority setting out the measures to be taken to demonstrate compliance with the principles of Secured by Design. The development shall be carried out and thereafter maintained in accordance with the approved details, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the development seeks to address measures for the prevention of crime, with regard to paragraph 135 of the National Planning Policy Framework and draft Local Plan Policy SP2.

9. No development above ground level shall take place until details to demonstrate how at least 5% of hotel rooms will be wheelchair accessible have been submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter maintained in accordance with the approved details, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the development is accessible to wheelchair users, with regard to paragraph 135 of the National Planning Policy Framework and draft Local Plan Policy SP2.

10. No development above ground level shall take place until a 'design stage certificate' (prepared by an accredited Building Research Establishment Assessor) demonstrating

that the hotel building will achieve a minimum BREEAM rating of Very Good has been submitted to and approved in writing by the local planning authority.

Within ~~63~~ months of the hotel building first being brought into use by paying visitors or guests, evidence shall be submitted in the form of a 'post construction certificate' (prepared by an accredited Building Research Establishment Assessor) to demonstrate full compliance with the specified BREEAM standard for the development.

Reason: To ensure high standards of sustainable design and construction, with regard to Core Strategy Policy CP5 and draft Local Plan Policy CC1.

11. No development shall commence until a construction waste minimisation and recycling plan has been submitted to and approved in writing by the local planning authority. This should have regard to the Waste and Resources Strategy for England and other relevant guidance. The development shall be carried out in accordance with the approved details.

Reason: To ensure high standards of sustainable construction, with regard to draft Local Plan Policy CC2.

12. No development above ground level shall take place until a scheme for the landscaping of the site is submitted to and approved in writing by the local planning authority. These details shall include:

i) schedules of new trees, shrubs and other species to be planted (noting species that shall be native, of local provenance and appropriate to their location; plant sizes; and numbers/densities);

ii) the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread);

iii) habitat enhancement measures, including bat and bird boxes and log piles;

iv) any earth moving operations and finished levels/contours;

v) hard landscaping materials including for all made surfaces, retaining walls and steps / ramps across the site; and

vi) an implementation programme.

The scheme shall be carried out and completed prior to the hotel building first being brought into use by paying visitors or guests and thereafter maintained in accordance with the approved details.

In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the occupation of the development, a new tree or shrub or equivalent number of trees or shrubs, of a species and position first approved by the local planning authority, shall be planted and properly maintained.

Reason: In the interests of visual amenity and to help to assimilate the development into its surroundings, with regard to paragraph 135 of the National Planning Policy Framework and draft Local Plan Policy PM1.

13. The development hereby permitted shall not commence until details of the approach to (i) create / establish new reedbed habitat and (ii) manage / maintain that habitat in a favourable status have been submitted to and approved in writing by the local planning authority. Such details shall also include what the hydrological function of the reedbed habitat would be, in connection with existing watercourses and surface water drainage, as part of the development. The hotel building shall not be brought into use by paying visitors or guests until the reedbeds have been established in accordance with the approved details; and thereafter the reedbeds shall be managed in accordance with the approved details.

Reason: To secure reedbed habitat as part of the development for ecological reasons, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

14. No development shall commence until a tree and hedge protection scheme has been submitted to and approved in writing by the local planning authority. The protection scheme shall include a timetable for the works; identify the retained trees and hedges; and where excavations or changes to land levels or underground works are proposed that might affect the root protection area, the scheme shall detail the appropriate working methods (the arboricultural method statement) in accordance with British Standard BS 5837: 2012 (Trees in relation to design, demolition and construction). The scheme for the protection of the retained trees and hedges shall be carried out as approved.

In this condition "retained tree or hedge" means an existing tree or hedgerow which is to be retained in accordance with the submitted and approved plans and particulars.

If any retained tree or hedgerow is cut down, uprooted or destroyed or dies within 5 years of the completion of development, the tree/hedgerow shall be replaced by a tree/hedgerow of a similar type and species in the next planting season after the damage or loss.

Reason: To protect and prevent damage to existing trees and hedges on the application site, in the interests of visual and rural amenity, with regard to paragraph 136 of the National Planning Policy Framework and draft Local Plan Policy PM1.

15. No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken, mitigation of environmental risks including to groundwater, and the methodology by which such piling will be carried out) has first been submitted to and approved in writing to by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To ensure piling construction methods associated with the development do not pose an undue risk to the environment, with regard to paragraph 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

16. No development shall commence until an intrusive geoenvironmental investigation and risk assessment has been undertaken by competent persons and a written report of the findings have been submitted to and approved in writing by the local planning authority. The submitted report shall include (i) an assessment of the nature, extent, scale and origin of any contamination on the site; and (ii) an assessment of any potential risks to human health, property (existing or proposed – including buildings, crops, livestock, pets, woodland and service lines and pipes), adjoining land, ground waters and surface waters, ecological systems and archaeological sites.

All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment or biodiversity, with regard to paragraph 186 and 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

17. If an intrusive geoenvironmental investigation and risk assessment shows that remediation is necessary, no development shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings / other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority.

Such a scheme shall include details of all works to be undertaken, proposed remediation objectives / remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works.

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment or biodiversity, with regard to paragraph 186 and 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

18. No development shall commence until a verification report (demonstrating completion of the works of the approved remediation scheme and the effectiveness of the remediation (if necessary following details pursuant to Condition 15 and 16) has been submitted to and approved in writing by the local planning authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority. Any material imported to the site shall be laboratory certified as suitable for use.

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment or biodiversity, with regard to paragraph 186 and 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

19. If, during the course of construction of the approved development, unforeseen contamination on the site is found to be present or caused, the occurrence shall be reported immediately to the local planning authority. Development shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The approved remediation scheme shall be carried out; and a verification report to demonstrate the success of the remediation scheme submitted to and approved in writing by the local planning authority, before the development is resumed or continued.

Reason: To ensure the ground conditions of the site are suitable for intended use and development does not pose a wider risk to the geo environment or biodiversity, with regard to paragraph 186 and 189 of the National Planning Policy Framework and draft Local Plan Policy NE5.

20. No development shall take place until an 'environmental ~~demolition~~/construction management plan' has been submitted to and approved in writing by the local planning authority. The said plan shall include details of:

- routing of vehicles to / from site; parking and turning areas for HGV's and site personnel;
- timing of HGV movements;
- provision and location of wheel washing facilities;
- temporary traffic management / signage as necessary;
- hoarding, construction compounds and temporary buildings;
- storage areas for chemicals and fuels;
- location of the refuelling of vehicles;
- disposal of water used for construction purposes;
- temporary lighting;
- measures for the control of dust;
- measures to control / minimise construction noise and vibrations;
- working hours; and
- procedures for complaint management.

The approved 'environmental ~~demolition~~/construction management plan' shall be fully complied with throughout the demolition and construction period.

Reason: These details are required prior to the commencement of development in the interests of minimising the impact of the development during the ~~demolition~~/construction phase.

21. No development shall commence until details of the management of surface water during the construction phase of development have been submitted to and approved in writing by the local planning authority. The construction phase of the development shall only be carried out in accordance with the approved surface water details.

Reason: To protect the surrounding environment and biodiversity from flood risk and pollution cause by unmanaged surface runoff during the construction phase of development, with regard to paragraph 175 and 186 of the National Planning Policy Framework and draft Local Plan Policy NE5.

22. The hotel development hereby permitted shall not be open to the public, visitors or guests until the car parking spaces shown on the approved plans have been provided. Thereafter those spaces shall be retained only for the purposes of car parking in relation with the development hereby permitted and the wider country park.

Reason: In the interests of providing appropriate car parking for the management of the country park and highway safety and convenience, with regard to draft Local Plan Policy TI3.

23. The hotel development hereby permitted shall not be open to the public, visitors or guests until cycle parking has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. Thereafter the approved cycle parking shall be retained and used only for the purposes of cycle parking.

Reason: In the interests of promoting cycling as a sustainable means of travel, with regard to draft Local Plan Policy TI1.

24. The hotel development hereby permitted shall not be open to the public, visitors or guests until electric vehicle charging infrastructure has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. Thereafter the approved electric vehicle charging infrastructure shall be maintained and kept available for the charging of electric vehicles.

Reason: In the interests of facilitating the use of electric vehicles as a more sustainable means of travel, with regard to draft Local Plan Policy TI1.

25. The hotel development hereby permitted shall not be open to the public, visitors or guests until a 'car parking management plan' and associated 'signage strategy' have been submitted to and approved in writing by the local planning authority. The hotel shall only be operated in accordance with the approved 'car parking management plan'; and signage required in connection with the 'signage strategy' shall be carried before the hotel building hereby permitted is first being open to the public, visitors or guests.

Reason: In the interests of providing appropriate car parking for the management of the country park and highway safety and convenience, with regard to draft Local Plan Policy TI3.

26. Prior to the hotel building hereby permitted first being open to the public, visitors or guests, a 'travel plan' shall be submitted to and approved in writing by the local planning authority. The travel plan shall include:
- the identification of targets for trip reduction and modal shift;
 - measures to be implemented to meet those targets;
 - details of a travel plan coordinator as part of the management of the hotel development;
 - a timetable / phasing of the implementation of the measures;

- mechanisms for monitoring and review;
- mechanisms for reporting;
- remedial measures to be applied in the event that targets are not met; and
- the mechanisms to secure variations to the 'full travel plan' following monitoring and reviews.

The development shall only be occupied and managed in accordance with the approved 'travel plan', unless otherwise previously agreed in writing by the local planning authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport, with regard to draft Local Plan Policy TI1.

27. No development above ground level shall take place until lighting details and a strategy for its operation, and an associated impact assessment for biodiversity, relating the site and adjacent land, shall be submitted to and approved in writing by the local planning authority. The lighting details and strategy shall:

a) identify those areas/features on site that, due to their potential for use by bats, are particularly sensitive to lighting impacts (including any biodiversity enhancement features);

b) include modelled illuminance from all proposed light sources, taking into account site configuration, physical screening and glazing measures to be used;

c) demonstrate how and where external lighting will be installed with regard to 'Guidance Note 08/23 Bats and Artificial Lighting at Night' (Bat Conservation Trust and Institution of Lighting Professionals) to minimise lighting impacts on sensitive biodiversity receptors.

All external lighting will be installed and thereafter maintained in accordance with the approved details and strategy, unless otherwise previously agreed in writing by the local planning authority.

Reason: In the interests of the visual amenity of the site / surrounding area; and to avoid significant ecological impacts to the site / surrounding area, with regard to paragraph 180 of the National Planning Policy Framework and draft Local Plan Policy NE2.

28. Prior to the hotel building hereby permitted first being open to the public, visitors or guests, measures (physical measures relating to the fabric of the development; and management measures relating to the operation of the development) to maximise the efficiency of water use (to reduce the water usage of the development as far as reasonable possible) shall be submitted to and approved in writing by the local planning authority. The approved physical and management measures shall be in place before the development is first brought into use and thereafter retained and maintained.

Reason: To promote water efficiency, with regard to paragraph 157 of the National Planning Policy Framework and draft Local Plan Policy SP1.

29. No development shall commence, including site / vegetation clearance, until details that a protected species licence has been obtained (issued by Natural England under

Regulation 16 of the Wildlife and Countryside Act 1981 (as amended)), in respect of the impacts of the development on fiery clearwing moths, have been submitted to the local planning authority.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

30. The development hereby permitted shall not commence until surveys for Sussex emerald moths have been undertaken and the results submitted to and approved in writing by the local planning authority to demonstrate that development will have no significant impact on Sussex emerald moths. The surveys shall be undertaken within 18 months prior to the commencement of development. Where the survey results indicate that Sussex emerald moths are present and will be impacted by the approved development, the local planning authority shall be provided with the Sussex emerald moth Licence issued by Natural England under Regulation 16 of the Wildlife and Countryside Act 1981 (as amended).

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

31. The development hereby permitted shall not commence until a detailed scheme of mitigation, to include a timetable for any works, in respect of avoiding significant impacts to water voles has been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

32. The development hereby permitted shall not commence until a detailed scheme of mitigation in respect of avoiding significant impacts to reptiles, including the approach to clearing habitat from the site and translocation of reptiles as necessary, and to include a timetable for any works, has been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

33. The development hereby permitted shall not commence until a detailed scheme of mitigation in respect of avoiding significant impacts to badgers, including identified badger setts, and to include a timetable for any works, has been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

34. No development shall commence until an 'ecological construction management plan' has been submitted to and approved in writing by the local planning authority. The plan shall include measures to avoid / minimise the potential for impacts to species including badgers, hedgehogs, harvest mice and toads and shall refer to the specific protected species mitigation strategies, where relevant. The plan shall include:

- risk assessment of potentially damaging construction activities;
- identification of 'biodiversity protection zones';
- practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- the location and timing of sensitive works to avoid harm to biodiversity features;
- times during construction when specialist ecologists need to be present on site to oversee works;
- responsible persons and lines of communication; and
- the role and responsibilities on site of an 'ecological clerk of works' (ECoW) or similarly competent person.

The approved 'ecological construction management plan' shall be fully complied with throughout the construction period.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

35. No vegetation clearance shall take place during bird nesting season (between 1st March and 31st August each year) unless carried out under professional ecological supervision and following assessment of the vegetation to be cleared. Should nesting birds in the vegetation intended for removal be found, the nests shall be protected with a buffer and clearance only undertaken once the young have fledged and a professional ecologist has agreed in writing to the developer that that nesting birds are no longer present in the vegetation.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

36. The development hereby permitted shall not commence until additional survey and assessment work, along with any mitigation measures, in respect of potential impacts of development to beavers, and to include a timetable for any works, has been submitted to and approved in writing by the local planning authority. Any mitigation measures identified shall be carried out in accordance with the approved 'additional survey and assessment work'.

Reason: In respect of the ecological interest and biodiversity of the site and surrounding area, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

37. The development hereby permitted shall not commence until a detailed sustainable surface water drainage scheme (SuDS), to include a timetable for any works, has been submitted to and approved in writing by the local planning authority.

The SuDS shall demonstrate that surface water can be accommodated and disposed of for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be without increase to flood risk on or off-site.

The SuDS shall also demonstrate (i) that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and (ii) appropriate operational, maintenance and access requirements for each drainage feature are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The SuDS shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, with regard to paragraph 175 of the National Planning Policy Framework and draft Local Plan Policy NE5. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

38. Prior to the hotel building hereby permitted first being open to the public, visitors or guests, a 'verification and management report', pertaining to the sustainable surface water drainage scheme (SuDS), prepared by a suitably competent person, shall be submitted to and approved in writing by the local planning authority.

The 'verification and management report' shall demonstrate that the SuDS constructed is consistent with that which was approved, with information and evidence (including photographs) of: details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of the scheme; and the submission of an operation and maintenance manual for the SuDS as constructed.

Reason: To ensure that flood risks from development to the future users of the site and neighbouring land are minimised; together with those risks to controlled waters, property and ecological systems; and to ensure that the development as constructed is compliant with and subsequently maintained in accordance with the approved SuDS, with regard to paragraph 175 of the National Planning Policy Framework and draft Local Plan Policy NE5.

39. The development hereby permitted shall not commence until details of foul drainage provision, adequate to serve the development, have been submitted to and approved in writing by the local planning authority. Prior to the hotel building first being brought into use for the public, guests or visitors, the foul drainage provision shall be carried out in accordance with the approved details.

Reason: In order to ensure that the development is adequately served by drainage infrastructure in the interests of public health and the prevention of flooding generally, with regard to paragraph 175 of the National Planning Policy Framework and draft Local Plan Policy NE5.

40. The development hereby permitted shall not commence until (i) a programme of investigative archaeological work, which has first been submitted to and approved in writing by the local planning authority, has been carried out and completed; and (ii) the recorded findings/evaluation of that investigative archaeological work, including any safeguarding measures necessary to ensure preservation in situ of any important archaeological remains, have been submitted to, and agreed in writing by, the local planning authority.

Reason: To ensure that any features of archaeological interest are properly examined and recorded, with regard to paragraph 200 of the National Planning Policy Framework and draft Local Plan Policy SP15.

41. The operators of the hotel shall put in place and implement a policy in perpetuity to not allow dogs to stay overnight at the hotel.

Reason: To manage visitor and recreational pressure at, and disturbance of, Betteshanger Country Park, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

42. No four wheel vehicles for recreational purposes (electric or otherwise) shall be used within Betteshanger Country Park, beyond use of the main access roadway and main car parking area.

Reason: To manage visitor and recreational pressure at, and disturbance of, Betteshanger Country Park, with regard to paragraph 186 of the National Planning Policy Framework and draft Local Plan Policy SP13.

43. The finished floor levels of the hotel building hereby permitted shall be no lower than 4.80m Above Ordnance Datum (AOD); and finished floor levels of facilities at lower ground floor shall be no lower than 1.65 AOD.

Reason: In the interests of ensuring development is safe and resilient to flood risk, with regard to paragraph 173 of the National Planning Policy Framework.

44. The operators of the development hereby permitted shall sign up to the Environment Agency's flood warning service; and the development shall not be brought into use to the public, guests and visitors until a flood risk management plan, to include actions to be taken by the management of the development on warning of or actual flood event, has been submitted and approved in writing by the local planning authority.

The development shall be operated in accordance with the approved flood risk management plan unless otherwise previously agreed in writing with the local planning authority.

Reason: To ensure risks of flooding are minimised, with regard to paragraph 173 of the National Planning Policy Framework.

45. The development hereby permitted shall not commence until details of the finished ground floor level of the hotel building, expressed as AOD with reference to the existing and proposed surrounding ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved finished ground levels, unless otherwise previously agreed in writing with the local planning authority.

Reason: In the interests of good design and visual amenity, with regard to paragraph 131 of the National Planning Policy Framework and draft Local Plan Policy PM1.