

- a) **DOV/22/01158 – Erection of a surfing lagoon and pools; hub building (to include 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 - Betteshanger Country Park, Sandwich Road, Sholden**

Reasons for referral – public interest and number of objections

b) **Summary of Recommendation**

That planning permission be granted subject to conditions and completion of a section 106 (s.106) agreement to secure planning obligations.

c) **Planning Policy and Guidance**

Development Plan

The development plan comprises:

- Core Strategy (2010) (“**the Core Strategy**”)
- Land Allocations Local Plan (2015)
- Saved Policies of the Local Plan (2002)

Relevant policies of the Core Strategy include:

- CP1: Settlement Hierarchy
- CP2: Provision for Jobs and Homes
- CP5: Sustainable Construction Standards
- CP6: Infrastructure
- CP7: Green Infrastructure Network
- DM1: Settlement Boundaries
- DM11: Location of Development and Managing Travel Demand
- DM12: Road Hierarchy and Development
- DM13: Parking Provision
- DM15: Protection of the Countryside
- DM16: Landscape Character
- DM25: Open Space

Relevant saved policies of the Local Plan include:

- OS7: Proposals for Outdoor Sports and Recreation Facilities
- CO8: Development Affecting Hedgerows
- ER6: Light Pollution

As is the case with the development plan, where existing policies were adopted prior to the publication of the National Planning Policy Framework (December 2023) (“**the Framework**”), the weight to be given to them depends on their degree of consistency with the policies of the Framework (paragraph 225).

Other Material Considerations

National Planning Policy Framework (December 2023)

The Framework sets out the Government's planning policies for England and how these are expected to be applied. It is therefore a material consideration, to which significant weight should be attached in determining the application. Of particular relevance to the determination of this application is paragraph 8, which is the general overarching sustainable development element of the Framework. This states:

“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- ***an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure*
- ***a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- ***an environmental objective** – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”.*

Relevant chapters of the Framework include:

2. Achieving sustainable development
4. Decision making
6. Building a strong competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
12. Achieving well-designed and beautiful places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

Also of particular importance are the following paragraphs:

Paragraph 88: *“Planning policies and decision should enable:*

- a) *the sustainable growth and expansion of all types of business in rural area, both through conversion of existing buildings and well-designed new buildings;*
- b) *the development and diversification of agricultural and other land-based rural businesses;*
- c) *sustainable rural tourism and leisure developments which respect the character of the countryside; and*

d) *the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*"

Paragraph 186 a): When determining planning applications, local planning authorities should apply the following principles: "*if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*"

Other relevant paragraphs include paragraphs 7-11 (relating to the achievement of sustainable development); paragraphs 85-89 (relating to building a strong, competitive economy); paragraph 91 (relating to sequential tests for town centre uses); paragraphs 102-103 (relating to open space); paragraphs 114-117 (relating to highway matters); and paragraph 165-171 (relating to flooding and the sequential and exceptions tests).

Sections of the Framework are referred to, as relevant, in the assessment section of this report below.

Planning Practice Guidance

The Planning Practice Guidance ("**the PPG**") is a live document containing more detailed advice on how policies in the Framework should be interpreted and applied. It was first published in 2014 and is subject to frequent updates and revision.

Of particular relevance to the determination of this application are the following sections:

What weight can be given to a material consideration?

The law makes a clear distinction between the question of whether something is a material consideration and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case and is ultimately a decision for the courts. Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight.¹

Is there a statutory basis for seeking to conserve and enhance biodiversity?

Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its 25 Year Environment Plan.²

Draft Dover District Local Plan

The draft Dover District Local Plan (Regulation 19 submission – October 2022) ("**the draft Local Plan**") sets out planning policies and proposals for new development in the district over the period from 2020 to 2040 and when adopted will replace the existing development plan. The draft Local Plan has been subject to Regulation 19

¹ Paragraph: 009 Reference ID: 21b-009-20140306

² Paragraph: 009 Reference ID: 8-009-20190721

consultation and was submitted in March 2023 for examination. Hearing sessions took place during November and December 2023.

The draft Local Plan is a material planning consideration in the determination of this planning application. The weight to be afforded to its policies depends (in accordance with paragraph 48 of the Framework) on the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the relevant policies, and the consistency of relevant policies with the Framework.

Relevant policies of the draft Local Plan include:

- SP1: Planning for Climate Change
- SP2: Planning for Healthy and Inclusive Communities
- SP6: Economic Growth
- SP11: Infrastructure and Developer Contributions
- SP13: Protecting Designated Environmental Sites
- SP14: Enhancing Green Infrastructure and Biodiversity
- CC1: Reducing Carbon Emissions
- CC2: Sustainable Design and Construction
- CC4: Water Efficiency
- CC5: Flood Risk
- CC6: Surface Water Management
- CC8: Tree Planting and Protection
- PM1: Achieving High Quality Design, Place Making & Design Codes
- PM5: Protection of Open Space, Sports Facilities and Local Green Space
- E4: Tourist Accommodation and Attractions
- T11: Sustainable Transport and Travel
- T12: Transport Statements, Assessments and Travel Plans
- T13: Parking Provision on New Development
- NE1: Biodiversity Net Gain
- NE2: Landscape Character and the Kent Downs AONB
- NE3: Thanet Coast & Sandwich Bay SPA Mitigation and Monitoring Strategy
- NE4: Air Quality
- NE5: Water Supply and Quality

Legislation

- The combined effect of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) is that planning applications must be determined in accordance with the statutory development plan unless material considerations indicate otherwise.
- Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) applies in the event that planning permission is granted and requires that a planning obligation (under s.106 of Town and Country Planning Act 1990) may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
- Under section 40 of the Natural Environment and Rural Communities Act 2006 (as amended), the Council as a public authority has a duty to further the general

biodiversity objective, which is the conservation and enhancement of biodiversity through the exercise of functions.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 – requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.

d) **Relevant Planning History**

Betteshanger Colliery and Tip Site

02/00905 Erection of Class B1, B2 and B8 business, industrial and warehousing units, creation of community park and country park, erection of visitor centre, construction of recreational cycling facilities and sculpture park and construction of water treatment facilities, access roundabout, roads and car parking facilities. Permission granted 17/08/04.

Betteshanger Country Park

06/00131 Erection of visitor centre for temporary period. Permission granted 12/05/06.

09/01165 Construction of two play areas. Permission granted 05/05/10.

14/00262 Erection of a single storey building for use as a visitor centre, re-siting and upgrade of children's play space, erection of a 'camera obscura' structure, ground works and alterations to internal access road and parking (existing visitor centre to be removed). Permission granted 26/09/2014.

22/01152 Erection of a 120 bed hotel (C1) building with associated spa facilities, gym, restaurant/bar, access, landscaping and parking. Considered by Planning Committee on 13/07/23, which resolved to refuse application for reasons of:

1. *Betteshanger Country Park 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. *The proposed hotel development would result in a significant disturbance and increase in visitor numbers to Betteshanger Country Park that would impact upon habitat that supports a population of turtle doves and habitat relied upon to facilitate an*

expansion and the long-term future of that population, as mitigation of development being delivered under planning permission reference DOV/20/00419. The measures proposed in connection with the hotel development are not considered adequate, with significant uncertainties to ensure there would not be significant harm to that turtle dove population and objectives of mitigation relied upon by planning permission reference DOV/20/00419. As such, development would be contrary to Policies SP13, SP14 and E4 of the Dover District Local Plan (submission draft October 2022) and chapter 15 of the National Planning Policy Framework (2021).

Application withdrawn.

23/01095 Erection of a 120 bed hotel (C1) building with associated spa facilities, gym, restaurant/bar, access, landscaping and parking. Pending consideration – application also on this agenda.

Environmental Impact Assessment (EIA) screening for development of a surfing lagoon and pools, hub building, 15 overnight holiday pods, learning hive, yoga studio, fitness / health and wellbeing facilities, bike / pump-track and associated roads, paths, car and cycle parking etc. Screening opinion issued 04/07/23 that development is not EIA development. Secretary of State declined to issue a screening direction.

Betteshanger Former Colliery Pithead

20/00419 Outline application with all matters reserved for up to 210 dwellings including up to 12 self-build plots, together with up to 2,500 sqm of office (Class B1 use) floorspace and up to 150 sqm of retail (Class E) floorspace. Planning permission granted 27/07/21.

22/01364 Replacement of existing road. Planning permission granted 19/12/22.

22/01379 Reserved matters application for the details landscaping, layout, scale and appearance for the residential phase of approved outline permission 20/00419. Approved 27/04/23.

e) Consultee and Third-Party Representations

Consultee Responses

Sholden Parish Council

Response 06/11/22

Objects on the grounds of ecological destruction and transport issues.

- The vast majority of those objections quite correctly cite ecological destruction (in particular for lizard orchids and a potential habitat for turtle doves) as the grounds for refusing the application. Sholden Parish Council fully agrees with these ecological/destruction of biodiversity objections.
- Sholden Parish Council fully agrees with these ecological/destruction of biodiversity objections. We see no reason to repeat those well founded, evidence-based arguments here (some submitted by known ecology experts). Suffice to say that the application breaches the following paragraphs of the

NPPF: 8(c), 174 (a), 174 (d), 180 (a) and 180 (d) and as such the application should be refused.

- Wish to bring to the attention objection by KCC Highways to development (155 dwellings) on land southwest of London Road, Deal: “The proposals will result in the increased use of the existing junction of London Road with Manor Road and London Road with Mongeham Road, which will create a severe impact on the local highway network, to the detriment of highway safety...”.
- This proposed development (the lagoon) anticipates 200,000 visitors. It goes without saying that that number of visitors will generate huge vehicular movements along the A258 and all surrounding road networks. It follows therefore that on NPPF Highways grounds alone, and the evidence already stated above by KCC (Highways), that this application should be refused.
- Aware of a Section 106 agreement agreed by Dover District Council in 2004 with the then applicant which expressly (and legally) foresaw the creation of a nature reserve in and/or around the land on which this proposed hotel is to be built. Any decision (conditional or otherwise) should not break that extant Section 106 legally binding agreement.
- We note that no pre-application advice was sought from DDC prior to the submission of this application.

Response 03/02/23

Objects strongly to this application in terms of ecological and transport issues.

- Sholden Parish Council fully agrees with objections of ecological/destruction of biodiversity. There are objections from esteemed organisations: Kent Wildlife Trust, the Council for the Protection of Rural England, the RSPB, Buglife, Plantlife, the Botanical Society of Britain and Ireland, Sandwich Bay Bird Observatory and others.
- Despite the revised proposals contained in the applicant's re-consultation, SPC is far from satisfied that those revised proposals do not breach paragraphs 8(c), 174 (a), 174 (d), 180 (a) and 180 (d) of the NPPF and in not so satisfying the requirements of those paragraphs, the application should be refused.
- SPC has now also noted that in 2016, 1,300 Common Lizards were moved, for their long-term protection, from the Discovery Park in Sandwich to Betteshanger Country Park. Should the proposed surf lagoon be agreed, these lizards will again have to be trans-located. Furthermore, grass poly will be re-located from the Betteshanger Grove development to Betteshanger Park, the turtle dove habitats in the Betteshanger Grove development will be moved to Betteshanger Park and Lizard Orchids will be transplanted from one location to another. SPC feels that the above flora and fauna are not commodities to be picked up and moved at will. They are living organisms including endangered species, and all react to external stimuli such as the removal and destruction of their natural habitats - no matter the mitigation proposed.
- The number of visitors will generate huge vehicular movements along the A258 and all surrounding road networks. It follows therefore that on NPPF Highways grounds alone, and the evidence already stated above by KCC (Highways), that this application should be refused.
- At present there is no indication of an increase in public transport to and from the proposed developments. Quite the opposite - bus services in the area are being cut. That lack of public transport alone makes the application and re-consultation unsustainable and thus must be refused.
- An Environmental Impact Assessment is mandatory.

- The Environmental Law Forum's objection of 24 January fully supports that the country park should be a nature reserve. Any decision should not break that extant Section 106 legally binding agreement and more importantly, any or all of the Acts referred to by the Environmental Law Forum.
- Nature conservation will be compromised and any proposed mitigation does not fully or partially negate the negative impacts on nature conservation.
- There is an existing Aqua Park at Sandwich.
- In terms of foul water and sewage this proposal is, according to Southern Water unsustainable.

Worth Parish Council

Fully support the objections of Sholden Parish Council. There is also a lack of economic viability assessment; the development does not minimise waste and uses excessive water and electricity; the country park is protected open space.

Objections are on the grounds of ecological destruction and transport issues, and would add:

- common lizards have been moved to the site from Discovery Park – the lizards would again have to be relocated, as well as lizard orchids and grass poly. The above flora and fauna are not commodities to be picked up and moved at will;
- visitors will generate a huge vehicular movements along A258 and on NPPF highways grounds alone the application should be refused;
- at present there is no indication of an increase in public transport to and from the proposed development. Quite the opposite - bus services in the area are being cut. That lack of public transport alone makes the application and re-consultation unsustainable and thus must be refused;
- an Environmental Impact Assessment is mandatory;
- the Environmental Law Forum's objection of 24 January fully supports that the country park should be a nature reserve. Any decision should not break that extant Section 106 legally binding agreement and more importantly, any or all of the Acts referred to by the Environmental Law Forum;
- the surf lagoon is unsustainable in terms of water usage;
- the development would use a large amount of electricity, incompatible with moving to a low carbon economy and the Council's carbon neutral ambitions;
- the Country Park is protected open space, for low key recreational use provided that nature conservation interests are not compromised;
- development is inextricably linked to the proposed hotel development 22/01152;
- no economic viability assessment has been submitted;
- no substantial, sustainable evidence that the application does not seriously breach the NPPF, the draft Local Plan and 2004 s.106 agreement.

Northbourne Parish Council

Objection: Well documented impact on wildlife and the local environment, traffic which will use unsuitable rural roads to 'cut across' from the A2 and other major roads, other environmental considerations include the use of water, and the large amounts of electricity needed.

Great Mongeham Parish Council

Object to the application. Although it is felt development to be an excellent facility to have in the local area, members felt not in this location due to the increase in traffic that it would bring and the threat to local ecology at the site, members were also concerned that the future of a family facility for local residents was at risk.

Deal Town Council

Deal Town Council's planning committee has resolved that Betteshanger Country Park should be declared a nature reserve.

Apart from the construction of the Mining Museum and related visitor facilities, Betteshanger Country Park has reverted to nature and is far from being the brownfield site it was in the immediate aftermath of the closure of the East Kent coal mines. The area now provides a haven for wildlife, some of which, like the turtle doves and orchids, are rare. It also provides a valued area of natural landscape which is important for the recreation and enjoyment of residents and visitors to Deal and the surrounding towns and villages.

The current proposals will seriously downgrade the Park's contribution to biodiversity and nature recovery. Those out-of-town proposals will also threaten the economic viability of Deal's town centre as visitors to the hotel and surf lagoon will be catered for on site. The employment opportunities provided on site will generally be unskilled, short-term and low-paid with the handful of permanent, better-paid posts being filled by specialists coming in from outside the area.

The proposals provide minimal benefits for Deal and adjacent communities but create massive disbenefits to those same communities and the natural world on which we all depend.

Dover District Council to use its powers to grant Betteshanger Country Park the protection it requires as a Local Nature Reserve.

Environment Agency

Response 20/10/22 & 24/02/23

No objection subject to development being carried out in accordance with the submitted Flood Risk Assessment (FRA) (Herrington Consulting The Seahive FRA First issue Aug 2022) and the mitigation measures it details. Evidence shows that the proposed development poses a risk to priority habitats and species listed in section 41 of the NERC Act 2006 as well as species of conservation concern and protected species. Sufficient and suitable compensation, mitigation, and Biodiversity Net Gain (BNG) should be strictly adhered to.

Natural England

Response 20/10/22 & 08/02/23: Natural England confirmed it has no comment to make on the detail of the application.

Response 17/02/23:

- The population of the nationally scarce lizard orchid at Betteshanger Country Park (protected under Schedule 8 of the Wildlife and Countryside Act 1981 as amended) is the second largest in England (and GB). Our advice is that the development proposal is likely to have a significant harmful effect on this

nationally important population by destroying the habitat for a quarter of the known population at Betteshanger Country Park.

- We recognise that the developer has put forward a package of mitigation and compensation measures. 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 16 Feb 2023) we consider the measures 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) the mitigation measures for 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; and (4) despite the mitigation and compensation measures proposed there will be significant harm to biodiversity.

Response 20/03/23

- Clarify that Natural England's comments, including those within the response of 17 February 2023, are in relation to application 22/01158.
- Natural England is not convinced that the translocation described at this unprecedented scale will be successful, consequently it would need to be convinced that proposals for management of larger areas of the Country Park is sufficient to offset the risk of failure.

Response 04/07/23

- With regard to information of soil samples: Nine of the sixteen samples met the pH requirements for the species, the alkaline samples ranging from pH 7.19-8.0. Seven of the samples were too acidic for the species, ranging from pH 4.3 - 6.7. This shows that there is a very wide variation in the suitability of the substrate at the locations sampled, the more alkaline being the current locations of the Lizard Orchid populations.
- It is not clear which samples were taken from the receptor sites and whether any of the proposed receptor areas sampled met the requirement for pH 7.16 for Lizard Orchid. The Lizard Orchid population is known to have expanded at this site and the absence at other locations in the project area could well be to do with unsuitability of the substrate
- It could be quite challenging to deliver the detailed soil testing that ensures that every location contains suitable substrate for the translocated plants.
- The soil testing results confirm that there is a high degree of uncertainty in the estimates of provision of suitable habitat and numbers of plants that can be successfully translocated in this project proposal
- The fiery clearwing is present on the site and should be considered as part of any proposal.

Response 20/09/23

- Lizard orchid is protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). Further soil sampling has identified more areas of calcareous soil which is one of the environmental requirements for Lizard Orchid. However, the soil is obviously very variable and calcareous conditions are not the only requirement of this species. Our opinion remains that the proposal to attempt this translocation remains unprecedented in scale with uncertain outcomes.

- Part of the reason for the uncertainty is the lack of research and experience of translocating this species. There is potential to lower this uncertainty through trialling the translocation of a small proportion of the population. If translocation methods are shown to be successful, the learning from this work could give greater confidence of success for the translocation of the remainder of the plants. This would likely take several years.
- Fiery clearwing is protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Fiery clearwing has expanded its range and abundance over the past 10 years or so. However, it relies on a ruderal and usually transient habitat that is often regarded as poor habitat due to a lack of scarce plants. Fiery Clearwing habitat often disappears and the security of Fiery Clearwing as a breeding species in UK is by no means assured.
- Betteshanger is an important site for fiery clearwing. Translocation / moving a short-lived plant that prefers fairly dry habitats and where the larvae of the moth species feeds internally within the stem is difficult.
- Instead of attempting to translocate the plants, the proposed area of future habitat could be seeded with docks and managed such that they proliferate, then wait for fiery clearwing to colonise. This should be done before any dock plants are destroyed or any attempts at sock translocation are attempted. In addition, the access needs to be very carefully thought through to avoid impacts of dogs and human trampling.
- It should be demonstrated that the docks have been successfully established into the receptor site, with evidence that the larvae are using these plants before any other work takes place that may damage the existing docks.
- Bright Wave, not protected by law, is a species that is very rare and expanding its restricted range and colonising new sites in Kent and Sussex. Bright Wave appears to rely on establishing grassland with a variety of plant species, but most commonly used foodplants are still not known. One cannot draw a conclusion that bright wave would benefit from the mitigation and compensation measures currently proposed.
- The applicant's Technical Note 14 does not give any location details of where Bright Wave has been recorded. More work is required to establish the ecological requirements of Bright Wave. The 2022 Butterfly Conservation report indicates that Bright Wave numbers at Betteshanger are continually decreasing due to inappropriate mowing.
- Summary: Natural England remains concerned that proposed mitigation proposals for Lizard Orchid and Fiery Clearwing are not established successful methods. Survival of these populations should not be dependent upon untested translocation methods. Consequently, Natural England remains concerned regarding the uncertainty of the translocation proposals.

Response 01/11/23

- Concerns centre around the uncertainties of using translocation techniques that don't have established research and methodologies associated with them. Relying on translocation techniques to maintain populations of species, when these techniques are not certain to work, produces an unacceptable level of risk in the current proposals
- Research into translocation techniques is welcome, however given that it is not currently in place, but concerned that there is not enough time within the planning permission window for the necessary research to take place that could give adequate certainty to the success of the proposals. Lizard Orchids typically take 3-5 years to mature.

- In order to grant a licence that would enable enactment of any planning permission, NE expects to see strong evidence that any proposals will ensure maintenance of the populations of the species in question.
- Additional techniques could result in maintaining populations – for example managing additional areas of habitat so that the species in question colonise and establish themselves, without translocation. It is possible that techniques such as this could provide evidence that the population was being maintained in a slightly shorter period than through translocation.
- NE is open to any research on translocation methodology that can provide evidence as to the potential success of these techniques, in this case licences may be considered for a small proportion of the population in order to build the evidence base to facilitate future decisions.

Response 06/02/2024

- NE is raising concerns because it does not want to be in a position where planning permission has been given for a project that it may not be able to issue a licence for
- NE needs to be satisfied grant of a licence is not detrimental to the survival of any population of the species of animal or plant to which the licence relates.
- Currently translocation techniques do not have established research and methodologies to give us confidence they will work
- Understands the applicant intends to carry out research to develop and demonstrate the techniques can be successful at this site. It is not expected this could be achieved in short time scale, typically takes 3-5 years for Lizard Orchids to mature
- NE expects to see strong evidence to grant a licence
- NE is open to any research on translocation methodology that can provide evidence
- 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 licence could be issued
- This does not mean a licence will be issued – if the research does not demonstrate success NE would be unable to grant a licence.

National Highways

Response 22/02/23

- No objection: content that the proposal would not have an unacceptable impact on the safety, reliability and/or operational efficiency of the SRN.
- Dover District Council may wish to seek a proportionate contribution towards an improvement scheme at A2 Whitfield roundabout.

Active Travel England

- Standing advice should be issued and would encourage the local planning authority to consider this as part of its assessment of the application.

Southern Water

- There are no public foul sewers in the area to serve this development. The applicant is advised to examine alternative means of foul disposal.

- The Environment Agency should be consulted directly by the applicant regarding the use of a private wastewater treatment works which disposes of effluent to sub-soil irrigation.
- Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Design and Construction Guidance and CIRIA guidance.
- Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.
- The submitted drainage details indicate the SuDS to be maintained within private ownership and maintenance.
- Investigations indicate that Southern Water can facilitate water supply to service the proposed development. Southern Water requires a formal application for a connection to the water supply to be made by the applicant or developer

KCC Flood Water and Management / Lead Local Flood Authority (LLFA)

- No objection. Should the local planning authority be minded to grant planning permission, the LLFA would request conditions to be attached to secure final drainage details and subsequent verification.

KCC Highways and Transportation

Response 09/03/23

- No objection.
- The parking provision has now been reviewed to provide a separate car park of 97 spaces for the hotel (87 for guests and 10 for staff and a separate pick up / drop off area). The remainder comprises a consolidation of the existing 770 Country Park spaces.
- Data indicates that the existing site has a peak parking demand of circa 412 vehicles between 1400-1500 on a weekend. It is accepted that events at the Country Park result in an increase in visitor numbers.
- The surf lagoon has been based on a comparable site 'Bristol Wave' where a maximum parking stress of 28%. The hotel car park would be at its highest capacity overnight. During the day it is considered that the car park could accommodate vehicles for the spa and restaurant assuming that 25% of trips are additional.
- A parking management plan and signage strategy should be secured by way of suitable conditions.
- A draft Travel Plan has been submitted, which outlines measures to reduce single occupancy car use across the various site uses. This should be subject to reviews, with the applicant to pay a contribution towards staff time and monitoring. The Travel Plan should be secured by way of a suitable condition.
- A cumulative impact assessment of both applications has been undertaken. The proposals would generate 125 two way trips in the AM peak and 158 two way trips in the PM peak.

- Future scenarios suggest that the London Road / Mongeham Road junction will operate over capacity during the AM peak. The proposed trips would not be significant to represent a severe impact on the local highway network.
- London Road / Manor Road roundabout already operates at capacity, with the London Road arms operating at capacity in future years. The proposal does not see any changes in the capacity or in future years, and therefore does not represent a severe impact on the local highway network.
- The proposal would have an impact on the Northbourne Road arm of its junction with A256. A mitigation scheme has been proposed, indicating a flare on the minor arm of Northbourne Road to prevent vehicles waiting to turn right onto the A256. While the nature of the works may be considered minor, they would still require a Road Safety Audit as part of the Section 278 Agreement process. This would be a separate agreement with KCC Highways should planning permission be secured. The mitigation works see a decrease in the queue lengths at Northbourne Road.

KCC Public Rights of Way and Access Service

- Confirmed no objections.

KCC Fire and Rescue Service

Response 22/11/22

- The proposed fire appliance turning point in front of the yoga studio appears to show the rear of the fire appliance crossing the overhang of the roof canopy of the studio. The height of a standard fire appliance is in excess of the proposed canopy roof overhang and would ultimately result in damage. The plan does not demonstrate a suitable fire appliance turning point in the entrance to the yoga studio.

Officer comment: the yoga studio has been slightly repositioned to ensure there is no conflict between turning fire appliance vehicles and the roof line. This is shown on a tracking drawing dated January 2023.

Stour Internal Drainage Board

Although the foul and surface water management proposals have yet to be finalised, we would expect engagement to continue and to be consulted with full details of the draft proposals in due course. One of our primary concerns is to ensure that there is no detriment to the aquatic environment from surface water discharge, treated effluent disposal or from any discharge of chlorinated water. We would therefore hope to be involved with the evolving designs prior to their submission to the LPA for approval

Although there is no draft drainage scheme presently available, the FRA recommends a Surface Water Management Scheme that relies on the discharge to an existing watercourse (after treatment via green roofs, rain gardens, and permeable paving). Additional attenuation would be provided through geocellular storage tanks. We would like to emphasise the importance of all of these treatment measures and we request that the detailed design, as requested by KCC's (as LLFA) suggested conditions, reflects these recommendations to achieve the relevant discharge standards with respect to rates and water quality.

Any works affecting adjacent watercourses or the network's water conveyance capacity will require our formal prior written permission of the River Stour Internal Drainage Board.

We support the conditions request by KCC (as LLFA) in their letter of 18 October and request that a similar condition is attached to ensure that the foul discharge is appropriately considered.

DCC Environmental Protection

- Suggests a condition to ensure that all plant and equipment associated with this development hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any façade (or window) of any residential premises and other such noise sensitive property.
- Lighting should respect the environmental character zone of the country park with regard to advice from the Institute of Lighting Professionals.
- For construction noise, a construction management plan is required to address: noise measures of noise and vibration control; times/duration of working where noise might be audible beyond the boundary; community complaints process; parking provision; deliveries; and moratorium on burning of material on the site.
- The content of the air quality assessment is noted. It is required that a dust management plan during construction is secured by condition.
- The submitted phase 1 land contamination assessment shows that further investigation is necessary. Conditions are required re further investigation / risk assessment, a detailed remediation scheme as necessary and verification.
- If piling is necessary, a piling risk assessment to be secured by condition is required.

DCC Place, Growth, Investment and Tourism

- Following the 2021 'Economic Impact of Tourism' Cambridge report, which measures the volume and value of tourism to the district, tourism is worth over £201 million annually and supports over 4,500 jobs (down from over £302 million annually in 2019 and supporting over 6,000 jobs before the pandemic).
- This application would provide a major boost and sizable investment in the district and the visitor economy, which would further add to confidence in the locality, especially at this time of greater economic uncertainty and in relation to recovery from the impact of COVID-19.
- Tourism is a vital industry across the district in terms of economic growth with the potential to grow much further. Tourism is recognised as a crucial driver for regeneration and the district's economy, and opportunities to explore and harness new projects should be encouraged.
- Currently the district's strongest market is the day visitor sector which welcomes around 3.7 million people annually (2021) – down from over 4.2 million in 2019 before the pandemic; however, in comparison the overnight market is low with some 280,100 visitors annually (down from 424,000 in 2019). There is huge scope to grow the day market, as well as to grow the overnight market to convert some day activity to the short-break/staycation market that has been revived following the impact and restrictions of COVID-19. This feeds into the wider commitment to grow the economy generally across the district.
- The pandemic has also highlighted the increased importance and value of outdoor leisure, wellbeing and experiential activities.
- The Country Park's long term financial stability must be assured so it can sustain itself for current and future visitors to enjoy.
- Tourism continues to evolve with visitors seeking out new experiences and a chance to immerse themselves in a destination. This application for a surfing

lagoon, pools and associated leisure activities offers a considerable opportunity to positively improve tourism and boost the visitor economy in the immediate area, and also across Dover District and East Kent as a whole.

- The wave pool proposal dovetails and complements the existing Betteshanger Park offer, with potential to add value and to be packaged with other existing experiences and attractions in the area.
- The location of the site is well placed in relation to other tourist and recreation offers in the vicinity, including beaches, towns and renowned heritage. The quality of the surfing lagoon and associated facilities would reinforce, compliment and expand this offer.
- This development would help remove barriers to leisure and sports provision, compliment other local offers and firmly place the area as a destination for world class sporting provision.
- The inclusion of holiday pods supports the real need for a year-round offer of high-quality accommodation and an opportunity to further convert 'daycation' visitors into 'staycation' visitors and increase visitor spend in the local area.
- The proposal is aligned with Dover District Council's 'Corporate Plan', 'Tourism & Visitor Economy Strategy' and 'Economic Growth Strategy'. It recognises the opportunity to fill a gap in the market, as the Council seeks to build an innovative, employment led economy and to position the district as a 'greater place to live, work, visit, learn and invest'. Such development will reinforce the district as an attractive, exciting and innovative destination.
- The applicant's economic benefits report is noted such that the proposed development would support the creation of: private sector construction investment amount to some £28.3m; new employment opportunities of around 153 direct and a further 194 indirect construction jobs.; up to 74 new full-time direct (FTE) jobs on site at peak season and support around/between 45 to 74 net additional jobs across the South-East; and £14.2 million in GVA over the construction period.
- In the context of the contribution the development would make towards the Council's corporate, tourism and economic growth strategies through investment, new jobs, experiences, opportunities and economic benefits for the wider district, the Council's Tourism & Visitor Economy Department (part of Investment, Growth, Place & Tourism) supports this planning application.

DDC Heritage Officer

Confirmed no harmful impacts on any designated heritage asset.

DDC Ecology

Introduction

Betteshanger Country Park boasts high ecological value, with the proposed development site supporting features of significant ecological importance, many of which have only come to higher awareness because of the developments proposed at the Country Park. The potential for impacts to these ecological features requires detailed consideration in the determination of the application, and there is also a need to look at the wider Country Park's ecological value and how this could be affected by the proposed development.

The proposed development has potential to result in varying scales of impacts to a range of ecological receptors present on and around the proposed development site. Since the first submission of this application, I have considered the applicant's identification of ecological impacts and the mitigation measures proposed, in the

context of the need for there to be enough information for DDC to have adequate regard to these impacts as material considerations in the planning process, in accordance with Government guidance, planning policy and legislative requirements.

This has led to an iterative process; over time the applicant has provided clarification in response to my queries, along with additional and amended information. Through this process, some of the mitigation measures proposed by the applicant have previously been agreed by me as acceptable in principle, with the recommendation that the details and implementation of the measures are secured in the planning permission, if granted. These are summarised in table 1 below.

This advice note, dated 12th February 2024, takes into account my previous comments and, on the understanding that the application will shortly be determined with no further information to be provided by the applicant, this advice presents my final comments.

Table 1: Previously ‘agreed in principle’ mitigation measures for identified ecological impacts

Ecological receptor	Potential impact	Proposed mitigation
Sandwich Bay to Hacklinge Marshes SSSI / Thanet Coast and Sandwich Bay Ramsar / Sandwich Bay to Hacklinge Marshes SSSI / Thanet Coast and Sandwich Bay SPA	Degradation of water quality as a result of contaminated surface water run-off / foul water discharge; impact on water quantity	<p>Pollution prevention measures (As specified in HRA) via CEMP.</p> <p>Ground investigations, risk assessments and remediation plan (if needed)</p> <p>Surface water management strategy.</p> <p>Foul water dealt with in existing on-site treatment plant.</p> <p>Water efficiency measures</p>
Sandwich Bay to Hacklinge Marshes SSSI / Thanet Coast and Sandwich Bay Ramsar / Thanet Coast and Sandwich Bay SPA	Increase in recreational activity that disturbs birds that are part of the designations.	Financial contribution to Strategic Access Management and Monitoring Strategy
Trees	Harm to retained trees during construction	Tree protection measures

Bats - foraging and commuting (Assessed by applicant as of negligible importance)	Increase in lighting affects food sources (invertebrates) and bat use of the area.	Restrictions on 'lighting up' times. Bat-sensitive lighting: adherence to Update Ecological Appraisal recommendations and 'Guidance Note 08/23 Bats and Artificial Lighting at Night' (Bat Conservation Trust and Institution of Lighting Professionals).
Badgers (Assessed by applicant as of negligible importance)	Harm to individual animals during construction. No confirmed presence on site.	Update badger survey prior to commencement Precautionary measures during construction - Biodiversity Method Statement
Other mammals (priority species – hedgehogs, brown hares, harvest mice)	Loss of suitable habitat / killing and injury of individuals during construction.	Precautionary measures during construction - Biodiversity Method Statement
Toads (priority species) (Assessed by applicant as of site importance)	Loss of suitable habitat / killing and injury of individuals during construction.	Precautionary measures during construction - Biodiversity Method Statement
Reptiles (Assessed by applicant as of local importance)	Loss of suitable habitat / killing and injury of individuals during construction.	Reptile translocation into offsite receptor area that has been suitably enhanced (and secured in s106).
Other nesting birds (including priority species: skylark) (Assessed by applicant as of local importance)	Loss of suitable habitat / killing and injury of nesting individuals during construction / disturbance from development and increased recreational activity.	Precautionary measures during construction - Biodiversity Method Statement to ensure vegetation clearance during bird nesting season is avoided, unless detailed surveys undertaken Compensatory habitat measures for skylarks.

<p>Invasive non-native species (cotoneaster (on site), Japanese knotweed (offsite))</p>	<p>Potential for spread of invasive species into wider area of Country Park and surrounds</p>	<p>Method statement to prevent spread of invasive species during construction and to remove it as necessary using appropriate measures.</p> <p>Offsite presence must be dealt with in the wider habitat management strategy</p>
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Additional matters to be secured: • On-site habitat enhancement features (bat and bird boxes, log piles, native species planting) – secured in on-site landscaping / biodiversity enhancements • Biodiversity net gain of at least 10%.

Other Matters

Ecological receptors: Open mosaic habitat and invertebrate assemblage

Proposed mitigation: Habitat Compensation Strategy (also to compensate for loss of moderately species rich grassland and notable plants)

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

The open mosaic habitat 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.

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.

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 is disappointing that the proposals do not include provision to produce and implement a management plan for the whole of the Country Park. This addition would ensure that areas outside of the submitted Outline Habitat Compensation Strategy could provide biodiverse supporting habitat, alongside the other functions of the Country Park.

I acknowledge that the adaptive management approach proposed by the applicant means that, in principle at least, there will always be further action that can be taken to reach a point of 'successful compensation'.

If planning permission is granted, it will be essential to ensure that agreed measures of successful compensation are clearly set out in the habitat management and monitoring plan.

Lizard orchids

Proposed mitigation: Translocation of individual plants, habitat management to encourage natural spread of lizard orchids, long-term management

The proposed development is estimated to result in the loss of approximately 10-15% of the lizard orchids within the Country Park. This Nationally Scarce species is protected under Schedule 8 of the Wildlife & Countryside Act 1981 (as amended), and the impacts and proposals for lizard orchids as a result of the proposed development would require a protected species mitigation licence.

The lizard orchid population present in the Country Park is assessed in the submitted ecological reports as of regional to national importance. As the second largest lizard orchid population in the country, I consider it to be of national importance. Natural England has also expressed this view.

In accordance with Natural England's Standing Advice, DDC needs to *"be satisfied that if a licence is needed it's likely to be granted by Natural England or Defra before you give planning permission."*

Natural England have not definitively stated that a licence would or would not be likely to be granted. Nonetheless, DDC must be satisfied as to whether a licence is likely to be granted, and this can be done through considering the three licensing tests that will need to be met by the applicant:

- overriding public interest
- no other satisfactory solution
- not detrimental to the survival of the population.

Natural England, in their latest response dated 1st November 2023, concludes that *"Relying on translocation techniques to maintain populations of species, when these techniques are not certain to work, produces an unacceptable level of risk in the current proposals...Natural England remains concerned that currently proposed mitigation proposals for Lizard Orchid and Fiery Clearwing are not established successful methods. Survival of these populations should not be dependent upon untested translocation methods."*

It is clear from Natural England's response that, considering the submitted method for lizard orchid translocation alone, it would not meet the third licensing test.

Officer comment – please note further comments have been received from Natural England since this note was written. These comments are reported above.

In addition to the translocation proposals, habitat management is also proposed by the applicant. The applicant considers that, even without the success of the translocation, the habitat management *"would ensure no overall population loss"*, though there is an acknowledged uncertainty regarding how the species would respond to the habitat management proposals.

The applicant's proposals include provision for further lizard orchid surveys, including winter rosette counts, a trial translocation and adaptive management. This latter means that, in principle at least, there are further actions that could be taken to reach a point of 'success'.

If planning permission is granted, it will be essential to ensure that the monitoring targets are clearly set out. The applicant suggests that "*planning conditions can be utilised to ensure that the Lizard Orchid population is maintained as a minimum*", while allowing Natural England's licensing regime to consider the translocation proposals.

While the achievement of this aim would support the applicant in meeting the licensing tests, I advise that, in accordance with the NPPF and Natural Environment and Rural Communities Act 2006 (as amended), there should be an aim to increase the lizard orchid population from current levels. 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.

Fiery clearwing

Proposed mitigation: Habitat creation through seeding of docks onto receptor site, along with translocation of dock plants

The proposed development site provides habitat that supports a breeding population of fiery clearwing moths. This is a priority species, classified as Endangered on the GB Red list and is protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). As such, there will be a need for the applicant to seek a protected species mitigation licence in respect to the impacts to fiery clearwings as a result of the proposed development, if granted.

The fiery clearwing population of the Country Park as a whole is assessed by the applicant as of county importance, with a large proportion of this population present on the proposed development site. Given the restriction of this species to Kent, and the numbers recorded, in my view it is likely to be of greater than county importance. It is concluded by the applicant that habitat losses are likely to constitute a significant negative effect at the county scale.

In accordance with Natural England's Standing Advice, DDC needs to "*be satisfied that if a licence is needed it's likely to be granted by Natural England or Defra before you give planning permission.*"

Natural England have not definitively stated that a licence would or would not be likely to be granted. Nonetheless, DDC must conclude whether a licence is likely to be granted, and this can be done through considering the three licensing tests that will need to be met:

- overriding public interest
- no other satisfactory solution
- not detrimental to the survival of the population.

The applicant has proposed, following Natural England's suggestion, a mitigation strategy involving seeding of fiery clearwing foodplants to establish suitable habitat in a receptor area. It is anticipated that fiery clearwings will colonise this compensatory habitat before destruction of the onsite habitat can take place. Translocation of foodplants (and any larvae present) to the receptor area is also proposed, along with an undertaking for long-term management and monitoring.

These aren't tried and tested methods that have been previously successful for this species, but they appear ecologically coherent and are in accordance with Natural England's suggested potential approach, such that it is possible that a protected species mitigation licence could be granted.

Sussex emerald

Proposed mitigation: Post-determination surveys, mitigation and translocation if necessary (under licence)

One Sussex emerald moth was recorded in the Country Park during July 2023. This is a priority species, classified as Endangered on the GB Red list and is protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended).

Government guidance (paragraph 99 of Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) states that *"it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision..."*

"...The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development..."

"Reasonable likelihood of presence" is usually defined as a protected species being known to occur in an area, and there being potentially suitable habitat on site. Both are true for this application site.

Broad principles for mitigation / translocation are put forward by the applicant, with the suggestion that this demonstrates that there are achievable mitigation measures that, if necessary, would allow Natural England to grant a protected species mitigation licence.

The applicant suggests that detailed surveys for Sussex emerald moth larvae can be secured by condition, if planning permission is granted.

I have concerns that this approach is contrary to Government guidance and Natural England's standing advice that LPAs "should...not decide on planning applications until you have received all the necessary surveys" and that "You should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the proposal on protected species before you can grant planning permission."

On balance though, given the late identification of the single individual some distance from the site, and the likelihood that, if Sussex emerald moths are confirmed as present on the site, a broadly similar approach to the fiery clearwing moth mitigation may be necessary, for which there would be a need for the applicant to secure a protected species mitigation licence from Natural England, it could be reasonable to secure the surveys by condition.

Turtle doves

Proposed mitigation: implementation of Visitor Management and Turtle Dove Strategy

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.

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.

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

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.

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.

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 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.

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.

I acknowledge that the adaptive management approach proposed by the applicant means that, in principle at least, there will always be further actions, secured in the planning permission (if granted), that could be taken to reach a point of 'successful compensation'.

If planning permission is granted, it will be essential to ensure that the measures of successful compensation are clearly set out in the Visitor Management and Turtle Dove Strategy and that, to ensure accordance with the NPPF and the NERC Act Biodiversity Duty, these must include an aim to increase the number of turtle dove breeding pairs from the predicted baseline.

Kent Police

Would require conditions to address designing out crime matters, including further detail on security measures.

Kent Wildlife Trust

Response 20/12/22, 17/02/23 & 04/12/23

Object to this proposal on the basis of the incompatibility of the proposed scheme with the delivery of the consented Turtle Dove Mitigation Strategy for 20/00419; substantial losses of priority habitat and a failure to fully apply the mitigation hierarchy; significant negative impacts to a nationally important population of Lizard Orchid; and the improper application of the principles of Biodiversity Net Gain to this scheme.

This application, 22/01158, both alone and in combination with 22/01152 poses a serious threat to the deliverability of the consented Turtle Dove Mitigation Strategy and in our view totally undermines the commitments made within the consented Strategy. The proposed surfing facility, hub facility, overnight pods and other associated facilities of 22/01558 are designed with the aim of increasing visitor numbers, particularly within the south of the Country Park. We therefore strongly object to the notion that the consented Turtle Dove Mitigation Strategy can be successfully delivered alongside the proposed scheme, and that increased levels of recreational disturbance pose a serious threat to the conservation status of Turtle Doves in this locality.

The proposed surfing lagoon is directly adjacent to the southern area of habitat secured via the Turtle Dove Mitigation Strategy and therefore there is a serious threat from both noise and lighting disturbance.

The application would result in the loss of 2.6 ha of 'pen Mosaic Habitat on Previously Developed Land (PDL). 29% of the Open Mosaic Habitat PDL resource "within the site and additional survey area" would be lost. These losses are wholly unacceptable and represent "significant harm" to biodiversity, as per paragraph 180a of the Framework (2021). The area of priority to be lost exceeds that recorded by the applicant.

The Country Park hosts a substantial population of the protected Lizard Orchid, which is afforded legal protection under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). Numbers are reported as being comparable to those recorded at Sandwich Bay, the largest population in the UK. On this basis, Betteshanger Country Park supports the second largest population of Lizard Orchids in the UK making this a site of national importance for this species. The scheme should be refused on the basis of the destruction of a nationally important population Lizard Orchid.

Regarding the Lizard Orchid translocation proposals, the suggestion that the permanent loss of habitat and the proposed translocation of Lizard Orchids elsewhere would "assist in increasing the overall area of distribution within the country park and secure the long-term future management of these areas, providing a gain under the proposals.", is strongly contested.

Where soils beyond the red line boundary for 22/01558 are suitable for supporting Lizard Orchids it is likely that natural colonisation will occur over time, and where soils are not suitable then the success of translocation should be called into question.

The success of Lizard Orchid translocation should not be considered to be certain and therefore a more substantial compensation would be required to even begin to consider the suitability of this strategy. The loss of an existing stronghold within the proposed development area is likely to be detrimental to the conservation status of this species.

On the basis of the significant direct loss of priority habitat discussed above, significant impacts to a nationally important population of Lizard Orchids and impacts to Turtle Doves we do not deem it to be possible to claim to deliver BNG whilst not aligning with

these key principles. Given the anticipated increases in recreational pressure, as a result of both 22/01158 and 22/01152, queried how achievable an uplift of 11.11% is. It is asserted that grassland habitats onsite should be properly classified as Lowland Meadow habitat, which is a very high distinctiveness habitat within the BNG metric and losses of this habitat cannot be adequately accounted for through the metric.

The Country Park is known to support an abundance of Lichen, including rare species such as the Reindeer Cup Lichen. Further information on the presence of and impacts to these species should be provided, and the applicant should clearly detail how the mitigation hierarchy has been applied to safeguarding biodiversity.

Amendments to the Ecological Appraisal are welcomed, including the adjustment of the Biodiversity Net Gain (BNG) baseline being taken prior to the introduction of hard standing within the red line boundary for the hotel. It is believed that this area was previously secured as a reptile translocation area for planning application 02/00905 and we ask that Dover District Council undertake an investigation into this issue.

Additional information submitted by the applicant further reinforces our serious concerns regarding the incompatibility of the two proposed schemes with the delivery of the consented Turtle Dove Mitigation Strategy for 20/00419:

- the detrimental impacts of recreational disturbance on the success of the Turtle Dove compensation strategy, and the effectiveness of the now consented bunds, for 20/00419 was raised by KWT at the time of consulting on conditions for 20/00419. These concerns are now exacerbated by these two new proposals and have clearly also been picked up by the Applicant's ecologist who in reference to Area D states that "Notwithstanding this, given the area is still likely to be subject to disturbance from increased activity in its surrounds, additional Turtle Dove habitat provision is proposed in the eastern part of the country park, as set out in Section 5 below." This acknowledgment by Aspect Ecology demonstrates that they are in agreement that the proposed schemes would prevent successful delivery of the consented compensation strategy.

It is unacceptable for the goalposts for species mitigation to be continually moved, with Turtle Doves being continually impacted by each new application brought forward in this area, being squeezed into more marginal areas of habitat.

Hammill Field is not a substitute or variation on the delivery of essential compensation habitat secured within the Country Park for a previously consented application.

Given the previous use of the Country Park as a mitigation and compensation site for species and habitats, and the long-lasting nature of management requirements to deliver these, suggest statements that the Country Park is not managed for wildlife is reassessed.

Other consented strategies known to KWT include: reptile mitigation area from application 02/00905 and 14/00058; and provision for the Country Park to be declared a nature reserve.

KWT continue to be concerned about the proposed mitigation and compensation measures for Lizard Orchid and the protected and rare moth species - Fiery Clearwing, Sussex Emerald, and Bright Wave.

The absence of comments on specific topics does not indicate a lack of concern or that our previous concerns have been satisfied by the submission of additional

documents. KWT also continues to support the positions of other major conservation organisations who have been providing detailed responses on the two proposed developments.

Regard is had to additional information from the applicant titled Technical Note 18, Technical Note 19, and Technical Note 20

Significant concerns are still expressed in respect of impacts to lizard orchids, fiery clearwing moths, Sussex emerald moths and turtle dove, amongst other species.

RSPB

Response 07/11/22 & 17/02/23

- Turtle Dove is a RSPB priority species due to its significant population decline, 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 Concern). Turtle Doves have declined by 98% between 1967 and 2018. There are 29 zones across England, 12 of which are in Kent. Betteshanger Country Park sits within the Lydden Turtle Dove Friendly Zones.
- The Ecological Appraisal confirms that the development has the potential to increase disturbance to habitats in the Country Park due to increased visitors to the wave park and increased car park capacity. The proposed development would be located adjacent to open mosaic creation / enhancement habitat that was subject to mitigation under planning application 20/00419.
- Open Mosaic Habitat is a rare habitat that supports much ecological interest, especially in terms of botany and invertebrates. Given the structure of this habitat (short, patchy and open swards) and its proximity to known Turtle Dove territories in the Country Park, we believe this habitat offers ideal foraging areas for Turtle Doves.
- We challenge this assumption of visitor management measures and that Open Mosaic Habitats are relatively robust and tolerant of low-level disturbance. Given the amount visitors the development is expected to attract this increased disturbance would be extremely damaging to the Country Park's Turtle Dove population.
- Under planning application 20/00419 the developer was required to offer meaningful mitigation for Turtle Doves. As a result, mitigation was offered on Betteshanger Country Park. The RSPB agreed that mitigation offered in The Turtle Dove Mitigation Strategy published May 2022 could offer meaningful mitigation for the loss of Turtle Dove territories on the land associated with planning application 20/00419. This application undermines the measures set out within the Turtle Dove Mitigation Strategy, set to satisfy the requirements of condition 54 of planning permission 20/00419.
- Challenge this statement that Turtle Doves are not impacted by lighting. We are not currently aware of any specific studies on the impact of artificial lighting on Turtle Doves. We have consulted with Dr Carles Carboneras, RSPB Migrants Recovery Programme Manager who has extensive experience working with Turtle Dove across its European range. In his opinion "my prediction would be that installing machinery and artificial lights near breeding Turtle Doves may increase their perception of increased human frequentation and increased presence of predators (e.g. corvids). The probability of losing that territory would be significantly increased.
- Believe the scale of this development in conjunction with planning application 22/01152 and its accumulative impacts will be very challenging to mitigate in a

way that will not be damaging for turtle doves. Believe that the conditions agreed in the Turtle Dove Mitigation Strategy (20/00419) would not be met if planning permissions were granted for Seahive, especially in conjunction with the hotel application, due to the damage this would cause the Turtle Dove population on Betteshanger Country Park.

- The Ecological Appraisal is incomplete and does not offer a complete picture on priority species present on the country park, with survey results still to be completed and analysed. Survey data is still outstanding for bats, reptiles, and invertebrates.
- Bat survey data is needed before decision, especially given the proposed lighting.
- The site also has a wealth of outstanding invertebrate interest, with for example records of rare Red Data species found only in Kent in this country, such as Bright Wave Moth (*Idaea ochrata*) - Near Threatened, and
- Fiery Clearwing moth (*Pryopterion chrysidiformis*) - Nationally Rare and fully protected, listed under Section 41 NERC 2006 and Schedule 5 of The Wildlife & Countryside Act 1981
- It is clear that Betteshanger Country Park is a site of extremely high biodiversity value. The RSPB believe that every effort should be made to maintain and enhance the nature value of this rich site.

Consider that planning permission should be refused because:

- there are insufficient reassurances concerning protection for breeding birds, nationally scarce and protected plants, and other wildlife such that it fails under the guidelines of the National Planning Policy Framework (NPPF) and relevant policy in the Dover District Local Plan;
- the mitigation and compensation proposed, including Biodiversity Net Gain (BNG), is not appropriate;
- priority habitats and proposed receptor sites have not been adequately assessed;
- a mitigation strategy for Turtle Doves consented a year ago is already proposed to be discarded, with Turtle Doves pressured and relocated yet again; and
- the anticipated large increase in visitor numbers and their impact across the country park and its species and habitats have been understated.

Response 10/07/23

In summary, we maintain our serious concerns about the impact of the proposed developments (hotel and SeaHive) on Turtle Doves at Betteshanger Country Park. We have serious doubts about the visitor management suggestions, and we have not seen evidence that allows us to believe the suggested mitigation will succeed.

We have also provided evidence that demonstrates very rare moths are present on site and will need to be adequately accounted for in the ecological assessments and development plans, which is not currently the case.

The many concerns of the RSPB and of a range of other respected wildlife organisations and expert individuals have still not been answered adequately even at this very late stage of the application process, and we are deeply worried.

The only way to ensure the rare wildlife at this biodiverse site is unharmed and the Council's obligations regarding biodiversity are fulfilled is to refuse planning permission for both the hotel and SeaHive.

Response 30/10/23

Object to this application as we believe this development will be damaging to wildlife, especially turtle doves and other priority species including protected moths.

The application has not adequately addressed the significant concerns regarding scarce and legally protected wildlife, nor local and national planning policy requirements.

This proposed development is simply not appropriate for this location. It should be taken together with the surf lagoon proposal 23/01095, due to the combined impacts the related schemes will have on the biodiversity and complex habitats of Betteshanger Country Park and the wider region.

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 Concern).

Turtle doves are vulnerable to disturbance.

The current plans undermine the measures set out within the turtle dove Mitigation Strategy, set to satisfy the requirements of planning permission 20/00419. Unclear whether mitigation measures undertaken for housing under planning application 20/00419 for turtle dove at the Country Park have proved positive.

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.

The land at Hammill, which is 6km from the Country Park, should not be considered as mitigation for the proposals at the Country Park.

Land immediately east of the Country Park has been put forward for mitigation, but currently this is no detailed information on whether this is currently suitable for turtle doves.

Betteshanger Country Park is part of a network of sites that make up the Kent Downs and Stour Valley Important Invertebrate Area. Development would negatively impact this network of diverse coastal habitats and degrade their connectivity.

Rare moths are now known to be present across large areas of Betteshanger Country Park, including the proposed hotel location. Bright Wave Moth *Idaea ochrata*, and two protected species - fiery clearwing *Pyropteron chrysidiformis* and Sussex emerald *Thalera fimbrialis* - have been found.

The Fiery Clearwing population is breeding in significant numbers at the SeaHive and hotel sites. Sussex Emerald has been found at the surf lagoon site and more work is required to establish its true distribution across the site. The unusual brownfield conditions found at the Country Park may well replicate some of their more typical vegetated shingle habitat.

Fiery clearwing eggs are very important. Any translocation plan for the hotel population would be fraught with risk. The Council should adhere to the principles of the National Planning Policy Framework (NPPF) hierarchy, choosing avoidance of harm above attempted mitigation.

Given the recent important findings for fiery clearwing, it is difficult to see Natural England agreeing to any proposed translocation at the Country Park.

Regarding Sussex emerald moth, the exact habitat conditions favoured by the moth may not be so easy to find and depend on factors other than simply occurrence of the food plant, which is common nationally, yet the moth is highly range restricted. If it were so straightforward, Sussex Emerald would not be rare and protected.

Do not agree that 'overriding public interest' has been demonstrated for the development, or that a suitable mitigation strategy can be developed to avoid impacts on the species and maintain its overall population status for Sussex Emerald.

The 2021 amendments to the Wildlife and Countryside Act 1981 in section 111 stipulate that licences for disturbing or moving protected wildlife must fulfil the following criteria: *3(a) that there is no other satisfactory solution, and (b) that the grant of the licence is not detrimental to the survival of any population of the species of animal or plant to which the licence relates.* These criteria are unlikely to be met by the applicant.

Betteshanger Country Park would appear to be a key link in an important chain of biodiverse sites across the area, including Pegwell and Sandwich Bay, supporting a nationally important invertebrate population.

01/02/24

Overview of the RSPB's stance: We reiterate our strong objection to both these planning applications. The RSPB maintains its views of 30 October 2023 in that we do not consider that the applicant has adequately addressed the significant concerns regarding vulnerable, rare, and legally protected wildlife, nor national planning policy requirements and Natural England's concerns. These proposed developments would be harmful at this location, due to the combined harmful impacts the related schemes will have on the complex biodiversity and habitats of Betteshanger Country Park and the wider region. We have reviewed the latest documents from Aspect Ecology, and they do not offer anything substantially new or convincing that would persuade us to change our stance from our earlier submission. While we briefly respond to some of the applicant's latest submissions, we reiterate there is no material change to our position, and we refer you to our objection as per our letter of 30 October 2023 and earlier responses. Below we refer to 'the applicant' and Aspect Ecology, representing the applicant, interchangeably.

General comment – the applicant's plans are high risk and consistently opposed by wildlife experts.

Betteshanger's legally protected and nationally significant Fiery Clearwing population: the mitigation proposals are very likely to fail.

Sussex Emerald is a rare and protected species. Development cannot legally proceed without appropriate surveys.

Turtle dove mitigation proposals remain high risk and inaccurately include measures far off-site.

Third-Party Representations

A large number of representations have been received from individuals, interest groups and other organisations, which are summarised below (and available in full on the planning application section of the Council's website).

Representations of Objection

1,043 letters of objection to the proposed development have been received, raising matters including:

- there is a water shortage within the area and the wave pool requires a large amount of water;
- the development is located too close to environmentally protected areas;
- light pollution – specifically concerns raised over lighting columns (whether 24m in height as first proposed or as reduced to 12m) and how this will be mitigated and impact on the bat population;
- proposal threatens both habitats & endangered species;
- skylarks already in serious decline nest on the proposed wave lagoon site, their open ground nesting habitat would disappear;
- Turtle Dove territory is being removed;
- the site has the second largest colony of Lizard Orchids in the country these would also disappear as would the many rare invertebrates & their habitat;
- there is no evidence at all that Lizard Orchids can successfully be transplanted / it will probably fail;
- taxpayers' money was used to create the Country Park;
- detrimental change of character;
- development is located within very close proximity to the designated area of mitigation for Turtle Doves;
- there will be an increase in pollution;
- potential flooding issues may arise as a result of the development;
- existing roads are overrun and there will be an increase in traffic;
- human activity on this scale would impact any wildlife recovery;
- damaging to climate change / global warming;
- land was originally designated a Local Nature Reserve;
- the hospitality industry is already struggling to find staff;
- Betteshanger is a fantastic site right now, and the nature is developing the area in a truly amazing way;
- the Council must accept its responsibility for stewardship of these precious remnants of our once- thriving local biodiversity;
- negative impact on Bright Wave Moth and Fiery Clearwing Moth (two nationally rare near threatened, priority species moths);
- loss of Open Mosaic Habitat;
- the developer does not have a good record on translocation, having made what appears to be quite inadequate provision for moving a colony of *Lythrum hyssopifolia* (grass poly);
- this proposal will only be for a few people who can afford this kind of activity and the majority of local people will not be able to afford to use it anyway;
- creating a 'new' habitat is not conservation - it is an admission that conservation of ecosystems in that development has been allowed to fail;
- the ecology appraisal for this application is incomplete / misrepresentative;
- as well as the carbon emissions of the construction work, another pool would add to the carbon emissions in the area as both the building and the pool would require heating;
- Deal is already over congested with developments;

- local infrastructure cannot cope with the increase in footfall resulting from the development;
- this area, having a shale substrate, is an exceptional habitat for biodiversity;
- the flora list (not all of which is noted by the developer) totals 400 plants of which 332 are native species and 20 of these are listed on the Kent Rare Plant Register;
- similar facilities nearby (e.g. Whitemills Wake and Aqua Park);
- the UK is one of the most nature depleted countries in Europe and within the bottom 10% of all countries globally;
- spoil comprises unstable ground for such a structure;
- concerns raised over accuracy of some of the transport technical documents;
- proposed development will have a negative impact on local businesses as it will be taking their business;
- lack of suitable or sustainable foul water drainage;
- lack of surface water drainage;
- risk of water pollution;
- conflict with National Pollinator Strategy;
- conflict with KCC Country Parks Strategy;
- no other sites appear to have been considered for the proposed development;
- the S106 agreement designating Betteshanger Country Park as a local nature reserve and protected green space was not registered;
- there are significant inaccuracies in the applicant's reports submitted with the planning application;
- the environmental impacts arising from these proposals are huge. The comments and objections on the planning portal demonstrate grave concerns of a number of respected organisations such as, Natural England, CPRE, RSPB, Kent Wildlife Trust etc as well as large numbers of the general public with respect to the devastating impact on wildlife and habitats in the park;
- Specific harm to Sussex emerald and bright wave moths;
- Contaminated ground is a risk to health

Friends of Betteshanger

Multiple letters and representations have been received from 'Friends of Betteshanger', with comments including:

- the proposed development will have an unacceptable impact on local wildlife, including Lizard Orchids, invertebrates, Open Mosaic Habitat and Turtle Doves;
- the application is misrepresentative of the sites existing ecological value;
- contrary to the draft Local Plan, the Green and Blue Infrastructure Strategy report May 2022 and the Open Spaces Assessment 2019;
- development is contrary to Open Space and Sports Topic Paper (2022);
- visiting the Seahive will be expensive whereas visiting the existing park is free;
- the building of the Seahive threatens protected habitats and species in the most important area of the Country Park for biodiversity. It would result in a huge increase in visitor numbers with accompanying noise, light and human activity, all to the detriment of its role as a site of wildlife conservation;
- the Country Park as green space provides carbon sequestration at a time when climate change is at the top of the global agenda, and when Dover District Council is aiming for the district to be carbon neutral by 2050. The Seahive on the other hand would add to the district's carbon emissions both in the construction phase and thereafter in terms of energy and transport use. This would be contrary to the Council's climate change targets;
- a fungi survey is provided, which should be taken into account;

- the development is contrary to the intention that the Country Park should be for 'low key recreation' as specified in saved Policy AS2;
- development is contrary to condition 4 of Planning application 15/00157 for the erection of the Betteshanger Park Visitor Centre;
- beavers are present within the Country Park;
- bryophyte records are submitted, which should be taken into account;
- ecological concerns over loss of habitats and the disturbance and disregard to the existing wildlife populations including lizard orchids, invertebrates, reptiles, nesting populations (specifically Turtle Doves and Skylarks), water voles, bats, badgers, beavers, toads and fungi;
- the site is already used for translocation of reptiles from elsewhere;
- questions raised over the accuracy of the technical reports supporting the application, including ecological and arboricultural assessments;
- the application for the Betteshanger surf lagoon is not environmentally, socially or economically sustainable at this location, especially when natural capital and externalities are added to the equation;
- concerns raised over the detrimental impact from the increase in visitors on the wildlife features of park;
- concerns raised over the proposed achievement of a BNG and whether the correct approach has been undertaken;
- concerns raised over legal covenants attached to the sale of the Country Park, restricting the use of the Country Park to a community and country park;
- the application for the Betteshanger surf lagoon is not environmentally, socially or economically sustainable at this location, especially when natural capital and externalities are added to the equation. The same arguments broadly apply to the hotel. It doesn't make sense, even from a purely financial perspective, to build a surf lagoon in this location. The application also contravenes long standing DDC planning policy, dating from 2002 and the surf lagoon project and hotel are not included in the Local Plan to 2040. Keeping the park as a wildlife reserve and country park, open to all, is the sustainable option which would provide a long-term benefit to our area;
- additional protected and scarce species have been found on or near the site; the Fiery Clearwing moth, the Sussex Emerald moth, the Bright Wave moth and the scarce mottled grasshopper. These discoveries are yet more evidence of the importance of the biodiversity value of Betteshanger Country Park and yet another reason why it should be protected from development;
- this site warrants a nature reserve designation and should be available as such to the residents of the local area and beyond as a wonderful example of the power of nature to transform a brownfield site into a wildlife haven;
- no weight should be given in the planning decision to the alleged benefits of the management proposals, as it is clear the applicant had obligations as regards management which have been ignored and is now trying to claim that management can only be secured if planning permission is granted;
- a choice was made by the applicant to ignore the Nature Conservation and Management Plan for the park so that a claim could be made that only by granting planning permission for the proposed developments could management be secured and that this management was a material consideration;
- mitigation areas set up for Turtle Doves under 20/00419, which were originally located in relatively undisturbed areas of the Park, are now adjacent to the proposed Seahive and hotel which puts the success of the scheme in jeopardy'
- common lizards were translocated from the Discovery Park to a receptor site at Betteshanger Country Park in 2016 under planning application 14/00058 for their long-term protection. The receptor site is located next to the proposed surf

- lagoon. The Lizards would have to be translocated again under the Seahive proposals which would disrupt their feeding and breeding cycles;
- there is no evidence that these proposals to layer different mitigation schemes on the same area of land, can be carried out successfully and achieve adequate mitigation for the loss of the species and habitats involved;
 - who is going to undertake the monitoring of all the various mitigation schemes.
 - Very considerable weighting should be given to the unsatisfactory circumstances surrounding the mitigation schemes;
 - the provision of a 'nature conservation management plan' for areas of the park under planning applications 22/01158 and 23/01095 is not a material consideration neither can it justify a conclusion of no significant harm and/or adequate compensation because the applicant was under such an obligation in respect of the visitor centre development;
 - proposed adaptive management does reduce uncertainty: monitoring of the mitigation schemes to date does not give confidence that much more complex schemes in the future will be monitored and adapted for a period of 30 years to achieve the required goals; no monitoring evidence has been provided to show that the mitigation scheme for Turtle Doves under planning application 20/00419 has achieved its goal to maintain and increase the population at Betteshanger Country Park;
 - no water management plan has been provided. It is not possible for the planning committee to make a reasoned decision on the information provided by the applicant;
 - Since surveys were carried out by the applicant in 2020-2022 additional Invertebrates, including rare and protected species, have been recorded at Betteshanger Country Park. Further invertebrate surveys are necessary, prior to any decision being taken.

CPRE Kent

Response Nov 22, Feb 23, Apr 23 & Jul 23 & Feb 24

The ecological appraisal is incomplete with outstanding ecological reports. The report cannot be taken as read or as any meaningful document, making it impossible to make an informed decision.

If the development goes ahead, Betteshanger Country Park will cease to be a place of nature and tranquillity. It will become exclusive, as people will be required to pay to enter the complex. Currently the country park exists for everyone to enjoy and recharge.

Nature/biodiversity is in catastrophic decline and therefore, should be afforded priority and the country park should be regarded as a valuable asset and educational facility for everyone.

There is no 'material need' for this surfing lagoon. Around Deal there are the Kent Surf, surfing club, Whitemills Wake and Aqua Park Sandwich, Action Water Sports, New Romney and Tides Leisure Centre, Deal

The operation of electric vehicles at the country park is noisy and disruptive to wildlife. Increased visitor numbers will harm wildlife. People will stray from areas where they are only supposed to be. Visitor numbers will make ineffective any turtle dove mitigation; and result in the loss of biodiversity.

The country park has been used as reptile and turtle dove mitigation from other sites, on the basis that it was suitable and not likely to be developed. These mitigation areas are under threat.

The country park is a public resource and should be maintained as open green space. Development would breach the s.106 for the residential development at the 'sustainable park' 20/00419.

Turtle Dove mitigation: it is not acceptable or best practice to continuously alter a strategy that is intended to safeguard a protected species in severe decline and has already been legally agreed upon for a previous development.

We fundamentally disagree with Aspect Ecology's assessment that no significant impact on local bat and invertebrate populations will occur.

Consider that it is claimed that potentially 875 visitors per day using the hotel and SeaHive facilities is an underestimation of the number of visitors.

Aspect Ecology mention Turtle Dove enhancements at Hammill Field. Whilst we would welcome any enhancements for a species in critical decline, Hammill Field firstly will not benefit the Turtle Doves at Betteshanger due to being too far away and secondly there are no guarantees that Turtle Doves will utilise this area.

The approach to safeguarding the Turtle Doves and providing any long-term meaningful mitigation, demonstrates complete contempt for the future of this species and illustrates what little regard or consideration exists towards the biodiversity and protected species that are present within the Country Park.

It is not acceptable or best practice to continuously alter a strategy that is intended to safeguard a protected species in severe decline and has already been legally agreed upon for a previous development.

There is no real demonstration of meaningful mitigation for any of the species at Betteshanger Country Park. Of the events advertised to be held at Betteshanger Country Park – none of them are conducive or beneficial for the nature currently on site, nor are they educational in terms of teaching visitors about the nature on site.

Betteshanger Country Park is likely to be cherished, celebrated or encouraged either now or in the future despite the claims made.

It is first suggested that the council could conclude that there will be no significant harm to biodiversity. Not only would such a view be contrary to the numerous environmental and conservation groups who have carefully considered this application including CPRE Kent, such a finding would also be contrary to the council's own ecological advice.

At the very least the reliance on compensation habitat to overcome an accepted significant harm to biodiversity must be weighed strongly against the proposal when considering the overall planning balance. It is our view this planning balance firmly tips against the scheme.

There are a significant number of other planning harms in addition to the significant harm to biodiversity. When considered collectively, these planning harms clearly outweigh the deliberately vague and overly optimistic economic and social benefits the scheme purports to bring.

Other harm includes: loss of open space; no need for development; increasing pressure on green infrastructure network; landscape and visual harm; light pollution; congestion to the highway network.

Regarding applicant's technical notes 19, 20 and 21:

- There is harm to fiery clearwing moths
- Bright wave moths are present on the site
- Sussex emerald moths are present on the site
- Effectiveness of proposal approach to turtle doves questioned
- Disagree with applicant's approach to lizard orchids

When considering the proposals for compensation for the Fiery Clearwing, Turtle Doves and Lizard Orchid, the applicant has not provided enough evidence to adequately assess the likely negative effect on these protected species

There can only be one sensible and legal decision - to refuse both applications

Environmental Law Foundation

Betteshanger Country Park should legally be considered a Local Nature Reserve under obligations of the s.106 agreement for planning permission 02/00905.

Ownership of the Country Park is not relevant to the enforceability of the s.106 agreement for planning permission 02/00905.

The s.106 agreement for planning permission 02/00905 is a relevant material consideration.

The conclusion that the two applications are distinct developments and should be treated as free-standing projects for the purpose of deciding an EIA screening opinion is misplaced.

Do not consider sufficient regard has been given to local impacts, especially in light of the concerns raised by consultees on the adverse environmental consequences of the proposed developments. No mention is made of the relative abundance availability, quality and regenerative capacity of the natural resources, in particular biodiversity, that have been identified at the Country Park.

Regarding an Opinion by James Maurici KC on behalf of the applicant: planning judgements, are just that, judgements. We remind the DCC that this is a case where the underlying purpose of the land use (as it is now) is to promote nature in a nature park; using planning judgement, to also possible to refuse planning permission.

Note that serious concerns have been raised by consultees with respect to the extent and quality of the surveys undertaken.

The Council must ensure the basis upon which any planning judgement is predicated is comprehensive and sound.

Plantlife International

- Object to the proposed development due the adverse impact it will have on protected species and upon the overall biodiversity of the area.

- There will be an unacceptable harm that will to be caused to a significant population of Lizard Orchid, a species protected under Schedule 8 of the Wildlife and Countryside Act 1981.
- There will be adverse impact upon other rare and protected species.
- The loss of areas of Open Mosaic Habitat and moderately species rich grassland without adequate justification or mitigation.
- There will be an adverse impact of the development upon the long-term success of the Biodiversity Offsetting Scheme relating to application 20/00419/OUT and its associated legal agreement
- Whilst additional information has been submitted in relation to Lizard Orchids, it is proposed that a significant number of plants are translocated and there is still not sufficient detail on the proposed translocations.
- Substantial uncertainties about the proposed mitigation and compensation strategy, in particular in relation to the proposed translocation of the significant number of Lizard Orchids.
- A detailed fungi survey should be required as part of the application.
- Concerns that the full ecological value of the site have not been considered.
- Do not agree that the proposed mitigation and compensation can be used to offset the losses of the high value existing wildlife and achieve a biodiversity net gain on the site.
- Further evidence required to demonstrate the need for development. No overriding need for development in this location, such that could outweigh the significant adverse impacts upon biodiversity that would result.
- The impact of the development needs to be considered in conjunction with application 22/01152.

Buglife

- A negative impact on the Kent Coast & Downs Important Invertebrate Area and its invertebrate communities.
- Unacceptable loss and inadequate assessment of Priority Habitats.
- Inadequate invertebrate survey and assessment.
- Inappropriate mitigation and Biodiversity Net Gain proposals.
- Impacts on the wider Betteshanger Country Park and its Priority Habitats.
- The current proposals do not meet the requirements of the Dover District Council's own strategic policies or those of the NPPF as they are likely to lead to an unacceptable loss of Priority Habitats and their associated biodiversity.
- Buglife also believes that the application currently lacks sufficient information for Dover District Council to make an informed decision.
- The development does not provide appropriate ecological mitigation or provisions for biodiversity net gain.
- Concerns with Aspect Ecology's submission regarding the loss of Open Mosaic Habitat on Previously Developed Land (Open Mosaic Habitat) and the Associated Habitat Compensation Strategy. The suggestion that cobbled together managed landscaping features and planting can replicate wildlife-rich Open Mosaic Habitat habitats is clearly misleading.
- The applicant fails to recognise the challenges associated with restoring open examples of Open Mosaic Habitat that have suffered from scrub encroachment. It is essential that a realistic and fully costed approach to management and restoration is provided.
- Buglife has also been made aware of recent records of the near threatened and nationally rare bright wave moth (*Idaea ochrata*) and a good number of eggs of the Endangered and Nationally Rare Fiery Clearwing Moth (*Pyropteron*

chrysidiformis) which is fully protected under Schedule 5 of the Wildlife and Countryside Act 1981. It is not clear that adequate attention has been paid to the potential impacts of the proposals on the species.

- The Sussex emerald moth was identified and survey work should be carried out prior to any decision. Other rare moths include fiery clearwing and bright wave.
- The proposals fail to address the wider importance of the site for invertebrates.
- No confidence that the visitor strategy will adequately mitigate for the estimated 160% increase in visitor numbers, particularly in high use areas close to the development.
- Concerns at the lack of detail with regard to this planting approach and what the management implications could be for areas of Open Mosaic Habitat.
- Technical Note 18 highlights the wide-ranging ecological issues that the applicant is attempting to address at this sensitive and biodiverse site. This includes proposals to recreate complex Priority Habitats and associated species alongside maintaining populations of protected species- indicating that Betteshanger Country Park is not the right location for this development. This site is identified as a Biodiversity Opportunity Areas (BOA) in The Dover Green and Blue Infrastructure Strategy Evidence Report³ (May 2022), identifying it as site of biodiversity importance that could play an important role for nature recovery in Kent. It is essential that sites of high wildlife value and in strategic locations to enhance the green infrastructure network are protected from inappropriate development.
- Buglife reiterates that even if proposed translocations and habitat creation were successful, the future of the populations of the wider invertebrate assemblage remain in doubt within the context of a developed site. The negative effects of ALAN and a predicted 160% increase in visitor numbers cannot be fully mitigated for. Wider impacts on invertebrates beyond the site are also likely, as Betteshanger Country Park is important within a network of sites that form the Kent Downs and Stour Valley Important Invertebrate Area (IIA)⁴.

Froglife

- No survey assessment for the common toad, even though beyond the hotel survey area.
- Ponds should be retained, restored or replaced for great crested newts.
- Slow worms and grass snakes have also been identified on the site.
- The site has been used for substantial translocation of reptiles.
- The site is close to qualifying as a key reptile site.

KRAG

- The site is considered to support a 'good' population of Common Lizard.
- The majority of the site will be subject to works such that it is proposed reptiles are moved to an offsite receptor.
- KRAG objects on the basis that no details have been provided of the location of the receptor site or an evaluation of its suitability as a receptor site.

Sandwich Bay Bird Observatory

- The site comprises a rich and unique local habitat for wildlife and has become an asset to the growing numbers of people in the local community.
- There is nothing in the application which reassures the Trustees of the Observatory that any mitigation measures that have been suggested will properly protect the ecological interests of the site.
- Concerns raised over light pollution.

- Support the detailed arguments put forward by other professional conservation bodies such as the RSPB, Kent Wildlife Trust and Natural England.
- The impact of this planned development on the overall Betteshanger natural environment can only be described as harmful.

Botanical Society of Britain & Ireland

- The Seahive development would at least obliterate about 800 plants.
- Proposing translocation carries considerable uncertainties for the survival of the Lizard Orchids and ignores that there must be many more uncounted developing young plants underground which have not yet reached rosette stage to be identifiable.

Orpington Field Club & Bromley Biodiversity Partnership Sub-Group

- Bat, water vole and reptile surveys have not been included.
- Grass-poly, a nationally rare, endangered plant listed in Schedule 8 of the Wildlife & Countryside Act 1981 (as amended) is likely to be lost from the area if this development goes ahead.
- The development is likely to damage/reduce the breeding population of red listed Turtle Dove through reduction in foraging habitat and disturbance.
- Loss and reduction of other red listed breeding birds also listed as Priority Species in the NERC Act 2006, Section 41: song thrush and linnet (both recorded breeding on this site) skylark, yellowhammer, dunnock, turtle dove and cuckoo (recorded breeding in the additional/wider area).
- Artificial lighting disrupts diurnal rhythms of all wildlife including invertebrates and bats.
- Increased disturbance during and after development will negatively impact habitats and species.
- Reduction in scrub and ruderal grassland habitats favoured by harvest mouse and hedgehog.

East Kent Climate Action

- DDC did enter into a legal agreement, S106, when the Park was established in 2004, that it would be designated a Local Nature Reserve.
- The proposed development flies in the face of DDC's declared intention to "conserve and enhance...all priority habitats and species". The development would involve the removal of 2.6 hectares of Open Mosaic Habitat, which is indeed a priority habitat and supporting many protected species.
- Concerns raised over water supply shortage.
- Fear that this project would seriously undermine the Council's aim to reach net zero carbon by 2050.
- New tipping points have been reached as the world comes ever closer to Climate and ecological breakdown.
- It is absolutely vital that Betteshanger Country Park is preserved intact and maintained for the benefit of plant- and wildlife.
- Significant tract of mixed vegetation would be lost, at-risk bird and other animal species would be at ever greater risk, through noise, light pollution, disturbance or damage to habitats.
- Visitor traffic on the already over stretched A258 would give rise to extra CO₂ and particle pollution.
- There is no waste water management plan.
- Chlorinated water, sewerage and quite possibly water contaminated by the many toxic and carcinogenic materials that are inevitably found in the spoil tip

of a former mine, would have to be carefully managed, in collaboration with the water authorities.

- Potential risks to the health of public and of people working on the site. Nobody yet knows the true extent of the potential toxicity of the substances to be found on the spoil tip.
- Concern about the damage that would be caused by the developments to many species of flora and fauna, many of which are of national significance.

Dover and Deal Green Party

- This site was formerly publicly owned by SEEDA and under SEEDA, designation as Local Nature Reserve was applied for in 2004, but the application got lost.
- This is a well-loved biodiversity hotspot, a habitat of a number of endangered species. As such, all this site must be designated as a Local Green Space for the Local Plan to become sound and effective.
- We regard the site reports of Aspect Ecology reports 2022 and 2023 to be incompatible with independently provided evidence.
- None of the 'mitigation or offsetting' proposals compensate for the reality of the expected loss of habitat and wildlife.
- Expect a knock-on effect so that the A258 + other roads within 4 miles of Deal currently experiencing intermittent gridlock to become impossible in holiday time.

The Deal Society

- The Ecological Appraisal is not complete and the infrastructure issues have not been addressed.
- The loss of accessible greenspace needs and negative impact on the environment needs to be weighed up against the need for the wave pool.

Hardy Orchid Society

- The Country Park supports the second largest population of lizard orchid in the British Isles.
- Without mitigation, approximately one quarter of this population would be destroyed and the remaining population would be highly likely to be negatively impacted and reduce over time through increased visitor pressure.
- With experience of wild orchid translocation, assert that orchid translocations routinely result in many plants dying and often complete failure unless the translocated plants are moved into an existing, extensive colony of the same species.
- It is impossible to confirm whether the proposed translocation sites are suitable. Were the receptor locations already suitable for lizard orchids, lizard orchids would already be present.
- No evidence that a translocation of Lizard orchids (*Himantoglossum hircinum*) has been proven to be successful over a long timescale. No confidence that the applicant or agents of the applicant will be able carry out a translocation of this species that is a success in the long term.

Representations of Support

1,483 letters of support to the proposed development have been received, raising matters including:

- supportive of the provision of jobs that will be generated by the proposed development;
- development will be a good investment for the local area;

- the proposed design is a low level structure that will not impact on the vista of the park;
- the Bristol wave pool is accessed via a small village and this doesn't have any traffic issues, therefore believes that there is no reason why the proposed development should create any traffic issues;
- the wave pool will be used by the locals;
- the development will become a social hub;
- improvement on wellbeing and encouraging exercise, leading to healthier lifestyles;
- the wave pool will bring much needed tourism to the area;
- there is a large local surfing community within Kent however the surfing is a very limited due to natural conditions and nearby coastlines. Therefore it is considered that this facility will be well used;
- supports growth of surfing over recent years;
- the scheme will have a national draw and will be utilised by people all over the country;
- generation of construction jobs;
- the scheme will put Kent on the map;
- surfing is now an Olympic sport and this is a great way to identify potential talent;
- there are currently very few major attractions in Kent and nothing like this;
- with careful consideration, the wave pool and wildlife can both be harmoniously located at the country park;
- wave pool will work well with the proposed hotel development;
- benefits outweigh the downsides;
- the south east doesn't benefit from good surf which makes it an expensive sport as people need to travel. The surf park removes these barriers to what can be a very expensive sport;
- there is still plenty of space for additional facilities to make the most of the reclaimed land;
- the proposed development still leaves the vast majority of the site all as a natural/restored environment for wildlife, including all the most beautiful and thriving areas;
- water quality at nearby beaches is not good enough for surfing.

Visit Kent

- The development at Betteshanger Country Parks will drive increased economic benefits by creating more opportunities for visitors to stay longer and as a result, spend more money in the local area.

Deal & Walmer Chamber of Trade

- Positive impact of the similar facility in Bristol and welcomes the potential investment that would have a comparable positive economic impact in this area.
- The jobs directly created by this facility would increase spending in other local businesses by those employed.
- The development is proposed on brownfield land mostly currently unavailable for public use and alternative possible sites would incur the loss of greenfield arable land.
- An additional leisure facility in this location would complement the current provision.
- Although additional traffic on the A258 is a concern, the majority of additional movements are likely to be outside the current peak congestion hours.

Tourism Southeast

- The development will provide the local and wider area with significant benefits to the visitor and overall economy.
- Tourism South East are particularly keen to encourage visitor growth and at the same time support local businesses that rely on visitor spend and employment.
- Tourism South East supports the planning application that has been submitted.

Kent Miner Heritage Foundation

- Any development and growth within the park will draw in more visitors and therefore more awareness of the heritage of the site as well as continuing income from shop sales and donations.
- However, the current owners are following in the footsteps of previous owners in developing this land to make it a rich asset for the local community.

The Sports Trust

- Kent has the potential to become an incredible hub of top level sport whilst serving its local community and giving everyone the first step towards a lifelong love of sport.

Locate in Kent

- Regarding the surf facility application and recognise the opportunity to be of general international interest for Dover, East Kent and the whole region. The surf sector, especially ahead of the Paris 2024 Olympics – where it debuts – is a global growth story that has environmental concern as a key tenet.
- The success of the Bristol surf venture shows that there is latent demand and the proximity of Deal to London adds a huge market that can be transformational for the sports tourism sector and support the regeneration of our towns, especially Dover.
- Projects of this calibre and ambition align with our ambition for Kent as the UK's economic gateway powerhouse to the UK. To miss the opportunity would be detrimental to the ongoing economic success story of Kent.
- The developer of this scheme has an ongoing commitment collaboration with organisations such as ours, and in turn local education providers to deliver our mutual long-term commitment to skills development. The skills staff will develop at this resort will help them to establish lifelong careers in hospitality, one the UK's fastest growing sectors.

Big Blue Foundation

- Support for the proposed SeaHive surf facility at Betteshanger Park.
- We promote the numerous physical and mental health benefits to be gained by spending time engaging in healthy outdoor activities, particularly in-water activities like kayaking, paddle boarding and sea-swimming.
- The SeaHive proposal will create extremely positive outcomes for physical and mental wellbeing and provide innovative and sustainable solutions to some of the problems associated with sport in southeast Kent. It will remove barriers to sport across the region, allowing the local community access to an Olympic sport that is underprovided for.
- With marine pollution now a serious problem along our coastline, the SeaHive will provide a clean and safe environment whilst creating jobs and a significant boost to the local economy.

White Cliffs Country Tourism Association

- When SEEDA took over the management of the land and projects it was going to be designed for everyone wildlife and nature, health and wellbeing, tourism and light industries and would be a huge boost to the local economy.
- These ambitious plans would mean that Betteshanger would be sustainable and be here for many generations.
- We should not be looking for things in order to reject the applications. We should be looking for ways to allow these plans.
- Having a surf lagoon at Betteshanger will open the sport up to many people who simply would not be able to access such activity. Disabled or people suffering mobility issues are hardly able to access surfing at the beach yet at an indoor location or inland surfing lagoon are for more likely to be able to access surfing.
- Adding a World Class Surf Lagoon at Betteshanger we will be the envy of most districts in the UK.
- Betteshanger Colliery was just a huge grey mass with coal dust and residue and rusty metalwork with crumbling buildings. It is now a vast area of green, an impressive Mining Museum, a wonderful cycle track and route. wildlife walks and a lovely cafe/restaurant building which is also great for meetings and conferences and even weddings and social events. It also has a great playground and puts on great events. However, it needs to be financially sustainable.

f) 1. The Site and the Proposal

The Site

- 1.1 The application site is located within Betteshanger Country Park (“**the Country Park**”), with a redline boundary (“**the Site**”) that contains:
- the existing access and roadway into the Country Park from the A258;
 - the existing car park for the Country Park and adjacent land to the south west;
 - existing access connections between the main roadway entrance / car park and the orbital cycle track to the south; and
 - land to the south and east of the cycle track.
- 1.2 The Site is identified at Figure 1.

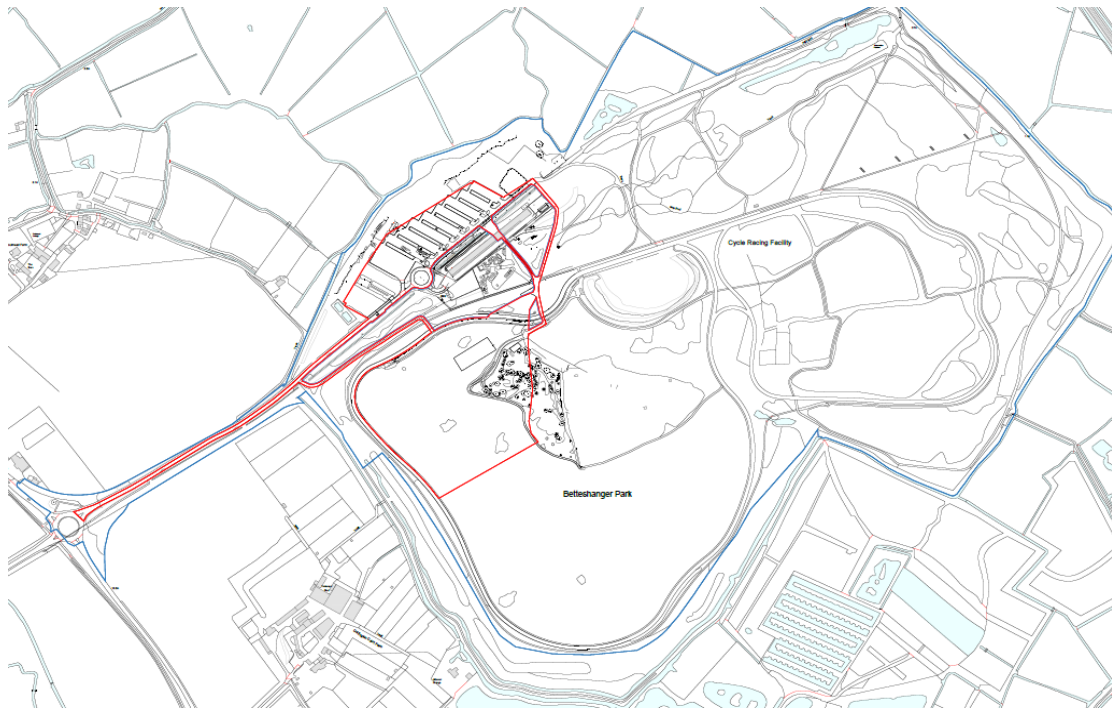


Figure 1: Existing Site

- 1.3 The Site is located within close proximity to the 'developed' part of the Country Park that consists of the visitor centre, Kent mining museum, café/ restaurant and events space and children's play area.
- 1.4 The land to the south and east of the cycle track, and land to the south-west of the car park, is vegetated by areas of species-poor grassland, moderately species-rich grassland, sparsely vegetated ground, tall ruderal vegetation, mixed scrub, frequently abundant scattered scrub and bare ground.
- 1.5 The Site is bound to the north and north-east by areas of vegetation and open ground between the car park and edge of the Country Park; to the west by the hard surfaced cycle track; to the south by areas of continued mixed habitat similar to those on the Site; and to the east by larger areas of the Country Park.
- 1.6 The main part of the Site rises in level from a height of some 8.90m AOD at its western extent to approximately 11.80m AOD close to its eastern boundary.

Betteshanger Country Park

- 1.7 The Country Park is a privately owned, popular Country Park (240,000 visitors last year) with facilities including a visitor centre, mining museum cafe/ restaurant. The park opened in 2007 and was at that time known as Fowlmead.
- 1.8 The Country Park covers a much larger area than the Site, broadly measuring about 85ha or some 1.34 km east-west by 1.1 km north south. Across the Country Park there is a network of walking and cycling paths / trails amongst areas of habitat including open grassland, woodland, ruderal vegetation, scrub, wetland and open mosaic.
- 1.9 The Country Park was formerly the spoil tip of the Betteshanger Colliery coal mine that closed in the late 1980s. The loss of this industry and resultant economic and social consequences led to the South-East England Development Agency (SEEDA)

acquiring the site, to invest in its regeneration to stimulate renewal and growth. SEEDA submitted a planning application (02/00905) for the masterplan led redevelopment / regeneration of both the Betteshanger Colliery spoil tip and pit head site located to the west of the A258. This established the Country Park, which has evolved from that original scheme to what it is today.

- 1.10 Following SEEDA disbanding, Hadlow College acquired the site but were placed into administration in 2019 following which the Country Park was purchased by the current owners. Since then, the current owners have developed / completed the visitor centre.
- 1.11 The Country Park is designated as open space by policies of the Core Strategy and draft Local Plan. The Country Park generally is within flood zone 1 (reflecting its raised spoil tip landform) except for its northern section containing the existing car park and access road that is within flood zone 2 (in main) with a smaller part in flood zone 3. The Country Park does not include any heritage designation; is not within an Area of Outstanding Natural Beauty / National Landscape; nor is covered by any specific wildlife/ecology designation.
- 1.12 The Dover Green and Blue Infrastructure Strategy Evidence Report (May 2022) presents that the Country Park is able to “*offer considerable opportunities for leisure and recreation for Deal, Walmer and the wider district. It could help to attract visitors away from coastal areas where there is high pressure on protected nature conservation sites.*”
- 1.13 Representations received question whether or not the Country Park should be designated a local nature reserve through obligations of the section 106 agreement of planning permission 02/00905. The Council has reviewed this matter, including seeking clarification from the owner of the Country Park as to its position on the possibility of granting the Council a legal interest in the land. The owner of the Country Park has made it clear it is not willing to discuss granting any such interest to the Council, nor does it agree for the land to be designated a local nature reserve. This is significant because, notwithstanding that the section 106 agreement of planning permission 02/00905 runs with the land and binds successors in title, the agreement as to the designation and management of the nature reserve land is revocable should the owner make such a decision³. Accordingly, the Council may not designate land in which it has no legal interest if no agreement exists between the landowner and the local authority to do so.
- 1.14 Other obligations of the 02/00905 section 106 agreement include that any development at the Country Park would need to be approved in writing by the Council (such as through the grant of planning permission) and that such approval to not be withheld (in the context of the section 106 agreement) providing such development would not cause or give rise to *unacceptable* damage to the wildlife value of the land. Matters of ecology are considered further in the assessment section of this report.

Asset of Community Value

- 1.15 The Council received on 30 April 2023 an application by Sholden Parish Council to nominate the Country Park as an Asset of Community Value with regard to provisions of the Localism Act 2011 and the Assets of Community Value (England) Regulations

³ Section 19(3) of the National Parks and Access to the Countryside Act 1949 makes it clear that a local authority must de-declare land which is the subject of a nature reserve declaration when an agreement ceases to be in force. The Government guidance on setting up and managing a local nature reserve explains that a landowner may reclaim designated land and that the local authority must, in such circumstances, de-declare the land as an local nature reserve

2012. The Council determined that application in June 2023 and set out that as it considers the Country Park furthers the social wellbeing or social interests of the local community, and it is realistic to think it can continue to do so and the Country Park should be included within the Council's list of Assets of Community Value.

- 1.16 The identification of the Country Park as furthering the social wellbeing or social interests of the local community is a material consideration in the assessment of this planning application. The listing of the Country Park as an Asset of Community Value affords certain provisions intended, generally, to allow a community interest group time to seek to acquire the Country Park should the owners seek to dispose of it (in part or in full). In these circumstances, it is important to note that should the community interest group make an offer to acquire the Country Park, it remains at the discretion of the vendor as to whether or not they would wish to accept that offer. The vendor is under no obligation to sell the asset to the community group or any other person. The provisions relating to any disposal of the Country Park are not considered material in the assessment of the planning merits of the proposed wave pool scheme.

Surrounding Area

- 1.17 Deal/Sholden is the closest settlement to the Country Park at a distance of approximately 2.4 km as the crow flies (from centre of Deal to the centre of the Country Park). As well as walking and cycling routes via the A258, a number of public footpaths connect the urban area of Deal/Sholden to the Country Park. Bus services between Deal and Sandwich route along the A258 with stops about 15 minutes walking distance of the Site.
- 1.18 Across an area that arcs east-west to the north of the Country Park, and on separate land adjacent to the south, is the Thanet Coast & Sandwich Bay Ramsar. This land is designated too as the Sandwich Bay to Hacklinge Marshes SSSI; and its western section is also part of the Thanet Coast & Sandwich Bay Special Protection Area. Along the coastline, within a distance of approximately 1km of the Country Park is the Sandwich Bay Special Area of Conservation (SAC).
- 1.19 The landform / topography to the north and east of the Country Park is generally low lying and flat; there are elevated views from the Country Park across the immediate adjacent land to the west.

Proposed Development

- 1.20 Planning permission is sought for the construction of an artificial lagoon with associated wave generating plant to allow it to be used for surfing activities, as shown at Figure 2.

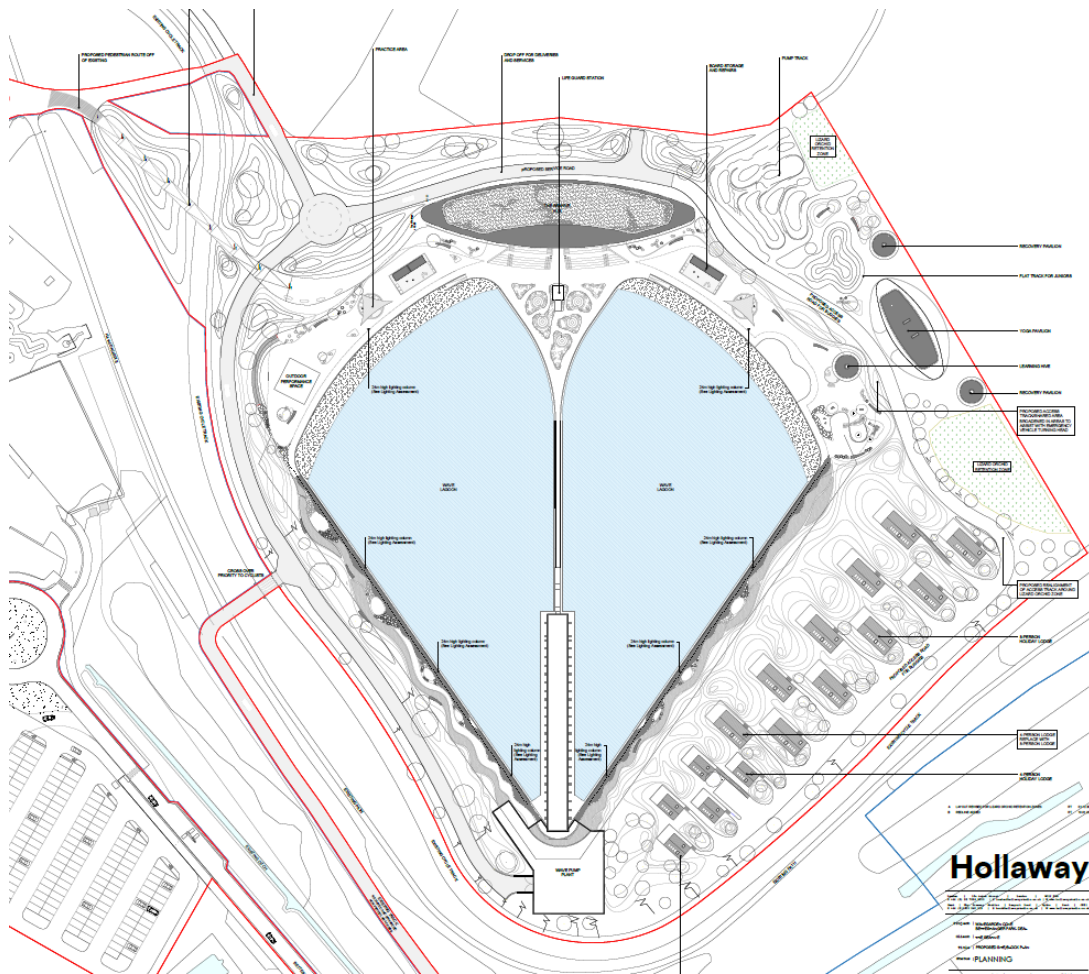


Figure 2: Proposed Site Plan

- 1.21 The surf lagoon would be a large concrete basin, measuring some 190m at its widest extent by 200m in length, with an average water depth of 1.5m.
- 1.22 Lengthways across the lagoon would be a plinth and enclosed structure to support the wave generating plant, connecting to a central wall/walkway that divides the water space in two. A plant enclosure would be positioned at the western end of the lagoon.
- 1.23 The lagoon would be located to the south of the visitor centre, beyond (to the south and east) the existing cycle track. It would form part of a larger complex of development comprising a range of buildings, outdoor facilities and landscaped areas including:
 - i. main hub building;
 - ii. wellness centre;
 - iii. learning hub;
 - iv. practice area and associated canopies;
 - v. surfboard storage and repair buildings;
 - vi. residential holiday lodges;
 - vii. BMX / bicycle track;
 - viii. enlarged car park;
 - ix. service / access roadway and footways;
 - x. lighting columns.
- 1.24 A plan of the proposed development is at Figure 2 above and Figure 3, with some more

detail of each element provided below.

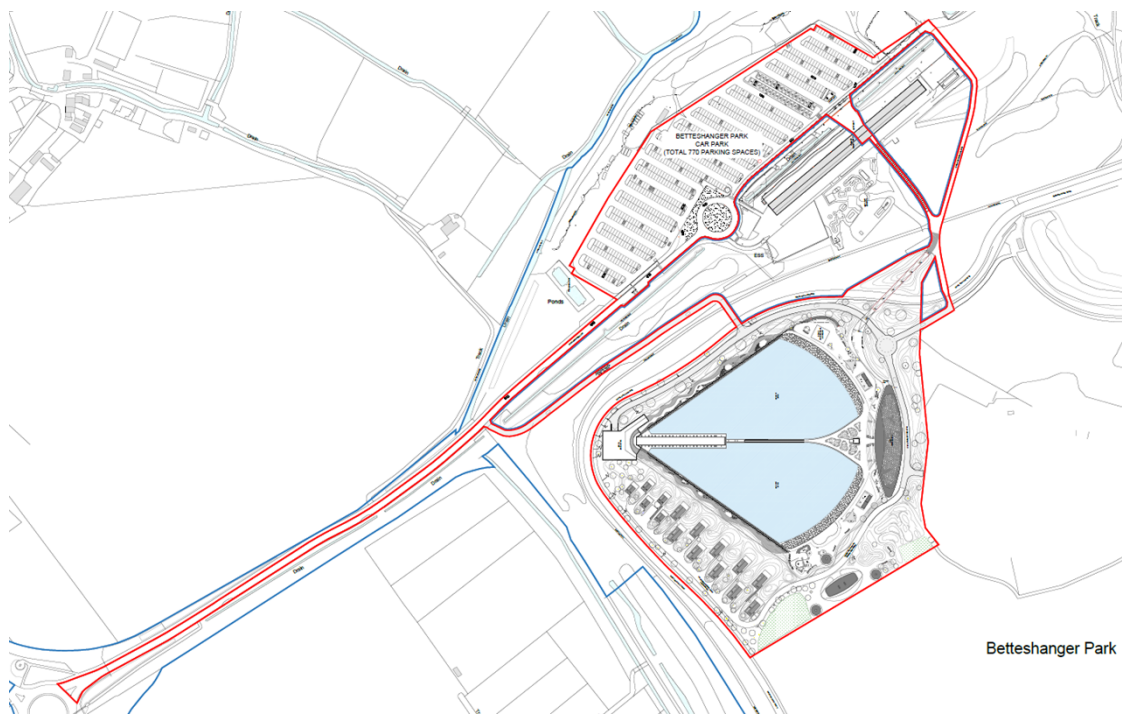


Figure 3: Proposed Site Plan in Wider Context

Main Hub Building

- 1.25 The main hub building (Figure 4) would be a two-storey pavilion with an elliptical footprint, located at the eastern end of the surf lagoon. It would have a shallow mono-pitched roof with deep overhanging eaves. Entrance to the building would be at first floor level (to work with levels of the pedestrian bridge over the cycle track), with egress to the surf lagoon via large steps down (as a feature of the building) or from the ground floor below.
- 1.26 The building would measure some 82m by 25m, with a maximum height of 10.4m. The elevations would be timber clad and the roof covered in new planting or translocated substrate and seedbank from the Site. At first floor level, there would be eating and drinking facilities, lounge/sitting areas and work or function space. An external terrace / viewing area across the lagoon would be provided. On the ground floor would be surf equipment hire facilities, changing rooms and staff areas.

Wellness Centre

- 1.27 The wellness centre comprises a single storey pavilion, measuring some 30m by 11m to a height of 4.1m. It would be located on the southern side of the surf lagoon. With an elliptical footprint and deep overhanging eaves, timber clad elevations and green roof, its form and appearance would relate to the main hub building. Two detached, smaller pavilions are proposed on either side – each circular in footprint (with a diameter of 8.4m), slightly lower in height at 3.4m and again timber clad with green roofs. Together the buildings would provide yoga and gym facilities and space for holistic meditation / recovery therapies.

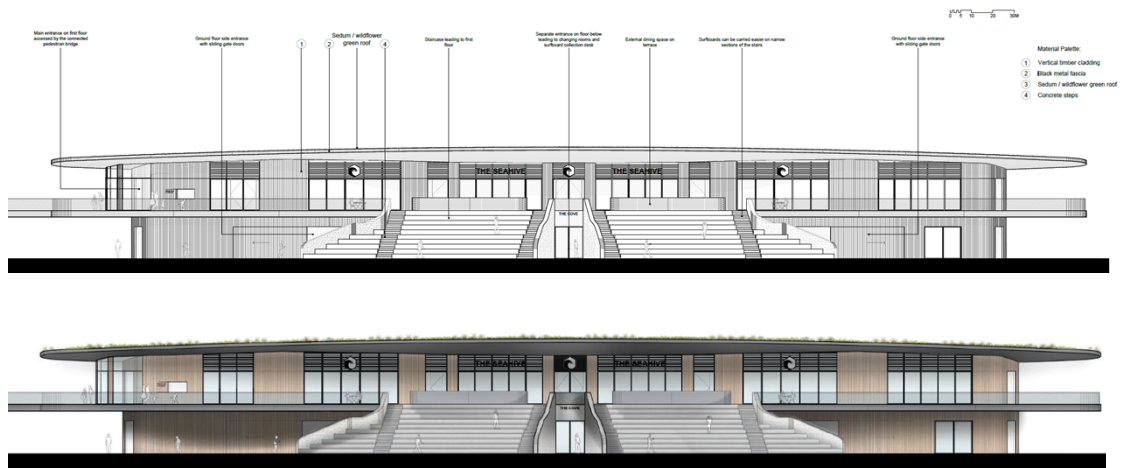


Figure 4: Main Hub Building

Learning Hub

- 1.28 The learning hub is a single storey pavilion, also located to the south of the surf lagoon. It would be of the same size and appearance as the smaller wellness centre buildings. It is intended to be used for in connection a 'surf therapy programme' that would help young people with mental health issues.

Practice Area and Associated Canopies

- 1.29 Two triangular shaped canopies, single storey in height and supported by fixed poles, are proposed at the eastern side of the surf lagoon. Each would provide shelter for surfing practice.

Surfboard Storage and Repair Buildings

- 1.30 Four small buildings are proposed, single storey and timber clad, for surfboard storage and repair/maintenance activities. The buildings would be located in two areas on the eastern side of the surf lagoon.

Residential Holiday Lodges

- 1.31 Fifteen residential holiday lodges would be positioned on the southern side of the surf lagoon. Two sizes of lodge are proposed:
- five smaller lodges (Figure 5), each measuring 7.8m by 5.6m, timber clad (on elevations and roof), pitched roof over to a ridge height of 8.3m. Each would have two bedrooms at mezzanine level above a kitchen / living room and bathroom; and
 - ten larger lodges (Figure 6), each measuring 13m by 6.8m, timber clad, pitched roof over to a ridge height of 8.6m. Each would have four bedrooms along with a kitchen / dining / living room and bathrooms across ground and mezzanine levels.

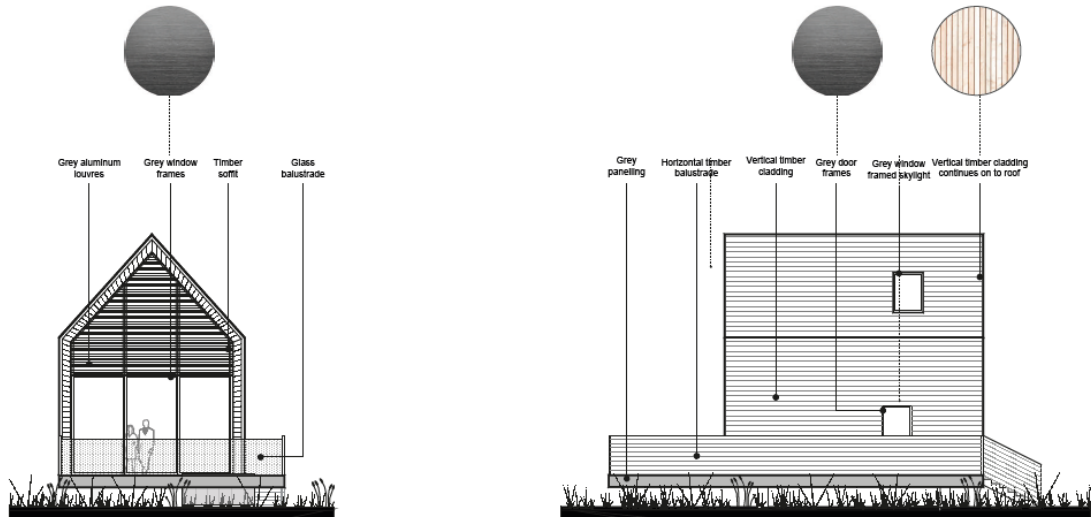


Figure 5: Smaller Holiday Lodge

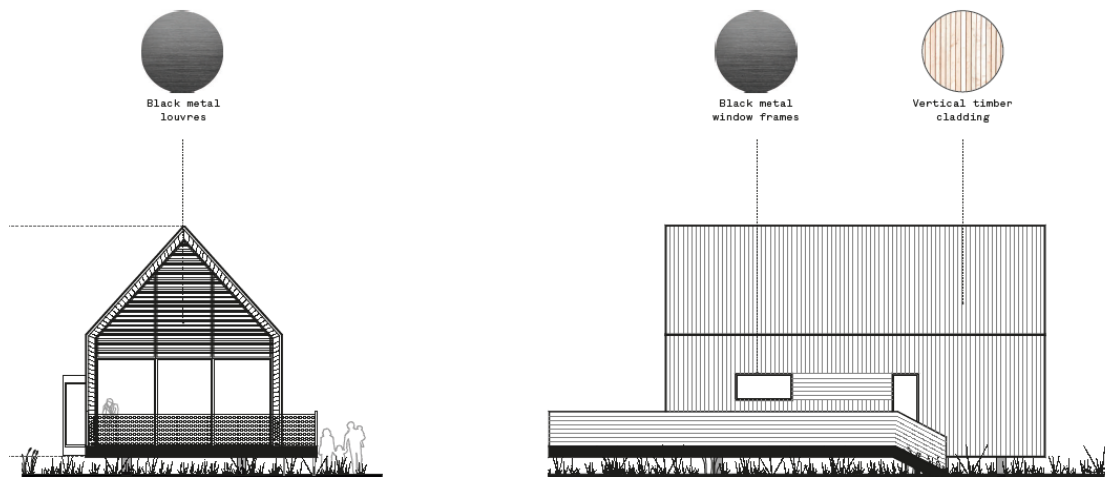


Figure 6: Larger Holiday Lodge

- 1.32 Each lodge would have a timber decking area facing towards the surf lagoon.

BMX/Bicycle Track

- 1.33 In the south-east corner of the Site a BMX pump track is proposed for recreational use.

Enlarged Car Park

- 1.34 The existing car parking area would be reconfigured and expanded on adjacent land to the south-west to accommodate 770 parking spaces (there are approximately 500 unmarked spaces currently) for use by visitors to the proposed development and existing Country Park.

Service / Access Roadway and Footways

- 1.35 A new service road would be provided around the perimeter of the surf lagoon, providing access to the plant room, main hub building and wider facilities (including wellness centre and residential lodges). This road would link to existing tracks, connecting to the car park and main entrance roadway.

- 1.36 For pedestrians there would be separate walking routes around the surf lagoon and bridge link across the existing cycle track to connect to the main car park.

Lighting Columns

- 1.37 Lighting columns are proposed around the surf lagoon. The originally proposed 8 x 24m high columns have been revised to 18 x lower 12m high columns.

- 1.38 As well as the existing and proposed plans and elevations, the following documents accompany the application:

- Design and Access Statement
- Air Quality Assessment
- Arboricultural Impact Assessment
- Archaeological Assessment
- Flood Risk Assessment and Drainage Strategy
- Heritage Impact Assessment
- Ground Investigation Report
- Phase 1 Land Contamination Assessment
- Lighting Assessment
- Landscape and Visual Impact Appraisal (LVIA) and Addendum
- Noise Assessment
- Statement of Community Involvement
- Transport Statement
- Topographical Survey
- Execution Feasibility Overview
- Transport Response Note
- Ecology information as detailed below in this report
- Public Access Note – that public access at nil cost to the Country Park would be secured
- Planning Statement – outlines the background to the site and the proposal and highlights the social and economic planning benefits
- Socio Economic Benefits Assessment – this provides a socio-economic benefits assessment of the scheme as considered below
- Financial Summary Report – this outlines the current revenue channels of the park, provides financial information relating to the applicant company and the operating company, it also outlines the potential effects of the proposed development. Key extracts read as follows;

“The closure of the park is now a highly likely scenario unless significant changes are enacted. This would result in over 40 job losses, the loss of a major community asset, the closure of the Mining Museum and the resumption of Betteshanger as a failed project.

However, two planning applications have been submitted that cumulatively can safeguard the future of the park if consented resulting in a cash positive position being created. The financial issues around Betteshanger Country Park are solvable and solved by the creation of a long-term, secure rental stream from the delivery of a surf lagoon and hotel.

The ownership of the land at the Country Park sits with Betteshanger Property Ltd. However, the day to day running of the park is undertaken and managed by an operating company. These companies are under common ownership.

Since the park was purchased from the Administrators, £3.2m has been put into Betteshanger Property Ltd to purchase the land and build the visitors centre and £631k has been put into the operating company to set up the management of the park and keep it open. This has been used to fund the operational deficit to date.

Betteshanger Country Park generates revenue through several channels:

a. Car Park: The park charges a daily parking fee. This consistent revenue source is influenced by visitor footfall.

b. Café: The on-site cafe, The Lamp Room, contributes to revenue by offering food and beverages to visitors.

c. Events and Conferences: Hosting events, workshops and conferences capitalises on the park's unique setting, attracting additional revenue from corporate and private bookings. Hosting seasonal events and festivals can attract visitors during the off-peak months, boosting revenue.

d. Outdoor activities: Income is generated from renting equipment for outdoor activities like cycling, nature walks and adventure sports. Expanding environmental education offerings can attract schools and families, diversifying revenue streams.

Despite huge investment the park is projected to continue to lose £48k per month up to 31 December 2026 or £582k per annum. The forecasts show a deficit of £1.8m by the end of 2026 in addition to the £3.2m injected to date

Successful planning applications would allow for additional income as follows:

a. Rent of the land allocated to the site with regards to the Hotel at 15% of EBITDA (Earnings before interest, taxes, depreciation and amortization).

b. Rent of the land allocated to the site with regards to the Surf Lagoon in the sum of £108,750 per quarter or £435,000 per annum. This is based on a signed contract with Seahive. This would project an increase of revenue of £662k for 2025 and £820k for 2026. This will be income generated by renting the land to a third party”

1.39 The content / conclusions of these reports are further considered in the assessment section of this report below.

2. Main Issues

2.1 The proposed development offers significant public and economic benefits. However, the site is located in the countryside within a sensitive ecological setting. These matters, amongst others, must be weighed and balanced in coming to a decision. Below, the main planning issues relevant to the consideration of the scheme are presented, then considered in this assessment.

2.2 The main issues in the consideration of this application are:

2.3

- Planning Committee resolution of application 22/01152
- Tourism and the visitor economy
- Benefits of the scheme to Betteshanger Country Park
- Social benefits of the scheme
- Principle of development in this location
- Open space
- Ensuring the vitality of town centres

- Transport and highways
- Design
- Landscape and visual impact
- Ecology
- Archaeology and built heritage
- Noise and air quality
- Ground conditions
- Drainage and flood risk
- Water supply
- S.106 contributions
- Planning balance

Assessment

Planning Committee resolution of Application 22/01152

- 2.4 In making a decision on this application, regard must be made to the resolution of the Planning Committee in July 2023 to refuse planning application 22/01152 for a hotel. The full resolved reasons for refusal are set out above in the history section of this report. In summary, it was resolved to refuse planning permission on two grounds – the first relating to the loss of designated open space (identified as an Asset of Community Value) and change to its character and appearance; and the second in relation to the impact upon habitat that supports a population of turtle doves.
- 2.5 Following that resolution, the applicant has submitted a Financial Summary Report to support this application, to set out their position that the Country Park is financially unsustainable and that additional revenue and diversification of the Country Park is necessary to avoid the risk of it being closed (noting that it is solely in private ownership). It sets out that income generated by the development will help ensure the County Park's long term, sustainable future.
- 2.6 The applicant has also offered a commitment that public access to the Country Park at nil cost would be maintained in perpetuity (although car parking charges would remain). This would be secured via a legal obligation that would be effective if planning permission was granted and implemented.
- 2.7 For clarity, the owners are under no legal obligation to keep the Country Park open or to allow public access at nil cost; and being as it is in private ownership, the Council currently has no ability to ensure that it remains open and available for communities to enjoy.
- 2.8 These matters are assessed in sections below.

Tourism and the Visitor Economy

- 2.9 The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It identifies an economic objective as one of three strands to achieving sustainable development (alongside a social objective and an environmental objective) - recognising the importance of a strong, responsive and competitive economy.
- 2.10 The challenges facing Dover District's economy are highlighted in the Core Strategy (paragraph 2.67) - the district's economy lags behind other parts of the county, is

polarised between low and higher value businesses and has an underdeveloped tourism sector with the district seen as a transit location rather than a destination.

- 2.11 The Core Strategy expands on matters relating to tourism (paragraph 2.45), setting out that visitor spend is lower than Kent's average and visits to some key attractions and overnight trips by overseas visitors have declined. Overall, tourism is underachieving its potential. It presents the considerable opportunity to encourage economic growth through tourism, including to encourage visits to a network of attractions and better promotion of the district's historic and natural assets (paragraph 3.25).
- 2.12 The Council's more recent 'Growth strategy for tourism and the visitor economy 2020 to 2030 – Executive Summary' (May 2021) ("the Growth Strategy") has a specific ambition: *"To take tourism in White Cliffs Country to a whole new level, to harness the huge potential this industry has to grow our district's economy, and to drive economic, social and cultural regeneration."*
- 2.13 The Growth Strategy seeks to encourage investment in the tourism industry, attract new providers to the tourist industry and increase the number of visitors coming to the district and encourage visitors to stay longer and spend more. Its objectives include the need to build an innovative economy with tourism, visitors and sustainability at its heart and to generate good jobs and greater earning potential in tourism, hospitality and the service sector.
- 2.14 Importantly, to help achieve these objectives, the Growth Strategy seeks to facilitate new attractions to help boost the number of visitor day trips, number of overnight stays, duration of stays, visitor spend and level of satisfaction. Its aims for developing the district's tourist and visitor offer include providing first class attractions and unique experiences, alongside creating capacity to build skills, training, education and sector based employment and apprenticeships.
- 2.15 The draft Local Plan advances the economic objectives of the Growth Strategy. Its overarching vision and strategic objectives identify tourism as a key sector of a prosperous economy. Strategic Policy SP6 encourages development that would extend or upgrade the range of tourist facilities, particularly where it would attract and extend the season for the staying visitor. This objective of Policy SP6 is generally consistent with the Framework (paragraphs 85 and 86) in setting out a clear economic vision and strategy to encourage economic growth and supporting wider economic opportunities for development.
- 2.16 The importance and value of tourism development to the Council is emphasised by the consultation response from the Council's Head of Place, Growth, Investment & Creative Services ("the Economic Response") which supports the surf lagoon proposal in recognition of Dover District's economic profile and due to the contribution they consider it would make to support investment, jobs and spending in the local economy leading to economic growth. The figures provided in the letter are striking in showing the significance of the reduction in the tourism sector (falling some £100 million annually in 2 year from over £302 million annually (supporting some 6,000 jobs) in 2019 to some £201 million (with fewer jobs of some 4,500 supported) in 2021.
- 2.17 The wave pool scheme offers a considerable opportunity to positively improve tourism and boost the visitor economy across the district as a whole. The Economic Response sets out that there is an increasing market for people seeking exciting and quality experiences, as would be offered by the wave pool scheme and that the proposal would complement existing experiences and attractions in the area.

- 2.18 It explains that there is huge scope to grow the visitor day market and to convert some day activity to overnight breaks (and officers highlight that this could have synergies with the hotel scheme, if granted planning permission) and that the location of the Site and the Country Park is well placed in relation to other tourist and recreation offers in the vicinity.
- 2.19 The Economic Response further emphasises that tourism is a vital industry across the district in terms of economic growth and regeneration, with the potential to grow much further – and that the proposed development is in accordance with the Council’s Corporate Plan, Tourism & Visitor Economic Strategy and Economic Growth Strategy.
- 2.20 The information provided in the applicant’s Socio- Economic Benefits Assessment is important (and also highlighted in the Economic Response). It identifies the following;
- The scheme would involve the creation of between 60 to 100 direct jobs and between some 45 and 74 indirect jobs once operational;
 - The total work place salaries would be between approximately £1.7 to £3 million annually;
 - There would be some £4 million gross value added (per annum) to the local and wider economy;
 - Providing overnight accommodation for c 10,950 guests annually;
 - An estimated £6.8 million per year from visitor spending and £2 million per annum from overnight guest additional spend would be generated; and
 - During the construction phase, there would be further direct and indirect jobs and gross value added economic activity to the local and wider economy.
- 2.21 The Assessment provides detail on the level of jobs the proposal would create, identifying 100 direct jobs and 74 indirect jobs in high season. This is a significant contribution to the workforce and would provide a range of skilled and non-skilled job opportunities within the Dover district, which is to be welcomed, particularly as it is identified within Dover’s economic profile that the district has a higher-than-average unemployment rate for the south-east, particularly when considering youth unemployment.
- 2.22 The proposed economic benefits to the local area and the wider district would be significant. The proposal would fill an identified gap in the tourism sector, encouraging visitors to the area as a result. This in turn would have a ripple effect on the wider economy with visitors spending money both on site and further afield in the surrounding towns of Deal and Dover.
- 2.23 The Dover district tourism industry has shrunk since 2019, with fewer visitors and less income, yet it is identified that there is potential for growth. The proposed development would provide a major boost to the visitor economy and sizable investment in the district. Development would provide confidence to the visitor-led economy, especially at this time of greater economic uncertainty (as set out in the Economic Response).
- 2.24 This attraction investment would work as a catalyst and would likely provide confidence to the visitor-led economy and offer opportunities for linked investment in the surrounding area.
- 2.25 The proposed economic benefits to the local area and the wider district would be significant. The Financial Summary Report predicts rent of the land allocated to the site with regards to the Surf Lagoon in the sum of £108,750 per quarter (or £435,000 per annum).

- 2.26 The proposal would provide a first-class flagship attraction (one of the first few inland surf facilities globally) and would provide diversification to the tourism offer of the district, contributing to filling the demand from an increasing market for people seeking exciting and quality experiences and would extend the range of tourist facilities, encouraging visitors to the area as a result. This in turn would have a ripple effect on the wider economy with visitors spending money both on site and further afield in the surrounding towns of Deal and Dover.
- 2.27 The economic benefits realised from the development are considered significant and this is a material consideration that weighs in support of the proposal and meets one of the tests of the 'golden thread' running through the Framework in respect of meeting sustainable development.

The Contribution of the Scheme to the Running of Betteshanger Country Park

Financial information provided for Betteshanger Country Park

- 2.28 This application highlights the role and value of the wave pool scheme in providing a sustainable income source to the park to ensure its long-term financial future.
- 2.29 Currently, revenue is generated through the car park, café, events and conferences and outdoor activities (set out in the applicant's Financial Summary Report), with operational costs encompassing staffing, maintenance, utilities and marketing.
- 2.30 The Financial Summary Report states that the Country Park is an asset that is significantly cash negative and that since acquisition the company has struggled to generate a profit from operating the Park and that it is not commercially viable in its current structure. It states that the closure of the park is a *'highly likely scenario unless significant changes are enacted. This would result in over 40 job losses, the loss of a major community asset, the closure of the Mining Museum...'*.
- 2.31 Providing further context, the Financial Summary Report explains that:
"Since the park was purchased from the administrators, £3.2m has been put into Betteshanger Property Ltd to purchase the land and build the visitors centre and £631k has been put into the operating company to set up the management of the park and keep it open"
- 2.32 The statement provides details of the Country Park's turnover, profit and loss for the past three year-ends and outstanding creditor balances and reserves. It concludes that, as things stand, the park is projected to lose £582k per annum with a deficit of £1.8m by the end of 2026 (p7). The Financial Summary Report and submitted accounts sets out that the site is currently operating at a loss, even with significant visitor numbers.
- 2.33 The application relating to the hotel development has explained that the running costs of the park, on wages alone, amount to £522,823.66 per annum (from 2022 accounts), which include nature management, health and safety and security roles. In addition, the insurances required for the site amounted to approximately £32,000 in 2021-22.
- 2.34 It does appear, from the above information, that the position is unlikely to alter without additional income streams. This position is backed up by officer research into how other Country Parks operate (see section below), which leads officers to conclude that this does appear to be a realistic position. Officers draw Members' attention to the fact that these figures have not been independently assessed (as the applicant is not

making an enabling case). The figures were submitted to provide background information regarding the prospect of the Country Park being closed should alternative means of income not be sourced. However, as they have not been independently assessed, Officers do not rely upon these figures.

- 2.35 The owners of the Country Park currently have no legal obligation to keep the park open (nor to do so at nil cost to the visitor). Through this application, the applicant has offered to enter into a legal agreement requiring that the Country Park would remain open for public access in perpetuity and at nil cost to the users of the Country Park upon the operation of the wave pool scheme and whilst it remains operational). Given the high significance placed on the value of the Country Park as a public destination, officers give this significant weight.
- 2.36 This proposal is considered to safeguard the future of the Country Park. This is not to say that it would be the only way of safeguarding its future – it is nevertheless the one presented by the applicant and is convincing in respect of contributing to securing the financial viability of the Country Park overall.
- 2.37 As such, in combination with the significant economic benefits of the proposal, the safeguarding assurances of the County Park is given significant weight in support of the proposal.
- 2.38 The obligation offered by the applicant, to ensure the Country Park remains open to the public at nil cost, is considered in relation to Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended):
- given the reasons of the Planning Committee’s resolution to refuse the previous hotel application (reference 22/01152) on the Country Park referred to the loss of public open space (considered to provide great amenity, as reflected in it being designated an Asset of Community Value), the obligation to safeguard public access to the Country Park (of its area beyond the Site) is considered by officers necessary to make the development acceptable in planning terms;
 - that the obligation would be triggered by occupation of the development would ensure it is directly related to the development;
 - the area of the Country Park that would be covered by the obligation would have a relationship with the development, with the two sharing facilities / infrastructure including car parking, such that the spatial extent of the obligation is considered fairly and reasonably related to the development.

Other Country Parks

- 2.39 In order to gauge the challenges and financial context of running country parks to provide some level of marker or comparison, Officers have undertaken research and have looked into how two other private country parks are operated – River Dart Country Park in Devon (90 acres) and Aldenham Country Park in Hertfordshire (100 acres). Both are significantly smaller than Betteshanger Country Park which has an area of about 210 acres.
- 2.40 River Dart currently operates at weekends only (due to winter season) and charges an entry fee for all visitors over the age of three. This is currently set at £3 per person (winter rate), but the summer rate is £13.20 per person (aged over 5), a rate of £7.15 per person for three and four year olds and a rate of £5.50 per dog. There are additional charges for activities at the park, including overnight camping.

- 2.41 Aldenham Country Park is a not-for-profit farming, food, rural care and education enterprise. Entrance to Aldenham Country Park is free, but there is a £4.50/ £5.00 charge for car parking, £3 per person charge for the children's playground and other charges for visiting the farm and animal petting area. The park offers paid for camping facilities too.
- 2.42 Officers have also held discussions with three other councils involved in the running of publicly owned country parks – Kent County Council, Hastings Borough Council and Essex County Council. From these discussions it was apparent that one of the benefits publicly run parks have over privately owned parks is that staffing and costs can be shared across sites to reduce outgoings.
- 2.43 Despite the ability to share costs across sites, Kent County Council nevertheless still confirmed that it operates an 80/20 model across its parks – referring to its Kent Country Parks Strategy 2023-2028, where an objective looks to “*maximise the opportunities to generate income on the sites through catering, education, events and innovative paid for facilities and services whilst operating at maximum efficiency*”. The Strategy goes on to explain that “*The Kent Country Parks service is already generating income to cover approximately 76% of its running costs....Over the next five years the service will review the efficiency of these income generating services and seek to maximise the income and profitability of the services offered. Alongside this we will look for opportunities to expand our offer across the County Parks sites (where this is possible) either through existing income streams or by adopting new and innovative services or facilities.*”
- 2.44 This research makes it clear that whether a park is privately owned, run as a not-for-profit enterprise or as a publicly run park, ensuring a park is financially self-sustaining is a significant challenge due to the operating costs involved.

Deliverability

- 2.45 With regard to the nature of the wave pool scheme, with relatively few comparators available, information has been provided by applicant as to its commercial diligence and the future financial sustainability of the development. This information includes that:
- development will attract meaningful investment from investors who themselves have sufficient confidence;
 - there is a large population within the wave pool scheme's catchment area;
 - there would be multiple revenue streams to sustain the business throughout the year;
 - the development has 'first mover' advantage in south-east England;
 - there would be economic synergies with the proposed hotel development, if granted and implemented;
 - the development will use proven technology from 'Wave garden', utilised internationally;
 - the development team has experience in the tourist/leisure sector, as well as successful marketing of an urban surf venue in Melbourne, Australia.
 - the Site is suitable from a geotechnical perspective.
- 2.46 Whilst there can be no absolute guarantee of longer-term business success, the application provides information in respect of the deliverability of the scheme. This is of relevance in respect of the weight to be placed on the economic and social benefits of the scheme and in balancing this against the harm identified in other areas of the report.

Social Benefits of the Proposal

- 2.47 One of the overarching objectives of the Framework is a social objective. It seeks to plan positively for new recreation facilities (paragraphs 97 and 102), recognising that sport and physical activity have a key role to enhance the health and wellbeing of communities. Draft Local Plan Policy SP2 promotes the creation of healthy, inclusive and safe communities – and states that development should provide recreational facilities to enhance wellbeing and to address health inequalities in society.
- 2.48 This would be the first and only surf lagoon in the region – creating a new opportunity for surfing as a positive physical and sporting activity, where there are not such existing facilities.
- 2.49 Not only would the surf lagoon provide positive social benefits for those visiting the attraction in a commercial sense, in addition, the wave pool scheme would include measures to promote inclusivity and ensure a greater community reach beyond just its commercial offer. This outreach would include:
- the offer of surf therapy courses (via ‘The Wave Project’, a local charity) for children and adults with mental health challenges;
 - to offer the scheme as an environment for children to learn, to provide creative and engaging learning activities linked to key subject areas;
 - to offer accessible and adaptive surfing opportunities for people with physical disabilities;
 - a commitment to provide up to 2,500 free surf sessions per year to local state school children;
 - a commitment to provide an activity programme, in conjunction with the government’s ‘Holiday Activities and Food Programme’ for under privileged local school-aged children during main school holidays; and
 - the offer of apprenticeship schemes in the operating business, with focus on school leavers within the local area.
- 2.50 These positive social and community aspects of the wave pool scheme are considered significant, can be secured via s.106 obligations of a planning permission and weigh in favour of development.

Principle of Development in This Location

- 2.51 The surf lagoon is an outdoor recreation facility, for which saved Local Plan Policy OS7 is relevant. Policy OS7 seeks to locate development for outdoor recreation within or close to the edge of the largest towns in the district where there are opportunities of access by public transport, cycle or walking. Whilst the Site does not adjoin the built-up area of Deal, it is considered sufficiently well-related and accessible (as presented in greater detail below) to be consistent with the spatial provisions of Policy OS7.
- 2.52 Draft Local Plan Policy E4 supports visitor attractions across the whole district where they would increase the range and/or quality of facilities, as would be achieved by the wave pool scheme. Policy E4 also allows for self-catering tourism accommodation, such as the proposed lodges, across the district, including in countryside locations. Whilst Policy E4 is draft, its provisions to allow visitor attractions and self-catering tourist accommodation in the countryside as well as settlement locations is consistent with Framework paragraph 88 (that encourages sustainable tourism and appropriate leisure development to support a prosperous rural economy that would respect the character of the countryside). The proposed development includes buildings for a

range of wider facilities, which are ancillary or associated with the principal outdoor recreation use or considered as providing tourist accommodation or visitor attractions under draft Local Plan Policy E4.

- 2.53 Framework paragraph 84 (relating to supporting a rural economy) states that decisions should enable the sustainable expansion for all types of business through well-designed buildings, sustainable rural tourism and leisure developments which respect the character of the countryside and the development of community facilities such as sports venues.
- 2.54 This is reflected by Draft Local Plan Policy E4, where the acceptability of development is subject to consideration of matters of design and character and appearance of the surrounding area (including level / type of activity), landscape character and biodiversity, heritage, residential amenity, the Thanet Coast and Sandwich Bay SPA and the accessibility of the site along with sustainable travel options, impacts of traffic generation, and car parking and access. These criteria of Policy E4, as relevant, are considered in sections of this report below.
- 2.55 As the wave pool scheme functionally requires such a location outside settlement boundaries / within the countryside, the development benefits from specific exceptions within Core Strategy Policy DM1 (Settlement Boundaries) and Policy DM15 (Protection of the Countryside) that otherwise would generally restrict development in the countryside (notwithstanding that these policies are considered to not be fully compliant with the Framework and / or out of date such that they are afforded less than full weight). Accordingly, where there is support from saved Local Plan Policy OS7 and draft Local Plan Policy E4, the principle of development in a countryside location is accepted as being policy compliant.

Open Space

- 2.56 Betteshanger Country Park is designated as open space. The current and emerging development plan have several policies in respect of the loss of open space, which must be considered in assessing this part of the proposal.
- 2.57 Firstly, Core Strategy Policy DM25 seeks to resist the loss of open space unless there is an identified surplus; or the open space does not / could not contribute to addressing a deficiency; or an equivalent replacement area of open space is provided.
- 2.58 Draft Local Plan Policy PM5 also affords protection to open space outside of settlements if it is significant in relation to the character of a settlement or built-up area; provides for the setting of an important building or scheduled monument; or in itself is of historic or cultural value.
- 2.59 Core Strategy Policy DM25 and draft Local Plan Policy PM5 should be read alongside paragraphs 102 and 103 of the Framework all of which seek to protect open space. Draft Local Plan Policy PM5 states that existing open space should not be built on unless it meets one of three criteria. These include; that an assessment has been undertaken which clearly shows the open space to be surplus to requirements and the, the loss of would be replaced by equivalent or better provision, or that development is for an alternative recreational provision whose benefits would clearly outweigh the loss of the open space. In this case, the development is considered to meet two of the criteria (those referred to above).
- 2.60 Regard is also had to the Council's 'Open Space Play and Standards Paper' (2019). This recognises the Country Park as semi/natural green space. For such semi/natural

green space, the 'Open Space Play and Standards Paper' finds there to be a significant surplus within the district:

“the existing provision of 3.47 hectares per 1,000 population is well above the national FIT [Fields in Trust] benchmark of 1.801 hectares per 1,000 population.”⁴

- 2.61 In considering the quality of semi/natural green space across the district, the 'Open Space Play and Standards Paper' is again helpful. It presents that the Country Park, along with other such areas, exceeds the set threshold of quality, noting that just one site in the district (within the Dover area) is falling below that threshold.
- 2.62 The Council has also undertaken an Open Space Assessment Report (December 2019) and Open Space and Sport Topic Paper (2022) as part of its evidence base for the draft Local Plan. The Open Space Assessment Report specifically refers to Betteshanger Country Park and identifies it as the largest natural and semi-natural greenspace site in the District, accounting for 24% of such provision in the district. The report also identifies the Country Park as being the second highest scoring site in the district in terms of its quality, recognising its importance as an area of open space. The Topic Paper concludes that the Country Park should be retained as open space as, even though the amount of such green space exceeds the quantity standard, the wider and general benefits of open space are recognised.
- 2.63 The proposed wave pool scheme would result in the loss of 9.7ha of open space. The site plays an important role in providing not only a local but also a regional area of open space.
- 2.64 The quality of the Site within the Country Park must be considered too. The impact of development on the function/usability of the wider Country Park is limited to an extent by its location in close proximity to the existing built form (including the visitor centre and car park). Accordingly, despite the Country Park's noted importance within the Topic Paper, Officers consider development on the site and its loss as open space would not be significant in the overall context and would not result in a significant loss that would affect the wider enjoyment of the open space on offer.
- 2.65 The conclusions of the Open Space Assessment Report, and Open Space and Sport Topic Paper have been taken into account and are not considered to override the relevant open space policy tests against which the planning application has been considered, as set out above. Moreover, whilst the Country Park is an important open space, the district does have a recognised surplus of semi/natural green space. As such, the proposed loss of open space is considered to comply with the tests of Core Strategy Policy DM25 and the Framework.
- 2.66 Given the extent of the surplus of semi/natural green space, this position of policy compliance would remain the case if the proposed hotel scheme, which is being considered under a different planning application (application reference 23/0105) was to be granted planning permission and delivered as well.
- 2.67 In addition, contributing to the assessment is the fact that the scheme would, through a s.106 agreement, safeguard future public access to the open space, which in officers' view is very significant.

⁴ Paragraph 4.18, 'Open Space and Sport Topic Paper (including Local Green Space Assessment)' (September 2022)

- 2.68 As such, on balance, whilst the importance of the wider open space within the Country Park is of significance, the proposal is considered to be compliant with the development plan and the aims of the Framework in respect of loss of open space and would safeguard future access to the open space.

Asset of Community Value

- 2.69 As an Asset of Community Value (ACV), the Council recognises that the Country Park has a role in furthering the social wellbeing or social interests of the local community. The application of ACV nomination refers to the Country Park's natural environment and availability for walking and cycling, enjoyed by all ages, to enable the local community to 'unwind, relax, enjoy nature, play, learn and socialise for free'.
- 2.70 Whilst the surf lagoon scheme would result in the change of use and development of part of the Country Park, the area of development is small in relation to the greater expanse of the Country Park and closely related to the existing car park and buildings. Accordingly, it is considered by officers that the development would not significantly affect the wider use of the Country Park (within any limitations of future management measures) and would not significantly diminish the character or environmental quality of the Country Park to an extent that it could no longer be enjoyed for wellbeing and social interests. Moreover, the facilities would provide an important new function in respect of further social well-being and social interests for the local community. As such, the proposed development is considered by officers to be compatible with the Country Park's status as an ACV.
- 2.71 Whilst there are other areas of semi/natural green space across the district, the Country Park is of particular importance given its designation as an Asset of Community Value. Therefore, very significant weight can be placed on the obligation to maintain public access to the Country Park, to guarantee amenity and wellbeing benefits for its users. This benefit would be realised under this proposal, irrespective of whether or not the proposed hotel scheme is also delivered.

Local Green Space

- 2.72 Representations to the draft Local Plan and this application state that the Country Park should be designated as Local Green Space. The Framework sets out the ability to designate land as Local Green Space, through local and neighbourhood plans. The Site is not currently in the Local Plan, nor proposed in the draft Local Plan to be designated as Local Green Space.

Ensuring the Vitality of Town Centres

- 2.73 The proposed development, as an outdoor recreation use and associated facilities (different to more intensive facilities referred to in the definition of main town centre uses in the Framework) along with self-catering tourism accommodation, is considered to not be a main town centre use as defined by the Framework.

Transport and Highways

Accessibility

- 2.74 Core Strategy Policy DM11 (Location of Development and Managing Travel Demand) seeks to restrict travel generating development to existing urban areas and rural settlement confines unless otherwise justified by development plan policies. In this

regard, the proposed development, being outside the settlement boundary, is considered to conflict with Policy DM11.

- 2.75 However, whilst the aim of Policy DM11 and the Framework are similar – to maximise use of sustainable modes of transport – the blanket restriction of Policy DM11 (to prevent development outside of settlement boundaries) does not follow the approach of the Framework, which instead seeks to actively manage patterns of growth to support sustainable modes of transport (considering the location of development on its specific merits). Therefore, Policy DM11 in the context of the proposed development should be afforded less than full weight.
- 2.76 Draft Local Plan Policy TI1 and the Framework seek (i) to locate travel generating development where there is opportunity for walking, cycling and use of public transport and (ii) for development to be designed to maximise such opportunities for sustainable travel.
- 2.77 Specific to the wave pool scheme, saved Local Plan Policy OS7 and draft Local Plan Policy E4 requires consideration to the accessibility of the Site along with sustainable travel options, impacts of traffic generation, and car parking and access.
- 2.78 The applicant's Transport Assessment identifies the Site to be within a 5km cycling distance of much of Deal / Sholden, with a direct, shared cycleway / footway along A258 Sandwich Road to the access road into Betteshanger Country Park. There is also pedestrian access to the Site along the same A258 footway route, but recognising that walking distances from much of Deal / Sholden are further than would commonly be travelled by foot.
- 2.79 The consultation response from Active Travel England refers the Council to its standing advice – that the government's aim is for walking, wheeling and cycling to be the most convenient, desirable and affordable way to travel. This advice has been considered. This highlights that the wave pool scheme has had regard to pedestrian accessibility within the Site; has a controlled approach to car parking; provides itself a number of amenities for users as well as access to the Country Park; has dedicated changing facilities; would be appropriately lit for users; is within an appropriate cycling distance of Sholden; and would have sustainable travel plan to maximised non car modes of travel. The development is considered to have had regard to the aims and objectives of Active Travel England.
- 2.80 Bus travel to the Site is achievable, with bus stops served by routes 80/80A and 81/81B within a 15 minute walking distance on the A258 and Burgess Green / Broad Lane.
- 2.81 Sustainable transport, consistent with the Framework's definition of such, would also be provided to the Site through electric vehicles, encouraged through on-site charging infrastructure (to be secured through condition) and national government initiates to phase out combustion engine vehicles.
- 2.82 Given the scale of development, transport initiatives to improve / maximise sustainable travel to the Site should be explored further. The applicant has agreed to facilitate minibus travel for staff between the Site and nearby towns / villages. This would increase the accessibility of the Site and can be secured via obligations of the s.106 undertaking. In addition, a sustainable travel plan to include measures such as encouraging staff car sharing and information (on the development's website) to encourage cycling and use of public transport can be secured.

- 2.83 With these measures, the Site's location is considered suitably accessible by sustainable means of transport, compliant with Saved Local Plan Policy OS7, draft Local Plan Policies TI1 and E4, and relevant policies of the Framework.

Impact on the Road Network

- 2.84 Original consultation advice from the Local Highways Authority (LHA) has identified junctions on the highway network for which the impacts of the development, alongside that from cumulative committed schemes, should be assessed. In this regard, the LHA has sought further information with regard to the wider facilities and holiday lodge accommodation of the development scheme.
- 2.85 Such information has been provided by the applicant (Response Note, December 2022) that facilities would have associated/ linked trips with use of the primary wave pool (therefore already factored into the transport modelling) other than some additional relating to the wellness centre. In addition, the majority of the trips associated with this development would take place outside of peak hours.
- 2.86 Further consultation advice from Kent Highways has been provided: for the sensitive junctions of London Road / Mongeham Road and London Road / Manor Road on the western edge of Deal / Sholden, the trips from development would not be so significant as to represent a severe impact on the local highway network.
- 2.87 An impact from the development on the Northbourne Road / A256 junction is identified by the LHA, but able to be mitigated through minor improvements works to be undertaken by applicant under a s.278 agreement.
- 2.88 National Highways has confirmed the hotel development would not have an unacceptable impact on the safety, reliability and/or operational efficiency of the strategic road network.
- 2.89 National Highways raises an informative comment in respect of improvements to the Whitfield Roundabout, seeking the wave pool scheme to make a proportionate financial contribution to that. The proposal would also provide a proportionate financial contribution towards the improvement scheme at A2 Whitfield Roundabout.

Parking and Servicing

- 2.90 The amount of car parking for the wave pool scheme in combination with that for the hotel development and continuing attraction of the Country Park has been presented by the applicant. The proposed approach is a 770 space consolidated car park for the wave pool scheme and Country Park, along with availability for the hotel development when its designated car park (97 spaces) might be at capacity.
- 2.91 The applicant has based the proposed level of car parking on an accumulation study that indicates a peak parking demand of circa 412 vehicles on a weekend afternoon (excluding Country Park special event days), which represents maximum parking stress of 48%.
- 2.92 For special event days at the Country Park, the applicant's assessment considers that parking demand would be slightly greater than supply (at 113%), requiring some form of overflow parking as is already the situation. This approach is considered more efficient than to set aside greater space for car parking that is only required for occasional peak event days.

- 2.93 The LHA has reviewed the proposed parking arrangements and considers them appropriate and acceptable to meet the car parking needs of the development alongside the Country Park and the separately proposed hotel scheme. A car parking management plan and signage strategy can be secured by conditions.
- 2.94 For cycle parking, a planning condition is recommended for details to be submitted and approved, and then implemented before occupation.

Design

- 2.95 The Framework emphasises that creating high quality places is fundamental to what the planning and development process should achieve. This includes that development should function well and add to the overall quality of the area; is visually attractive as a result of good architecture, layout and effective landscaping; is sympathetic to the local character; establishes a strong sense of place and is safe, inclusive and accessible, promoting health and wellbeing, with a high standard of amenity for future users.
- 2.96 Draft Local Plan Policy PM1 requires development to demonstrate an understanding and awareness of its context; give attention to the scale and materiality of buildings, in respect of the locality and neighbouring buildings; respect or create distinctive local character; and have a positive, coherent identity that is visually attractive. Draft Local Plan Policy E4 reinforces these design criteria.
- 2.97 The wave pool scheme would introduce built form and an artificial surf lagoon that would alter the appearance of the southern part of the Site. However, given the development would have a closer connection with the nearby visitor centre, car park and access roadways, the impact upon the general wider character of the Country Park (including the expanse and natural appearance of the retained larger areas) would be reduced.
- 2.98 Where development would be visible, the design of the buildings and associated landscaping has had regard to its open / countryside surroundings and is considered of high quality and attractive. In particular:
- the curved circular and elliptical form, along with deep eaves, of the main hub, wellness centre and learning hub buildings provides a softer form;
 - the low roof heights and green roofs coverings of the main buildings help reduce their scale; and
 - the use of timber cladding of each building, including the holiday lodges, allows greater assimilation into the landscape.
- 2.99 Conditions to secure these and other important design details of the buildings, to be able to resist any pressure for the concept and quality of the development to be weakened through cost saving / value engineering, are recommended.
- 2.100 Whilst the proposed surf lagoon has a concrete basin, it would have a low profile. It would be set within the Site's natural topography at its eastern extent and screened to the west by raised landscape bunds, such that it would not be unduly obtrusive where seen in wider views.
- 2.101 The plant enclosure at the western end of the surf lagoon would require careful boundary treatment, with details to be secured by condition, to ensure it too would have a sensitive appearance and would be well screened from the adjacent footpaths and cycle track.

- 2.102 With regard to the level of activity of the wave pool scheme, in relation to the character of the surrounding area (with reference to draft Local Plan Policy E4), this is considered by officers to be compatible. The development would reinforce the existing visitor facilities/attractions in the north-western part of the Country Park, for local communities and wider visitors to enjoy for leisure and recreation purposes, whilst the larger areas of open space would remain undeveloped.
- 2.103 With reference to the submitted Arboricultural Impact Assessment, it is noted that there would be the loss of a number of groups of trees and sections of poor quality scrub. These are assessed as being Category C by virtue of their low arboricultural quality. No veteran trees, Category A trees or trees afforded protection from a Tree Preservation order would be removed.
- 2.104 To compensate for this loss, new tree and landscape planting is proposed across the Site – surrounding the surf lagoon and amongst the car parking spaces. The trees would be appropriate native species and can be secured by condition.
- 2.105 The Kent Police Designing Out Crime Officer has no objection to the proposed development subject to a condition which should include details of boundary treatment, car parking and vehicle management, lighting, door and window specification, cycle and bin store controls, CCTV and security during construction.
- 2.106 Draft Local Plan Policy CC1, consistent with the objectives of Policy SP1, requires that all new non-residential buildings achieve a BREEAM rating of ‘very good’, including ‘very good’ in the energy efficiency component of that assessment. This standard of sustainable design and construction would be secured by a condition of the planning permission as recommended.
- 2.107 The promotion of sustainable construction would also be secured by condition in requiring a construction waste reduction, management and recycling plan to be submitted to and approved by the planning authority, in accordance with draft Local Plan Policy CC2.
- 2.108 Overall, the design approach of the wave pool scheme is considered appropriate and consistent with the Framework and draft Local Plan, in accordance with Policy PM1 and relevant criteria of Policy E4.

Landscape and Visual Impact

- 2.109 Core Strategy Policy DM16 (Landscape Character) seeks to protect the qualities of the district’s landscape. Harm to the landscape would only be acceptable if development has been allocated through the plan-led system and designed to include appropriate avoidance or mitigation measures; or otherwise the landscape impacts of development can be sufficiently avoided or reduced. Core Strategy Policy DM15 seeks too to protect the character and appearance of the countryside.
- 2.110 Draft Local Plan Policy NE2 (Landscape Character and the Kent Downs AONB) requires proposals to have particular regard to the wider landscape character of its site as identified by the Council’s Landscape Character Assessment 2020.
- 2.111 Under draft Local Plan Policy E4, regard should be had (amongst other matters) to the extent that development of visitor attractions would conserve and enhance the character of the surrounding landscape and whether or not it would result in an unacceptable intrusion into the open countryside.

- 2.112 These current and draft policies are considered consistent with the Framework, which requires development to contribute to and enhance the natural environment by recognising the intrinsic character of the countryside (paragraph 180), and to be sympathetic to local character and landscape setting (paragraph 135).
- 2.113 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.
- 2.114 Regard is had to draft Local Plan Policy CC8 that seeks the planting of one new tree for every 500 sqm of new commercial floorspace. The applicant has confirmed that this would be achieved as part of habitat improvement works on land adjacent to the east of the Country Park and at a location known as Hammill Field, located between Woodnesborough and Staple, being progressed for ecological reasons. In the circumstances of the application, this is considered a reasonable approach, despite being off-site, and can be secured via s.106 agreement.
- 2.115 The applicant has submitted a Landscape Visual Impact Assessment (LVIA) with regard to the landscape and visual impacts of the proposed development.

Landscape Effects

- 2.116 The applicant's LVIA in landscape terms considers development would result in changes to the landform and existing vegetation and introduce a substantial developed character to the Site with a greater degree of movement and activity. An addendum to the LVIA takes account of the greater number, but reduced height, of the lighting columns from 24m to 12m.
- 2.117 For the 'Northbourne Landscape Character Area' (identified in the Council's Landscape Character Assessment) to the west and south of the Site, the LVIA predicts a moderate adverse effect at year one, reducing to minor adverse by year 15. Across the Lydden Valley Landscape Character Area to the north of the Country Park, the LVIA identifies no more than a negligible adverse impact.
- 2.118 The LVIA includes an assessment of more localised areas (referred to as 'Local Landscape Character Areas', which include the Country Park, agricultural land to the west, South Lydden Valley, Lydden Valley villages, Sholden and west Deal, and North Stream corridor. At most, a moderate adverse effect to the Country Park Local Landscape Character Area and agricultural land Local Landscape Character Area is predicted, but that would reduce to minor adverse over time. For larger landscape receptors at national and county levels, development would have no more than a negligible landscape effect.
- 2.119 Overall, at year one the landscape effect is considered by the LVIA to be moderate adverse, but reducing over time as landscaping on the Site matures.

Visual Effects

- 2.120 The LVIA identifies viewpoints from within the Country Park and the surrounding wider area (including from the A258, a number of public footpaths, nearest residential properties and golf courses) where the wave pool scheme would be seen.
- 2.121 The LVIA considers that the greatest visual effects would be moderate adverse at year one from the Country Park, for users of the A258, residents of nearby farms and users

of public footpath 0185/EE369/3 to the west of the Site. By year 15, the LVIA presents that these moderate adverse effects for receptors beyond the Country Park would be reduced to minor.

- 2.122 The development would introduce new lighting within the Country Park, including from the 12m high lighting columns around the perimeter of the surf lagoon. This would have a high impact and negative landscape and visual effects against the existing dark Country Park environment. However, lighting impacts would be reduced through best practice lighting design (to ensure illuminance is tightly focussed on where it is needed and that levels are no more than essential for the function of the scheme) and controlled hours of use.

Cumulative Effects

- 2.123 Given the wave pool scheme is proposed at the same time as the hotel development (application 23/01095), the LVIA has carried out a cumulative assessment of the two together (referring to the slightly larger hotel design of the now withdrawn application 22/01152). It notes that the perception of the two schemes would be different due to their respective siting, such that they would only be perceived together from locations within the Country Park and from southern parts of the Lydden Valley to the north.
- 2.124 The LVIA considers the cumulative landscape effects are limited, no more than moderate adverse, and generally reflecting those of each scheme individually.
- 2.125 The cumulative visual impacts of both developments are greater, with a major adverse effect where they are seen together from within the Country Park. Beyond the Country Park, cumulative visual effects are considered by the LVIA to be more than moderate adverse including in viewpoints from the A258, nearest residential properties and the wider network of public footpaths.

Overall

- 2.126 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.

Ecology

- 2.127 Biodiversity refers to all species of plants and animals, including species that are protected through legal provisions as well as their habitats, as well as habitats that support important assemblages of species, whether for diversity or rarity. Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard to the purpose of conserving and enhancing biodiversity, which is a material consideration in the determination of this application.
- 2.128 For species also afforded legal protection there may be an additional need for a developer to seek a licence. At planning stage regard should be had as to whether or not it is likely that a protected species licence would be granted, whilst recognising that the level / extent of information that would be required in respect of the licensing

process (with Natural England / Defra being the competent authority) is greater than would normally be expected at planning stage.

- 2.129 The Framework at paragraph 186a sets out how matters of habitat and biodiversity should be considered when determining a planning application and it states that where 'significant' harm to biodiversity from development cannot be avoided, adequately mitigated or compensated (as a last resort) planning permission should be refused.
- 2.130 Draft Local Plan Policy SP13, in presenting a mitigation hierarchy for development affecting habitats and biodiversity, is generally consistent with the Framework in this regard. Whilst Policy SP13 includes a balancing provision for any residual adverse effects (which cannot be avoided, mitigated or compensated for) to be balanced against benefits of development, this part of the policy is afforded little weight given the draft Local Plan as there are outstanding objections to it.
- 2.131 The Framework at paragraph 180 seeks for development to provide a net gain in biodiversity, without setting any specific level. Draft Local Plan Policy SP13 and Policy NE1 require development to provide an overall biodiversity net gain of at least 10%. Provisions in the Environment Act 2021 to require a minimum 10% net gain are now effective, but do not apply to this application as it was submitted before 12th February 2024. Although 10% biodiversity net gain is being offered by the applicant, it is not a statutory requirement for this application, although limited weight is still attached to that same provision by policies in the draft Local Plan.
- 2.132 The planning application and the ecological impacts of the proposed development have been considered by the Council's Senior Natural Environment Officer (SNEO), with comments set out in the consultation section of this report above.
- 2.133 For the proposed development, extensive representations received have raised a wide range of ecology matters. The main ecological considerations for this application are presented via the following sections below:
1. Lizard Orchid Population
 2. Fiery Clearwing Moth
 3. Habitat Mitigation and Compensation
 4. Turtle Doves and Management of Recreational Activity
 5. Invertebrate Assemblage (including Sussex Emerald)
 6. Fungi
 7. Lighting
 8. Other Matters
 9. Appropriate Assessment

Various reports and information have been submitted by the applicant, which include:

1. Ecological Appraisal (August 2022)
2. Outline Visitor Management and Turtle Dove Strategy (December 2022)
3. Update Ecological Appraisal (January 2023)
4. Document to Inform a Habitat Regulations Assessment (January 2023)
5. Hammill Field – Turtle Dove Enhancements (January 2023)
6. Consideration of Lizard Orchid Mitigation and Compensation Approach (March 2023)
7. Proposed Approach to Address Ecology Matters (March 2023)
8. Consideration of Dover District Council's Consultation Response (March 2023)
9. Outline Lizard Orchid Method Statement (March 2023)
10. Outline Visitor Management and Turtle Dove Strategy (March 2023)

11. Outline Habitat Compensation Strategy (March 2023)
12. Outline Visitor Management and Turtle Dove Strategy (June 2023)
13. Consideration of Dover District Council's Consultation Response (June 2023)
14. Consideration of Dover District Council's Consultation Response (Supplementary Information) (June 2023)
15. Consideration of Adaptive Management Under Proposed Mitigation/Compensation Strategies (June 2023)
16. Consideration of Natural England's Consultation Response (July 2023)
17. Consideration of Natural England's Consultation Response (Supplementary Information – Additional Soil Sampling) (August 2023)
18. Assessment of Scarce Moth Species (August 2023)
19. Outline Visitor Management and Turtle Dove Strategy (October 2023)
20. Assessment of Sussex Emerald Moth (October 2023)
21. Additional Review of Invertebrates and Fungi
22. Consideration of Dover District Council's Consultation Response (November 2023)
23. Summary of Key Issues (December 2023)
24. Fiery Clearwing Mitigation (January 2024)
25. Turtle Dove Mitigation Cost (January 2024)

Lizard Orchid Population

- 2.134 The wave pool scheme on the Site would result in the loss of habitat supporting lizard orchids. Lizard orchid is a nationally scarce plant, identified and protected by the Wildlife and Countryside Act 1981 (as amended). This would require a licence to be issued by Natural England to allow the development to proceed, with three tests to be met – of there being an overriding public interest, that there is no satisfactory alternative and the development not being detrimental to population survival.
- 2.135 The applicant's Outline Lizard Orchid Method Statement presents survey work that records lizard orchids as frequent and widespread within the south-western part of the Country Park including the Site, which the SNEO and Natural England identify as second only to the largest lizard orchid population in the country (which is located within Sandwich Bay to Hacklinge Marshes SSSI).
- 2.136 The Outline Lizard Orchid Method Statement estimates that some 621 lizard orchid flowering spikes would be affected by the development - up to 15% of the total lizard orchid population supported by the Country Park. Whilst consultation responses and representations received state that this figure may be greater, this impact even at the lower end is considered significant (given the status of the lizard orchid) and should be considered against the tests within Framework paragraph 186a.
- 2.137 The justification of the principle of the wave pool development on the Site is established with regard to saved Local Plan Policy OS7, draft Local Plan Policy E4, as well as the Framework. Where matters of the loss of open space are addressed, suitable sustainable travel measures can be provided and landscape impacts can be weighed against the benefits, the Country Park is considered an appropriate location for the wave pool scheme for a number of reasons presented by the applicant: that it would benefit from existing roadway and car parking infrastructure; that there are synergies with existing visitor/recreation functions; that the surrounding environment (of landform, topography and orientation) would help provide an attractive visitor offer; and that these locational benefits enable the overall economic feasibility of development. These locational advantages are considered by officers to be not reasonably available elsewhere, sufficient to comply with consideration of 'avoidance' in paragraph 186 a) of the Framework.

- 2.138 With regards to the first test of the licensing regime of there being an overriding public interest, the proposal would result in significant social and economic benefits that are fully considered in the “social benefits of the scheme” section and elsewhere of this report. As such, the proposal is considered to meet the first part of the licensing test.
- 2.139 With regards to the second part of the test, it is necessary to consider whether there is a satisfactory alternative. In this regard, the consideration at paragraph 2.136 above is relevant: that the Site and Country Park has specific locational and physical attributes, not reasonably available elsewhere. The submitted planning statement sets out further that there is a market demand for a surf facility within East Kent, as well as outlining positive initiatives that would be delivered along with the economic and social benefits that would arise from the proposal.
- 2.140 Within the Site some avoidance measures have been incorporated, including locating the development closest to the visitor centre, where there is a lower density of lizard orchids than to the south of the Site; and laying out the development to avoid some greater concentrations of lizard orchids along the Site’s southern boundary.
- 2.141 Whilst some avoidance measures have been incorporated, these alone do not fully address the ecological impact upon the species. As such, the mitigation hierarchy within the NPPF requires mitigation followed by compensation measures to be considered.
- 2.142 The following lizard orchid mitigation and compensation measures are proposed in the Outline Lizard Orchid Method Statement:
- To protect retained areas of orchids within the Site during construction and operation;
 - To reduce impacts upon the area supporting a greater number of lizard orchids to the south of the Site through restricting visitor access via management measures;
 - To incorporate specific management measures to promote lizard orchids to the south of the Site and in the eastern part of the Country Park; and
 - To translocate plants from the Site to other areas of the Country Park, with broad areas identified as land to the south-east of the Site and in the eastern part of the Country Park.
- 2.143 In response to the applicant’s approach, consultation responses from the SNEO, Kent Wildlife Trust and RSPB, as well as representations from environmental groups, raise concern that there is uncertainty and risk associated with the translocation and as such it may not be successful.
- 2.144 The latest consultation response from Natural England (dated 06/02/24) considers that the applicant’s proposed translocation techniques do not have established research and methodologies associated with them, and as such Natural England do not have the necessary confidence that they will work. However, they affirm that they are “*open to any research on translocation methodology that can provide evidence as to the potential success of these techniques, in this case licences may be granted for a small proportion of the population in order to build the evidence base to facilitate future decisions*”. They go on to express that a seven-year planning implementation period would enable Natural England to make informed evidence-led decisions as to whether a licence could be issued, although they reaffirm that if the research fails to demonstrate that the methods are successful, a licence would not be issued.

2.145 The position of Natural England is not that the proposed translocation techniques have no prospect of success; it is that further research into them would be necessary and then Natural England would need to consider whether or not it is ultimately satisfied and able to issue a licence. As above, Natural England are “open” to such research being carried out.

2.146 It is considered by officers that it will only be through the licensing regime that it will be possible to definitively conclude whether the proposed translocation techniques are achievable. In this regard, reference by the applicant to Natural England guidance⁵ is noted – which clearly states that often a higher level of detail is only available at the licensing stage:

“The level of detail (including specific information the timing of implementation) required for a licence application is not usually available at the planning application stage. The level of species detail in respect of the compensation, mitigation and its delivery for any proposed development that is required at the licensing stage when Natural England will be required to satisfy itself of the three tests, will also be higher than that ordinarily required in the planning consent process. Such level of detail often may only be available at a detailed stage of the development’s evolution.”

2.147 As well as translocation, the applicant is promoting measures of habitat management/ enhancement to encourage natural spread of lizard orchids enabling colonisation without direct intervention and long-term management. Whilst Natural England’s comments do not consider this aspect of the proposal, the SNEO has done so and has provided guidance on whether it would satisfy the relevant ecological licensing test. The SNEO states that *“Natural England have not definitively stated that a licence would or would not be granted. Nonetheless, Dover District Council must be satisfied as to whether a licence is likely to be granted, and this can be done through the three licensing tests that will need to be met by the applicant”*. The SNEO’s comments go on to say *“it is clear from Natural England’s response that, considering the submitted method for lizard orchid translocation alone would not meet the third licensing test. In addition to the translocation proposals, habitat management is also proposed by the applicant. The applicant considers that, even without the success of the translocation the habitat management would ensure no overall population loss, though there is an acknowledged uncertainty regarding how the species would respond to the habitat management proposals. The applicant’s proposals include provision for further lizard orchid surveys, including winter rosette counts, a trial translocation and adaptive management. This latter means that, in principle at least, there are further actions that could be taken to reach a point of success.”* The SNEO’s comments continue to state that if planning permission was to be granted it would be essential that monitoring targets are clearly set out.

2.148 Natural England have not wholly considered the full offering in terms of measures in relation to lizard orchids, comprising the translocation of plants and habitat management measures to increase the population elsewhere across parts of the Country Park. Nevertheless, the matter has been fully considered by the SNEO, who has concluded that in principle there are further actions that could be taken to reach a point of success. Officers consider therefore that there is a reasonable likelihood that the research to be carried out within the 7 years will be successful in demonstrating an evidential basis for granting a licence. If the research does not demonstrate a satisfactory basis for granting a licence, a planning condition will prevent the

⁵ Natural England (2011) WML-G24 *European Protected Species and the Planning Process. Natural England’s Application of the ‘Three Tests’ to Licence Applications*

development from being implemented, so that no harm can arise in the absence of a licence. In the circumstances officers consider that because of the prospect (which is considered to be a real one, even though it is not certain) of Natural England granting a licence within a 7 year period, there is an acceptable basis for concluding that significant adverse effects would be avoided, in accordance with Framework 186(a).

2.149 It is therefore considered reasonable to impose a seven year period for commencement of the development as presented in Natural England's latest advice (as an extension of the normal three-year provision) alongside progressing the approach to developing effective lizard orchid mitigation / compensation through s.106 obligations to require:

- Lizard orchid habitat improvement and management plan to be submitted and approved;
- Lizard orchid translocation and management plan to be submitted and approved; and
- Monitoring of mitigation / compensation measures, to be undertaken, against objective targets. If secured measures were to be failing objective targets, an alternative approach to mitigation / compensation to avoid significant harm to be provided.

2.150 In addition, a condition would need to be attached, requiring that development cannot commence until a protected species licence (as may be issued by Natural England) in respect of lizard orchid is obtained.

2.151 Officers consider it reasonably likely that a licence would be granted with regard to the advice from Natural England and the SNEO and that such a licence would ensure there would not be significant harm to lizard orchids, Framework paragraph 186 a) is satisfied.

Fiery Clearwing Moth

2.152 The wave pool scheme on the Site would result in the loss of dock plants that support eggs laid by fiery clearwing moths. Fiery clearwing is listed as a priority species, important for conservation, under the Natural Environment and Rural Communities Act 2006 (as amended) and is protected under the Wildlife and Countryside Act 1981 (as amended). This would require a licence to be issued by Natural England to allow the development to proceed, with three tests to be met – of there being an overriding public interest; that there is no satisfactory alternative; and not being detrimental to population survival.

2.153 The fiery clearwing population of the Country Park as a whole is assessed by the applicant to be of county importance, although the SNEO considers its importance may be greater.

2.154 With regards to the first test of the licensing regime of there being an overriding public interest, the proposal would result in significant social and economic benefits that are fully considered in the Social benefits of the scheme section of this report. As such, the proposal is considered to meet the first part of the licensing test.

2.155 With regards to the second test of the licensing regime, of there being no satisfactory alternative, the submitted Assessment of Scarce Moth Species details *that "the location of the wave park has been chosen to minimise losses of important habitat as far as possible being located at the northern edge of the wider area of open mosaic*

habitat, with the main footprint largely located within the existing area of species-poor grassland (not supporting lizard orchid). Unfortunately this area does appear to support the highest concentrations of Fiery Clearwing moth, due to Docks being largely associated with species-poor grassland. However, it would not be appropriate to retain this lower value habitat in place of the higher value open mosaic and grassland habitat to the south, such that loss of the Fiery Clearwing habitat is the more satisfactory option in the context of the wider ecological value supported by the site (ie. There is no satisfactory alternative)." The location of the Site for the development in this regard is also considered in respect of matters relating to lizard orchids. As such, Officers are content that the second licensing test has been fully explored and for clear and sound reasons the availability of satisfactory alternatives has been discounted. As such, the proposal is considered to meet the second licensing test and the mitigation hierarchy consideration of 'avoidance' in paragraph 186a of the Framework.

- 2.156 The applicant's 'Assessment of Scarce Moth Species' presents an approach to mitigation of translocating the dock plants on which the eggs are located to an area within the Country Park adjacent to the east of the Site, separate to other areas of habitat improvement or offsetting areas. The translocation area would be designated as 'informal access' under the visitor management strategy and access to this part of the site would be discouraged through knee rail fencing and signage.
- 2.157 The applicant states that a detailed methodology for the translocation would be worked up to inform a licence application post planning permission, considering that suitable habitat for fiery clearwing can be established.
- 2.158 Natural England (in its letter of 20/09/23) considers successful translocation of dock plants would be "exceedingly difficult". Instead, advice from Natural England is that dock plants should be seeded in the translocation area and managed so they proliferate, then wait for Fiery Clearwing to colonise. Only then could existing dock plants on the Site be destroyed.
- 2.159 The applicant is agreeable to an approach of sowing of dock seed (in addition to translocation), recognising there is some risk that the seeded dock will fail or will not be colonised by Fiery Clearwing. The SNEO acknowledges that the applicant has proposed, following Natural England's suggestion, a mitigation strategy involving seeding of fiery clearwing foodplants to establish suitable habitat before destruction of the onsite habitat can take place. Translocation of foodplants (and any larvae present) to the receptor area is also proposed alongside long-term management and monitoring.
- 2.160 The SNEO recognises these are not tried and tested methods and concludes that they appear to be ecologically coherent and in line with Natural England's suggestion - and on that basis, considers it is possible a protected species licence could be granted.
- 2.161 Therefore, in these circumstances, taking into account the views of Natural England, and the comments of the SNEO who considers the proposals to be ecologically coherent, officers are satisfied that it is reasonably likely a protected species licence for fiery clearwings would be granted.
- 2.162 However, to further safeguard the position, officers consider that attaching a condition with a longer implementation of the scheme (up to seven years) will provide the necessary assurances to ensure that significant harm will not occur in accordance with Natural England's advice alongside progressing the approach to developing effective Fiery Clearwing mitigation / compensation through s.106 obligations to require:

- dock plant seeding establishment and management measures to be submitted and approved for identified dock receptor area;
- dock translocation and management plan to be submitted and approved, as relating to the development site and dock receptor area; and
- monitoring of mitigation / compensation measures to be undertaken on dock receptor area against objective targets. If secured measures were to be failing objective targets, an alternative approach to mitigation / compensation to avoid significant harm to be provided.

2.163 As such, officers consider that on this basis the proposal would meet the requirements of paragraph 186a of the Framework and not result in significant harm to this species.

Habitat Mitigation and Compensation

2.164 The development would result in the loss of 2.75ha of Open Mosaic Habitat, 1 ha of moderately species rich grassland and 0.75ha of mixed scrub. The SNEO advises that Open Mosaic Habitat is of county importance. Open mosaic habitat is a priority habitat under the Natural Environment and Rural Communities Act 2006 (as amended).

2.165 The SNEO advises that the Country Park likely qualifies as one of the county's best and significant brownfield sites, partly due to the extent of Open Mosaic Habitat. It is also noted that the majority of the Open Mosaic Habitat that will be lost is of good or moderate condition.

2.166 Regarding the mitigation hierarchy, considering first matters of avoidance, there is considered to be in-principle justification of the development (as reported above) and the Country Park is considered an appropriate location without a reasonable alternative, particularly as development would secure permanent public access to the Country Park. Within the Country Park itself, the location of the development is considered to be suitable, given the close relationship of the Site to the nearby built form.

2.167 The Outline Habitat Compensation Strategy sets out that the siting of the development, with the surf lagoon positioned in the northern part of the Site that includes a larger area of species poor grassland, seeks to minimise impacts on more sensitive habitat. The layout of the development has also been revised to reduce / avoid impact on an area with a higher concentration of lizard orchids in the southern part of the Site.

2.168 Under the mitigation hierarchy, following consideration of avoidance, it is necessary to consider mitigation. Unlike with the previous two species/ habitats, open mosaic habitat is not something that the applicants' ecologists consider could be successfully translocated as a whole (however some of the substrate and seedbank will be translocated), and as such have proposed a compensation strategy instead to seek to prevent significant harm to the species.

2.169 The applicant sets out proposed measures of mitigation including construction management safeguards, the translocation of lizard orchids (addressed above) and reptiles (as below), access management and lighting controls. However, given the direct loss of habitat that cannot be retained, habitat creation or enhancement to compensate for the loss is required.

2.170 The Outline Habitat Compensation Strategy identifies three 'Offsite Enhancement Areas' (OEA) – OEA1 to the south-east of the Site, OEA2 across the easternmost part of the Country Park and OEA3 adjacent to the south of the Site. It provides a baseline

assessment of these areas, including factors that are adversely affecting a more favourable habitat condition. Against the baseline assessment of the three OEA, the Outline Habitat Compensation Strategy considers biodiversity improvements can be secured by safeguarding, maintaining, restoring and enhancing their value. This can be secured through a detailed management plan, which would be focussed on the specific measures to be agreed.

- 2.171 Specifically with regard to Open Mosaic Habitat, 2.16 ha is proposed to be created in OEA1, alongside 2.09 ha to be created on the Site as part of the development. Within OEA2, 4.27 ha of grassland and 1.89 ha for scrub would be managed and improved, alongside creation of a new pond. Together, the application states that these measures are sufficient to compensate for the loss of existing habitat and achieve at least 10% biodiversity net gain using the Defra metric, which is the recognised methodology in respect of such matters.
- 2.172 The applicant has detailed that Open Mosaic Habitat on previously developed land is not an irreplaceable habitat type (unlike, for instance, ancient woodland) and can readily be created through ground remodelling and appropriate management. The applicant identifies numerous case studies of Open Mosaic Habitat creation/enhancement presented on Buglife's Brownfield Hub.
- 2.173 The applicant also highlights that intended improvements to OEA3 are not relied upon to secure the biodiversity net gain required; i.e. that measures in OEA3 (including management / enhancement of 3.71 ha of Open Mosaic Habitat) are beyond what the applicant considers necessary.
- 2.174 The SNEO raises concerns that without an adequate and achievable compensation strategy, the loss of habitat from the proposed development would constitute significant ecological harm to a priority habitat and important invertebrate assemblage and raises doubts about the mitigation proposed. However, the SNEO does acknowledge that the adaptive management approach proposed by the applicant means that in principle at least, there will always be further action that can be taken to reach a point of successful conclusion. If planning permission is granted, it is advised that the measures to ensure successful compensation are clearly set out in a habitat management and monitoring plan.
- 2.175 As to how that would be achieved, a series of measures would be secured by planning condition and / or obligation – that;
- a detailed habitat compensation plan be submitted, including specific measures, actions and programme;
 - the detailed habitat compensation plan includes objectives that would be measured and monitored to indicate the success or otherwise of the works;
 - a series of assessments utilising the Defra biodiversity metric be submitted to monitor the success of the habitat improvement measures over time; and
 - if monitoring of the measurable objectives and biodiversity metric assessments indicate a deficiency in habitat creation, a series of additional compensation measures would be required to come forwards
- 2.176 With this approach to habitat compensation, with adaptive measures as necessary, it is considered that the proposed development would avoid significant harm to such biodiversity and would be compliant with paragraph 186 a) of the Framework.

2.177 The applicant has also proposed for the development to deliver at least 10% biodiversity net gain, this is proposed to be secured by planning obligation.

Turtle Doves and Management of Recreational Activity

2.178 The Planning Committee resolved to refuse the previous hotel application (22/01152) proposed within Betteshanger Park, on the basis (in respect of one of the grounds) of 'significant uncertainties to ensure there would not be significant harm' to turtle doves. The impact on turtle doves (in respect of both applications) has been further considered by the applicant and the proposal now includes the following additional measures to;

- (i) enhance land adjacent to the east of the Country Park, so to be suitable for turtle dove habitat, from the outset / commencement of development (as opposed to only if it was necessary following a regime of monitoring) and
- (ii) to restrict access to a larger area of Country Park (of 25 ha compared to 15 ha).

2.179 The Country Park provides habitat for turtle doves, which is the UK's fastest declining bird species and is at risk of extinction, such that it features on the 'UK Red List of Conservation Concern' and the International Union for Conservation of Nature's Red List of Threatened Species'. The turtle dove is also listed in the Natural Environmental and Rural Communities Act 2006 (as amended) as a species of principal importance.

2.180 As well as supporting its own population of turtle doves, the Country Park is also intended to provide compensation for the loss of turtle dove habitat from the residential development (planning permission 20/00419) of the Betteshanger former colliery pithead site to the west, as set out in the s.106 of 20/00419. For background, the approved Turtle Dove Mitigation Strategy for 20/00419 has the following objectives:

- to provide new habitat opportunities for turtle doves to allow an expansion of the existing population associated with the Country Park, as compensation for losses at the Betteshanger former colliery pithead site;
- to implement management to ensure habitat areas remain suitable for turtle doves;
- to secure the long-term future of the turtle dove population through ongoing management and monitoring; and
- to manage public access to maintain areas as suitable for turtle doves.

2.181 The new habitat opportunities include new Open Mosaic Habitat, enhancement of Open Mosaic Habitat, pond creation, scrub establishment and supplementary feeding site within approximately 50m of the Site as detailed in the Biodiversity Offsetting Scheme (also secured under 20/00419). The effectiveness of these habitat creation works implemented in 2022) is being monitored, with the aim to see an expansion of the turtle dove population.

2.182 The proposed wave lagoon development would not impact upon optimal turtle dove breeding or foraging habitat, but is located near to Open Mosaic Habitat to be created under planning application 20/00419, in which suitable breeding habitat for turtle doves will be established, and within less than 200 metres of a turtle dove supplementary feeding location, provided as mitigation relating to planning application 20/00419.

2.183 The area of assessment relating to turtle doves is the impact created through disturbance from the use of the surf lagoon itself and through more general increase in visitor numbers to the park. The application details that the surf lagoon proposal and

associated holiday pods will accommodate some 203,000 guests per year. The hotel development (proposed under 23/01095) will accommodate some 117,384 guests per year. The two schemes combined would amount to some 320,000 visitors.

2.184 In response to the projected increase in visitor numbers and the sensitivity of the Country Park to turtle doves, the applicant has provided an Outline Visitor Management and Turtle Dove Strategy. This considers the nature of the visitor activity:

- A proportion of visits are likely to only visit the hotel or wave pool development;
- Where some visitors would make use of existing Country Park amenities, much of that activity would be focussed around the visitor centre and play park, or would involve shorter walks within the nearby vicinity of these facilities;
- A proportion of total visitors are likely to undertake longer walks within the wider area of the Country Park;
- The bulk of visitors would be between 10.00 and 18.00, with the Country Park remaining relatively quiet outside those periods;
- Overnight guests are unlikely to roam the Country Park at night given it is unlit; and
- Overnight guests would be prohibited from bringing dogs.

2.185 For the proportion of visitors that would make use of the wider Country Park, the potential impacts identified by the Outline Visitor Management and Turtle Dove Strategy are disturbance to turtle doves, trampling and erosion of areas of botanical and invertebrate interest and disturbance to other wildlife species.

2.186 The 'Outline Visitor Management and Turtle Dove Strategy' proposes measures to manage additional visitors and enhance areas of turtle dove habitat:

- the Country Park would be zoned between:
 - a 'core visitor area', encompassing main facilities and activity areas;
 - areas of 'informal access', to provide for walking and cycling on designated routes; and
 - areas of 'restricted access', including existing turtle dove nesting habitat and supplementary feeding areas, where there would be no public access. This area has increased from 15 ha (as considered in respect of application 22/01152) to 25 ha, incorporating features of highest sensitivity within the Country Park including turtle dove nesting habitat and supplementary feeding areas;
- establishment of a designated warden or wildlife officer to help implement the approach to visitor management;
- the creation of an additional turtle dove feeding site and new pond in an area of restricted access in the eastern part of the Country Park to offset the potential impact of increased disturbance on the feeding site within 50m of the proposed development; and
- establishment of a new area of land, adjoining to the east of the Country Park, for provision of additional turtle dove measures. The applicant is committed to carrying out these improvement measures from the commencement of development (where its commitment before was only to seek to utilise that land should it be necessary following a regime of monitoring). This land currently comprises open grassland in use for grazing but would be managed to

strengthen hedgerows and scrub planting to promote new breeding habitat, to create two ponds, and establish suitable foraging habitat.

2.187 A plan from the Outline Visitor Management and Turtle Dove Strategy, showing the areas of proposed visitor management for the Country Park (of the 'core visitor area', 'informal access area' and 'restricted access area') is at Figure 7.

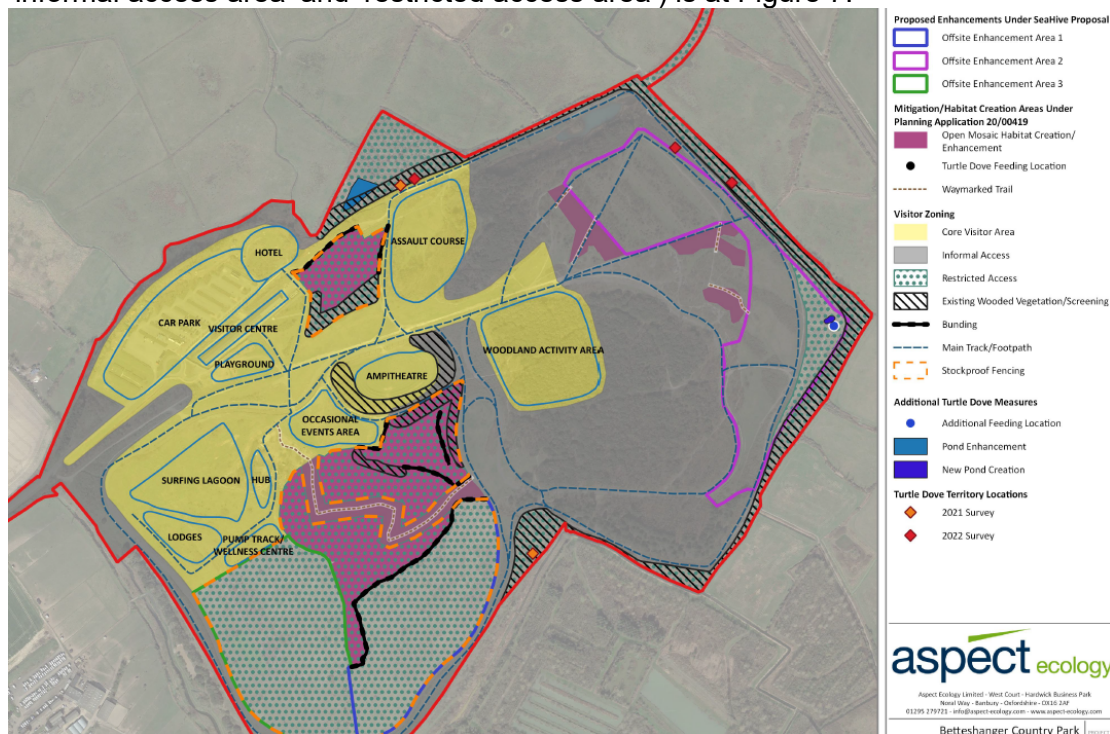


Figure 7: Proposed Zonal Areas of Country Park

2.188 The applicant has also agreed to prohibit the hire and use of small electric vehicles for leisure purposes by visitors to the Country Park, which provide a source of general disturbance.

2.189 The applicant puts forward that the off-site habitat creation measures at Hammill Field and adjacent to the east of the Country Park can form a key area of turtle dove habitat, suitable for the local population (with nearby probable/confirmed breeding turtle doves identified). These enhancements are not intended to replace mitigation measures within the Country Park, but instead are offered as an enhancement or reassurance to complement the overall package of measures closer to the Site.

2.190 The applicant's position is that, together, these measures should provide an effective mitigation strategy, allowing for expansion of the turtle dove population.

2.191 The SNEO has advised that 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. The SNEO further raises concern that the applicants' approach to mitigation will not do enough to safeguard and enhance the turtle dove population of the Country Park.

2.192 Kent Wildlife Trust and RSPB, amongst others also raise concerns that the development would undermine the turtle dove measures secured under planning

permission 20/00419 and that cumulative visitor numbers would be very challenging to mitigate in a way that would not be damaging to turtle doves.

- 2.193 The SNEO does, however, acknowledge that the adaptive management approach proposed by the applicant means that, in principle at least, there will always be further actions that could be taken to reach a point of successful compensation.
- 2.194 To seek to address the concerns outlined and uncertainties, the Outline Visitor Management and Turtle Dove Strategy proposes measures, as adaptive mitigation (mitigation that can be adapted as time goes on to ensure it remains appropriate), should they be necessary, following an initial five-year monitoring period, of:
- i. alterations to the zoning areas, additional fencing, seasonal path closures and/or additional wardening;
 - ii. establishment of additional feeding sites or extending committed feeding beyond five year; and
 - iii. to seek alternative offsite measures through contributions to the RSPB's Operation Turtle Dove or agreements with local landowners.
- 2.195 In planning terms, points i. and ii. above can reasonably be relied upon and secured via s.106 agreement. Such an adaptive approach to mitigation based on monitoring and management, with scope for enabling specific measures to be introduced at the later date is considered to be reasonable. For point iii., whilst this is further clarified by the applicant in the submitted 'Indicative Costings for Offsite Turtle Dove Mitigation', this is still considered less defined.
- 2.196 The ability to make future changes to the spatial and zonal management of the Country Park, as well as to the turtle dove feeding regime, through the proposed adaptive approach to mitigation (which would be informed through future survey work and can be secured via legally enforceable obligations) is recognised; and it is considered that these measures are capable of improving the ongoing management of the Country Park to promote its habitat as favourable to turtle doves.
- 2.197 It is worth highlighting that the adaptive mitigation approach is not intended by the applicant to supersede or override the 'Turtle Dove Mitigation Strategy' approved under application 20/00419; instead, they are intended to work alongside each other, to be informed through monitoring and responsive measures.
- 2.198 Whilst Officers recognise and understand the concerns and uncertainties highlighted, with sufficient safeguards through a S106 agreement to ensure that the adaptive mitigation can be effectively relied upon and successfully mitigate the identified harm to the species through both the 20/00419 scheme and the current application, it is considered that significant harm to turtle doves will be avoided.

Invertebrate Assemblage (including Sussex Emerald)

- 2.199 The Update Ecological Appraisal presents that the northern part of the Site, dominated by hardstanding with small areas of species poor grassland and scrub, is unlikely to support a notable assemblage of invertebrates. The southern part of the Site in contrast has diverse characteristics and an assemblage of plants that are of value to invertebrates. The Update Ecological Appraisal considers the southern area supports good potential invertebrate habitat. It considers the southern area of the Site and additional survey area to be important, largely due to the presence of some 'nationally rare and near threatened' species, other 'nationally scarce' species and 'vulnerable species'.

- 2.200 The applicant refers to its 'Assessment of Scarce Moth Species' report, which identifies that a full invertebrate surveys over a number of periods in July and August 2020, May 2021 and May and September 2022 were undertaken, following a targeted sampling approach in accordance with Natural England advice. The applicant considers, on the basis of available background information and typical habitat associations of such species, its approach to considering invertebrates is appropriate.
- 2.201 Where avoidance measures in respect of the invertebrate assemblage are considered unachievable and in accordance with the reasons outlined above, the Update Ecological Appraisal presents that through habitat compensation measures (as addressed above), along with translocation of existing substrate and seedbank within the development, significant impacts on invertebrates would be appropriately mitigated or compensated for.
- 2.202 Where, through recent observations, notable species have specifically been identified (beyond fiery clearwing moths, as set out above), the applicant states that these have been addressed:
- regarding bright wave moths, the presence of this species does not elevate the importance of the Site beyond a county level and given the species is associated with Open Mosaic Habitat, it would benefit from the mitigation and compensation measures proposed, including habitat restoration and enhancement; and
 - for Sussex emerald moth, which is afforded statutory protection under the Wildlife and Countryside Act 1981 (as amended), the recent record of it within the Country Park is at its southern edge, approximately 400m from the Site. Whilst there is potential for Sussex emerald larvae to be present within the Site, given the species has not been previously recorded at the Country Park (before July 2023) it is unlikely that a significant breeding population is present. Nevertheless, the applicant proposes a larval survey is undertaken in the optimal months of May/June prior to development commencing – this could be secured by planning condition, which would also reflect that if the moth species is found that a licence from Natural England would be required. Such a licence, with its tests as presented above, would ensure there would not be significant harm to this species in accordance with planning policy requirements.
- 2.203 The SNEO identifies that the Site could be of greater importance for invertebrates than as assessed in the Update Ecological Appraisal. Objections from environmental groups also highlight the potential importance of the Site for invertebrates.
- 2.204 Whilst officers recognise and understand the concerns and uncertainties highlighted, with sufficient safeguards through a S106 agreement to ensure that the adaptive mitigation/ compensation can be effectively relied upon and successfully mitigate the identified harm to the species, officers consider that significant harm to invertebrate assemblages will be avoided.
- 2.205 Comments from the SNEO in respect of Sussex Emerald moths recognise that just one moth was recorded on the Country Park during July 2023; and that there is provision where there are exceptional circumstances for survey work to be carried out after planning permission has been granted. In the circumstances of the development, given the late identification of the single individual some distance from the Site, the SNEO advises, as a matter of judgement, that exceptional circumstances do exist to secure the survey work by condition. Such conditions would comprise (i) a pre-commencement condition for detailed survey to be carried out and submitted / approved by the planning authority to an agreed methodology; then (ii) should there be a positive finding and mitigation / compensation measures to also be submitted and

agreed. In addition any Sussex Emerald moths present would be subject to protection by the licensing regime. The applicant has put forward a framework for how any mitigation/ compensation would be approached should this species be found to be present on the site in their October 2023 Assessment of Sussex Emerald Moth TN15. This appears to be a reasonable approach that is similar to that taken for Fiery Clearwing and takes into consideration the need for a licence. On this basis, Officers consider that there is a coherent plan for ensuring significant harm to the species can be mitigated or compensated for and on that basis, there is sufficient likelihood of a licence being granted, if one is needed (which will only be known following the implementation of further more extensive surveys).

Fungi

- 2.206 The Update Ecological Appraisal considers that whilst the site is likely to support a range of fungi species, there is no evidence to suggest that the Site is likely to support a fungi assemblage of elevated importance above the component habitat types.
- 2.207 The 'Additional Review of Invertebrates and Fungi' report provides further commentary that the vast majority of species identified by local enthusiasts are relatively common. Although four are considered rare in the UK, none are priority species or have or 'red data list' status. Of the rare species, the applicant's ecologist presents that all are associated with woodland and so unlikely to occur within the more open habitats of the Site.
- 2.208 The applicant also refers to Site of Special Scientific Interest guidelines that identify habitat assemblages known to be important features of fungi. In this regard, the applicant considers that (i) apart from reedbed which is largely located outside of the development area, such habitats are not present within the Site; and (ii) of the fungi records provided by local enthusiasts in respect of those listed under the SSSI guidance (as forming part of one of the important habitat assemblages), they are unlikely to be supported by the Site.
- 2.209 Accordingly, it is considered that the wave lagoon development is unlikely to have a significant ecological impact upon fungi. The SNEO agrees with this position, though notes that the fungi that have been recorded by local interest groups provides further evidence of the overall importance of the site's biodiversity.

Lighting

- 2.210 The SNEO and representations to the planning application raise issues in respect of the impact of the lighting of the scheme (from the floodlights and additional lighting of buildings and other areas of the Site) on foraging / commuting bats and invertebrates. (This is separate to matters of the landscape / visual impact of the lights as addressed above).
- 2.211 Regarding the proposed opening hours of the surf lagoon of 06:00 – 22:00 Sunday to Thursday and 06:00 – 23:30 Friday and Saturday, the Updated Ecological Appraisal presents the average number of hours per month the surfing lagoon would be operational outside of civil twilight times and assesses that against varying bat activity across the year⁶. The floodlights would be in greatest use from November to February, but bat activity then would be at its lowest; and when lights are in least use from May to August bat activity would be greatest.

⁶ Civil twilight covers the period between sunset/sunrise and when the sun is up to 6 degrees below the horizon. During this period light levels are generally high enough such that artificial lighting is not required.

- 2.212 To seek to address the lighting impacts of development, when the lights are in use beyond civil twilight and bat and invertebrate activity is greater, the applicant confirms that the lights would not have a UV component (being least attractive to most insects) and lights required for other parts of the development would be at lower levels.
- 2.213 As it is considered that lighting of the wave pool scheme is required and cannot be avoided, discussion has been had with the applicant to reduce hours of floodlight operation when bat activity is greatest as further mitigation. It is agreed that hours of floodlight operation can be reduced to not be before 06:30 or after 21:30. The SNEO has confirmed, with regard to the low levels of bat activity recorded in the southern part of the Country Park, that although any lighting would present a significant change to the current lighting levels, it is reasonable to conclude that the impact of the lights to invertebrates and foraging / commuting bats is likely to be of less than significant harm. Framework paragraph 186a and draft Local Plan SP13 are satisfied in this regard. Final details of an appropriate lighting scheme would be secured by planning condition.

Other Matters

- 2.214 The SNEO is satisfied that (with mitigation secured) there would not be any significant harm in relation to badgers, nesting birds, reptiles and bats.
- 2.215 In respect of other mammals (hedgehogs, brown hares, harvest mice), the SNEO considers potential impact during construction can be addressed / mitigated via a biodiversity / environmental construction management plan to be secured by condition.
- 2.216 The submitted Update Ecological Appraisal identifies that roosting bats are not a constraint to development. Mitigation for foraging / commuting bats would be by way of a sensitive lighting scheme as addressed above.
- 2.217 Breeding bird surveys have been undertaken by the applicant, which has identified (apart from turtle dove) red listed skylark and amber listed dunnock on the Site itself. Other species recorded from the additional survey area or adjacent to the Site include red listed linnet, song thrush, yellowhammer and cuckoo and amber listed reed bunting.
- 2.218 With regard to the loss of potential nesting opportunities, that the wave pool scheme is unable to avoid loss of the habitat on the Site is addressed within the ecology section of this report. Therefore, compensation to the loss of suitable bird habitat is proposed to be achieved through the Outline Habitat Compensation Strategy as addressed above. Where adequate habitat compensation, including with adaptive measures, is achievable, this is considered to avoid significant biodiversity harm to these bird species of note.
- 2.219 With regard to two skylark territories, such loss is identified in the Update Ecological Appraisal as comprising less than 0.01% of the Kent population and would not represent a significant impact. As this is a red listed, priority species, compensatory habitat will be secured in the detailed Habitat Compensation Strategy.
- 2.220 Following advice from the SNEO, given the interrelationship of important and sensitive ecology across the Country Park as a whole, a park-wide ecological and biodiversity management plan to further coordinate the mitigation / compensation measures addressed above, as well as to seek additional enhancements, is required. This would be secured by planning obligation.

*The Conservation of Habitats and Species Regulations 2017, Regulation 63:
Appropriate Assessment: Recreational Pressure*

- 2.221 It is necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA (as a designated European Site).
- 2.222 It is not possible to discount the potential for people living or staying within Dover district, when considered in-combination with all other housing development, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA.
- 2.223 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity, which causes disturbance of the species which led to the designation of the site and the integrity of the site itself.
- 2.224 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods. This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, provision of wardens and other mitigation (for example signage, leaflets and other education).
- 2.225 Having had regard to the proposed mitigation measures (to manage recreational activities from existing and new residents), it is considered that the proposed development would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA where it would make a contribution of £13,425 towards implementation of the SAMM. This is calculated with regard to the number of bedspaces of the holiday lodges and presented tariff: (2-bed: 5 x £537) + (4-bed: 10 x £1,074)
- 2.226 The Senior Natural Environment Officer is satisfied with this approach of mitigation and development would be compliant with draft Local Plan Policies E4 and NE3 in this regard.

*The Conservation of Habitats and Species Regulations 2017, Regulation 63:
Appropriate Assessment: Water Quantity and Quality*

- 2.227 With regard to applicant's 'Document to Inform a Habitat Regulations Assessment', impacts of the proposed development on the Thanet Coast and Sandwich Bay SPA and Ramsar and Sandwich Bay SAC in respect of water quality and quantity cannot be ruled out at stage 1 screening, requiring an appropriate assessment in light of avoidance and/or mitigation measures proposed.
- 2.228 The potential impacts are that the designated sites are susceptible to changes in water quality and quantity, with surface water draining from the site to ditches connected to them; that foul drainage would be treated on site and would ultimately drain to the ditch network; and that ground contaminants could be released during the construction phase of development. Measures to promote water efficiency are also identified as warranted.
- 2.229 As set out in the 'Document to Inform a Habitat Regulations Assessment' and/or considered elsewhere in this report, a range of mitigation measures are proposed to address matters of water and quality, including a construction environmental management plan; intrusive geo environmental assessment work and remediation if

necessary, careful storage of fuels, chemical etc. to avoid spillages, the fitting of pollution control measures on the surface water drainage system, rainwater harvesting measures, controls over the wastewater treatment plant and water efficient measures.

- 2.230 Given the surf lagoon's water would be chlorinated, any water that requires disposal will be disposed of via an upgraded foul water treatment plant on site. However, it should be noted that the lagoon will only require emptying on rare occasions (such as for maintenance or partial emptying in extreme storm events); and drainage systems would be in place to store excess water from the lagoon during these extreme storm events. The full details of the drainage are recommended to be submitted via condition.
- 2.231 Together, these measures are considered to avoid an adverse effect on integrity of the designated sites from the wave pool scheme alone (or in combination with other plans or projects) as a result of water quality and quantity. Natural England raises no concerns in this regard.

3. Conclusion

- 3.1 Overall, to conclude on matters of ecology, Government guidance in the Framework (particularly, paragraph 186a) is an important material consideration. Paragraph 186a requires that when determining planning applications, local planning authorities should apply three principles: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Based on the assessment above, it is concluded that development could progress without significant harm to biodiversity subject to obligations secured as part of the s.106 agreement and conditions of a planning permission.
- 3.2 As such, recognising the complex ecological concerns that have been raised and fully considered by the applicant, Natural England, the SNEO and other consultees and interest groups, for the reasons outlined above, Officers consider that when applying the mitigation hierarchy set out in the NPPF, it can be concluded that significant harm to biodiversity will be avoided.

Built Heritage and Archaeology

- 3.3 The Heritage Impact Assessment that accompanies the application identifies nearby designated heritage assets including Cottingham Court Farmhouse, the 'Wall and Outbuilding' and Foulmead (all Grade II listed), as well as other assets in the wider area of Northbourne Conservation Area, Northbourne Park & Garden (Grade II* listed) and Hull Place (Grade II listed).
- 3.4 With regard to these heritage assets, the Heritage Impact Assessment considers the proposed development to have no impact upon the significance of their setting. Likewise for the Betteshanger pithead to the west of the A258, if that is considered a non-designated asset. Even if heritage effects are considered cumulatively with those of the proposed hotel scheme (application 23/01095), the Heritage Impact Assessment (with regard to a slightly larger hotel design than that now proposed) maintains a considered position of no harm. Consultation advice from the Council's heritage officer verifies the findings of the applicant's Heritage Impact Assessment.
- 3.5 In relation to archaeology, the applicant's Archaeological Desk-Based Assessment considers there to be low to moderate potential for remains across prehistoric and medieval times, low potential for Roman remains and high potential for post medieval remains. Any surviving archaeology on the Site likely to be of local area significance.

- 3.6 Given the development will include below ground intrusions of piling, foundations and services runs, it is reasonable to require a condition for a programme of archaeological investigation to be submitted and agreed in writing by the planning authority, then carried out and findings reported, before development commences.

Noise and Air Quality

- 3.7 The applicant's Noise Assessment identifies that, against the ambient noise levels of the Country Park, no specific noise mitigation measures for the development are required. In term of noise from the development, the rating level and any necessary attenuation for the fixed plant can be secured / controlled by condition, in accordance with advice from Environmental Protection Officers. For construction noise, best practice measures including hours of work can be secured through condition.
- 3.8 The site is not located within or in the vicinity of an Air Quality Management Area. For the operation of the development, the applicant's Air Quality Assessment indicates that emissions arising from traffic would result in a negligible impact on local pollutant concentrations. Predicted concentrations remain below the objective levels at all identified receptors. The Air Quality Assessment further concludes that emissions from operational traffic would have an insignificant impact on the Thanet Coast & Sandwich Bay Ramsar Site and Sandwich Bay to Hacklinge Marshes SSSI. For the construction phase, suitable mitigation is suggested by the Air Quality Assessment to control dust through a management plan to be secured by condition.

Ground Conditions

- 3.9 Advice from Environmental Protection officers is that the applicant's Ground Investigation Report demonstrates that further investigation is necessary to fully understand the underlying ground conditions and any associated risks, and to refine measures in respect of ground gas and groundwater monitoring. These matters can be addressed through a series of conditions: for details of intrusive investigation works to be submitted and approved by the planning authority; for the results of that investigation to be provided along with any remedial measures required; for any remediation measures to be carried out and verified; and for any unforeseen contamination to be appropriately dealt with should it arise. A piling risk assessment is also proposed to be secured by condition. On this basis, it is not considered that the proposed development would result in geo-environmental risks.

Drainage and Flood Risk

- 3.10 The surf lagoon and associated building are located in flood zone 1, on land at least risk of flooding. It is only the existing car park, proposed to be rearranged and extended, which is located in flood zone 2 (as land at medium risk of flooding); and a small section of the existing access road to the Country Park is within higher risk flood zone 3a.
- 3.11 Given the access road is existing infrastructure and the extension of the car park cannot reasonably be located elsewhere, the flood risk Sequential Test (that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding) is considered to be satisfied.
- 3.12 Where development cannot be reasonably located elsewhere, the Framework's Exceptions Test at paragraph 170 should be applied – that it should be demonstrated

that a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

- 3.13 On the balance of flood risk and wider benefits, the applicant's 'Flood Risk Assessment and Drainage Strategy' identifies the consequence of a flood event (affecting the access road and car park only) to be low, with users of the development having safe refuge on the higher ground. Outweighing this minor flood risk are the economic and social benefits of the development as highlighted in sections of this report above.
- 3.14 Given the minor level of flood risk, users of the development would remain safe; and communications to ensure safety can be managed with advanced warning to be provided via the Environment Agency's flood alerts.
- 3.15 Accordingly, the proposed development is considered to satisfy the Framework's Exceptions Test.
- 3.16 The Environment Agency has considered matters of flood risk as well – advising it has no objection subject to the development signing up to receiving flood warning information from the Environment Agency and providing an evacuation plan. Regarding any flood risk from the water held in the surf lagoon, the Environment Agency advises that this would be extremely low given it would be 'dug in' and below natural ground level.
- 3.17 With regard to surface water drainage, advice from Kent County Council as the LLFA is that it is satisfied with the drainage principles / strategy proposed. Conditions to secure final surface water drainage, including water quality provisions (including relating to managing chlorinated water in a storm event), can be secured by condition.
- 3.18 For foul sewerage from the 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. A condition to ensure that details of adequate waste-water treatment facilities are submitted and approved before development commences and are available before the development is occupied is recommended. As to whether any further environmental consents or permits are needed, it would be for the applicant to address this with the Environment Agency (with an informative to be added to the planning permission to ensure it is aware of that responsibility).

Water Supply

- 3.19 The water required to fill and maintain the surf lagoon would need to be obtained through consents prescribed by the Water Industry Act 1991, parallel to the planning regime. Whilst such other legislative controls are not normally a matter for consideration in the determination of planning applications, given the nature of the wave pool scheme it is considered necessary for a planning condition to require sufficient evidence to be provided that the water required would be available before development commences.
- 3.20 Southern Water have stated that "*Our investigations indicate that Southern Water can facilitate water supply to service the proposed development. Southern Water requires a formal application for a connection to the water supply to be made by the applicant or developer.*" The applicant has confirmed that a water supply application is being progressed with Southern Water.

S.106 Contributions

- 3.21 Policy CP6 of the Core Strategy emphasises that development that generates demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed. Draft Local Plan Policy SP11 retains this approach, to ensure infrastructure is delivered at the right time in the right place to meet the growing needs of the district.
- 3.22 In light of the consultation responses received and planning assessment above, the obligations at Table 2 are required to be secured through a s.106 agreement.

Table 2 s.106 Contributions

Matter	Obligation
Public access to the Country Park	Covenant for public access to be maintained to the Country Park whilst the wave pool scheme remains operational at no charge for entry to the Country Park with exceptions allowing for the park to be closed to the public for example for maintenance and special events and public holidays (including Christmas day)
Country Park wide ecological and biodiversity management plan	An Ecological and Biodiversity Management Plan to be submitted and agreed before occupation of development. Ecological and Biodiversity Management Plan to include specific measures and targets, against which annual monitoring shall be provided
Community use	To submit and have approved a detailed scheme to secure: <ul style="list-style-type: none"> - the offer of surf therapy courses (via 'The Wave Project', a local charity) for children and adults with mental health challenges - to offer the scheme as an environment for children to learn, to provide creative / engaging learning activities linked to key subject areas - to offer accessible / adaptive surfing opportunities for people with physical disabilities - a commitment to provide up to 2,500 free surf sessions per year to local state school children - a commitment to provide an activity programme, in conjunction with the government's 'Holiday Activities and Food Programme' for under privileged local school-aged children during main school holidays - the offer of apprenticeship schemes in the operating business, with focus on school leavers within the local area
Visitor and turtle dove management	To establish zonal areas of 'Core Visitor', 'Informal Access' and 'Restricted Access' across the Country Park. To provide a detailed 'Visitor Management Plan' with specific aims and objectives for each zonal area. To provide a detailed 'Turtle Dove Mitigation Strategy' for the Country Park.

	<p>Implementation of measures contained in the detailed 'Visitor Management Plan' and detailed 'Turtle Dove Mitigation Strategy', including offsite measures at Hammill Field and adjacent to the east of the Country Park.</p> <p>To establish a 'Turtle Dove Survey and Monitoring Regime'.</p> <p>To submit each year to the local planning authority for review the 'Visitor Management Plan' and 'Turtle Dove Mitigation Strategy' and results of the 'Turtle Dove Survey and Monitoring Regime'.</p> <p>To revise the 'Visitor Management Plan' and 'Turtle Dove Mitigation Strategy' with initiatives to promote the Country Park for the favourable conservation status of turtle doves and implement those initiatives in response to any negative findings of the 'Turtle Dove Survey and Monitoring Regime'.</p> <p>To establish a 'Full Time Designated Wildlife Warden' for the Country Park, along with specific roles and responsibilities.</p> <p>To make an annual contribution of £6,000 (index linked) to the local planning authority in respect of the monitoring, consideration and enforcement of matters relating to visitor and turtle dove management.</p>
<p>Habitat compensation measures</p>	<p>To provide a detailed 'Habitat Compensation Plan', including specific measures, actions and programme.</p> <p>The detailed 'Habitat Compensation Plan' to include objectives that would be measured and monitored to indicate the success or otherwise of the works.</p> <p>To provide a series of assessments utilising the Defra biodiversity metric to also monitor the success of the habitat improvement measures over time.</p> <p>To revise the 'Habitat Compensation Plan', to provide additional on or off-site compensation measures, if monitoring of the measurable objectives and biodiversity metric assessments indicate a deficiency in habitat creation.</p> <p>To make an annual contribution of £4,000 (index linked) to the local planning authority in respect of the monitoring, consideration and enforcement of matters relating to habitat creation and compensation.</p>
<p>Habitat and biodiversity enhancement scheme</p>	<p>'Habitat and Biodiversity Enhancement and Management Scheme' for the Site, the Country Park, Hammill Field and land adjacent to the east of the Country Park to be submitted and agreed before commencement of development.</p> <p>The 'Habitat and Biodiversity Enhancement and Management Scheme' shall include:</p> <ul style="list-style-type: none"> - specific biodiversity aims and objectives

	<ul style="list-style-type: none"> - a 'biodiversity gain plan' to demonstrate how a minimum of 10% biodiversity net gain will be achieved - biodiversity enhancement measures - a timetable / programme for carrying out the measures - details of the management and maintenance of the enhancement measures - ongoing monitoring and reporting of the enhancement measures
Fiery Clearwing	<p>Dock plant seeding establishment and management measures to be submitted and approved for identified dock receptor area.</p> <p>Dock translocation and management plan to be submitted and approved, as relating to the development site and dock receptor area.</p> <p>Monitoring of mitigation / compensation measures, to be undertaken on dock receptor area against objective targets. If secured measures were to be failing objective targets, an alternative approach to mitigation / compensation to avoid significant harm to be provided.</p>
Lizard orchids	<p>Lizard orchid habitat improvement and management plan to be submitted and approved.</p> <p>Lizard orchid translocation and management plan to be submitted and approved.</p> <p>Monitoring of mitigation / compensation measures, to be undertaken, against objective targets. If secured measures were to be failing objective targets, an alternative approach to mitigation / compensation to avoid significant harm to be provided.</p>
Reptiles	Securing of reptile translocation area in perpetuity
Thanet Coast and Sandwich Bay Special Protection Area SAMM	A contribution of £13,425 (index linked) towards Strategic Access Mitigation and Monitoring Strategy
Shuttle bus service	Details of provision of a shuttle bus service, to be available on each day the development is open, to transport employees to / from the Site from nearby towns / villages within the district
Improvements to Northbourne Road / A256 junction	Enter into s.278 agreement and carry out junction mitigation works at Northbourne Road / A256 junction before occupation of the wave pool scheme and separately proposed hotel development
Whitfield Roundabout Junction	A proportionate contribution towards improvement works at the Whitfield Roundabout junction

Planning Balance and Conclusion

- 3.23 The starting point for decision making is the adopted development plan. Decisions should be taken in accordance with the policies in the plan unless material considerations indicate otherwise.
- 3.24 The Framework is an important material consideration and its definition of sustainable development is set out at the start of the report. Its three overarching objectives, as well as specific paragraphs mentioned throughout the report, are important in considering the overall planning balance of the proposed development.
- 3.25 National Planning Policy Guidance (NPPG) states that it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight.
- 3.26 The countryside location of the wave pool scheme is considered to accord with the development plan by virtue of saved Local Plan Policy OS7 and the provisions of Core Strategy Policies DM1 and DM15, as well as being compliant with the spatial provision of draft Local Plan Policy E4. The location is supported too by Framework paragraph 88, relating to rural tourism and leisure developments.
- 3.27 Whilst there is conflict with the spatial dimension of Policy DM11, this policy is not consistent with the Framework and so carries limited weight.
- 3.28 In relation to ecology, this application has sought to address the previous resolved reason for refusal for the hotel application (22/01152) relating to the impact on the turtle dove species. This includes the provision of mitigation/ compensation in the form of improving existing habitat (to make it more suitable for turtle doves) on a nearby site (Hammill Fields) and on a parcel of land to the east of the Country Park.
- 3.29 Significant consideration has been given to the level of certainty that can be attached to the effectiveness of mitigation measures proposed by the Outline Visitor Management and Turtle Dove Strategy. With provision for mitigation measures to adapt as necessary through a monitoring regime, which would be secured through planning obligations, it is considered that the proposal does not result in significant harm to ecology.
- 3.30 Regarding lizard orchids and fiery clear wing moths, Officers consider that with an extended period to allow implementation of development there is a reasonable likelihood of a respective protected species licence being granted following the implementation of research and trials during this period, based on the outlined mitigation / compensation measures. There would also be monitoring of the success of these measures and an adaptive approach to require further provisions should it be necessary to do so. Such measures, coupled with the protection of the licensing regime, and a condition preventing the implementation of the development prior to any required licences being issued, would in Officers' view ensure that significant harm is avoided.
- 3.31 Likewise, with an approach to habitat mitigation and compensation highlighted above, including Open Mosaic Habitat, which supports a general assemblage of invertebrates, with obligations to ensure monitoring and approach if necessary, that would ensure that significant harm to Open Mosaic Habitat and invertebrate assemblages is avoided.
- 3.32 With regards to the Sussex emerald moth, these are afforded protection under the Wildlife and Countryside Act. In this case, with a single moth being recorded, the SNEO considers it can be reasonably justified to allow for post planning permission survey

work, with conditions to secure any mitigation should that be needed, and as such that significant harm will be avoided.

- 3.33 Inevitably there would be some disruption to the biodiversity and wildlife of the Country Park as a result of the development, but with the avoidance, mitigation and/ or compensatory measures proposed, this would not be significant. Nevertheless, that less-than-significant disturbance is still afforded minor negative weight.
- 3.34 Harm to the character and appearance of the Country Park (which also took into account the loss of some of the open space) was identified by the Planning Committee in its resolution on application 22/01152 to which weight is afforded whilst recognising that the two schemes would have different impacts. The previously identified harm to character and appearance of the Country Park is considered to be moderate, but remains under this application, weighing against the scheme. (In the cumulative scenario, should the proposed wave pool scheme and hotel scheme both be granted and delivered, there are greater visual impacts where both developments would be seen together in shorter views, but the officer view is that this greater impact would be balanced against the greater benefits of the two schemes).
- 3.35 The Site's designation as open space is important and in particular the quality of the Country Park is recognised. Although Core Strategy Policy DM25 generally seeks to retain such open space, there is not a blanket ban on any loss where a number of exceptions might apply – which is consistent with the Framework. In this case, given that there is an identified surplus of semi/natural green space across the district, the loss of open space is considered to be policy compliant.
- 3.36 To balance against the identified harm are the public benefits of the scheme. The commitment of the applicant to secure public access to the Country Park, an Asset of Community Value, is a very important benefit which can be afforded significant weight. This is significant in enabling the Country Park to continue to provide an important asset for the public and to contribute to the Framework's social objective in providing an accessible open space. This is a key difference between this proposal and the previous hotel application (22/01152) and is considered a material consideration in overcoming the previous resolution to refuse that hotel scheme in respect of loss of open space.
- 3.37 The range of outreach social and community benefits, specifically promoted by the applicant, weigh significantly in support of development. These are set out in the S106 table within the report and these would be secured if planning permission were granted.
- 3.38 The economic benefits of the proposed development are significant. Given the importance of tourism and the visitor economy to Dover District (as set out in the current and emerging development plan, the Growth Strategy and emphasised in the Economic Response) and the wider reach across the region, as well as the provision of a flagship visitor attraction, it is reasonable to afford these benefits very substantial weight. This weighs strongly in respect of the Framework's economic objective in supporting growth and contributing to a strong and competitive economy.
- 3.39 These benefits as material considerations are considered sufficient to justify the grant of planning permission.

g) Recommendation

I That PLANNING PERMISSION BE GRANTED subject to a Section 106 legal agreement to secure necessary planning contributions set out above (Table 2) and subject to the following conditions to include:

- 1) Time limit – seven years
- 2) Approved plans
- 3) Details of external materials, including decking areas, to be submitted
- 4) Details of window frames and doors for each building to be submitted
- 5) Details of green roof planting to be submitted
- 6) Details of materials of pedestrian bridge link to be submitted
- 7) Boundary treatment / screening of wave pump plant enclosure to be submitted
- 8) Details of measures informed by Secured by Design principles to be submitted
- 9) BREEAM very good to be secured
- 10) Hard and soft landscaping details, including tree planting, to be submitted
- 11) Details of bunding and landscaped boundary treatment to be submitted
- 12) Tree protection measures – to be submitted
- 13) Piling risk assessment for any piling operations
- 14) Geo-environmental intrusive assessment report to be approved
- 15) Details of any geo-environmental remediation to be approved
- 16) Verification report of effectiveness of remediation measures to be approved
- 17) Unforeseen contamination
- 18) Environmental and transport construction management plan including details of: access, parking, wheel washing, timing of HGV movements, temporary traffic management, compounds, hoarding, temporary buildings, temporary lighting, control of dust, control of noise/vibrations, working hours, procedures for complaint management
- 19) Details of surface water drainage measures during construction
- 20) Car parking to be provided before occupation
- 21) Cycle parking to be provided before occupation
- 22) Electric vehicle parking details to be approved
- 23) Parking management plan and signage strategy to be approved
- 24) Travel plan to be approved
- 25) Lighting details to be approved
- 26) Hours of floodlight use restricted to only between 06.30 and 21.30 each day
- 27) No development to commence until protected species licence (that may be issued by Natural England) in respect of impact to fiery clearwing moths is obtained
- 28) No development to commence until survey work for Sussex emerald moth demonstrates there to be no impact upon that species; or a scheme of mitigation / compensation is submitted and approved and a protected species licence (that may be issued by Natural England) in respect of impact to Sussex emerald moth is obtained
- 29) No development to commence until protected species licence (that may be issued by Natural England) in respect of impact to lizard

- orchids is obtained
- 30) Details of habitat manipulation, of clearance of reptiles from the Site, to be submitted
 - 31) Details of updated badger surveys to be submitted
 - 32) Compensatory habitat measures for skylarks
 - 33) Construction ecological management plan – to include mammal safeguards
 - 34) Clearance of vegetation – outside bird nesting season or under ecological supervision
 - 35) Details of evasive species eradication to be submitted
 - 36) Water efficiency measures to be approved
 - 37) Detailed surface water drainage scheme to be submitted and agreed prior to commencement
 - 38) Verification of implemented surface water drainage scheme to be approved
 - 39) Details of foul water drainage to be submitted and agreed prior to commencement
 - 40) Development to sign up to EA Flood Warning service and provide management plan of actions in a flood event
 - 41) Details of agreement of water supply to serve the development to be submitted before commencement
 - 42) Fixed plant noise assessment to be submitted – to achieve at least 5dB below background
 - 43) Programme of archaeological investigation to be carried out in accordance with details to be agreed
 - 44) Prohibition of dogs staying with overnight visitors
 - 45) Prohibition of visitor, recreational electric vehicle use within the Country Park, beyond the main access roadway and car park

- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions and to finalise the wording of the S106 agreement in line with the issues set out in the recommendation and as resolved by the Planning Committee.