

## **DCL/19/06**

**Application No:** Y18/0948/FH

**Location of Site:** Land Adjoining Holme View Farm, Dengemarsh Road, Lydd, Kent

**Development:** Change of use of land from agricultural to B1 (business) / B2 (general industrial) / B8 (storage and distribution) purposes, including retention of access, and car park and erection of industrial unit.

**Applicant:** Mr William Blake

**Agent:** Mr Mike Simmonds

**Date Valid:** 28.08.18

**Expiry Date:** 23.10.18

**PEA Date:**

**Date of Committee:** 02.07.19

**Officer Contact:** Katy Claw

### **SUMMARY**

This application seeks planning permission for the change of use of land from agricultural to Class B1 (business) / Class B2 (general industrial) / Class B8 (storage and distribution) purposes. The land in question was allocated for employment land use under the Shepway District Local Plan Review and is still allocated for employment land use under the emerging Places and Policies Local Plan (PPLP) as part of a much larger employment parcel. The proposal also includes retention of the vehicular access and car park (as approved under Y16/1094/SH) together with the formation of further hardstanding and the erection of an industrial unit to be used in connection with the site. Issues relating to ecology and foul drainage have been resolved.

**RECOMMENDATION:** That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Development Management Manager to agree and finalise the wording of the conditions and add any other conditions that she considers necessary.

### **1.0 THE PROPOSAL**

- 1.1 This application seeks to permit change of use of approximately 0.8Ha of land to B1 (business) / B2 (general industrial) / B8 (storage and distribution) purposes. The proposal would include the retention of the existing vehicular access and parking area together with the formation of further hardstanding

and the erection of an industrial unit to be used in connection with the proposed use.

- 1.2 The vehicular access and car park area were granted temporary planning permission under planning permission Y16/1094/SH subject to a condition that the land shall be restored to its former condition on or before 1st October 2020. The access is from Dengemarsh Road and the parking area offers space for up to 16 spaces, both of which are located towards the southern end of the site.
- 1.3 The proposal includes additional concrete hard surfacing to be laid in 6m wide bays with drainage as shown dotted on plan number 2017/6/08D., north of the parking area.
- 1.4 In the northern 3<sup>rd</sup> of the site the area will be used for open storage.
- 1.5 An industrial unit is proposed to the south-eastern corner of the plot which would provide approximately 256sqm of internal workshop/storage space. The building would measure approximately 14.1m x 18.4m. The unit would have a very shallow pitched roof and stand approximately 7.2m in height. The building would be clad in green steel profiled sheeting with semi-translucent roof panels. Internally the space would mainly be open plan with a small kitchen and cloak room area.
- 1.6 Boundary treatments would consist of a 2.5m high timber acoustic fence that will replace the existing temporary blue hoarding. The timber fence will run around the north, west and eastern perimeter of the site whilst the southern boundary will retain the existing 2.5m high steel palisade fence. Positioned 2m away from the northern and upper part of the western boundaries will be a 5m wide x 2m high earth bund and to the lower part of the western boundary and around part of the southern boundary there will also be a newly planted gorse hedging inside the fence line. Further fencing to the eastern boundary would include 0.9m high post and rail fencing with sheepwire netting set along the grass verge with the highway. The proposed timber fencing will include 3 openings set along the eastern boundary to allow free passage for the badgers present on site.
- 1.7 Further landscaping would consist of a reptile mitigation area and gorse bush planting with 1050mm high cleft chestnut fencing around the existing badger sett on site, as shown on drawing number 2017/68/08E.
- 1.8 The site was granted temporary planning permission for the stationing of no more than 4 portacabins, to be removed by 1<sup>st</sup> October 2020. The applicant is not seeking to retain these portacabins as part of this application.

## **2.0 SITE DESIGNATIONS**

2.1 The following apply to the site:

- Outside settlement boundary

- Northern area of site identified as being at 'significant' risk of flooding in 2115 when taking account of climate change in the Council's SFRA. The site is located outside of any flood zones as defined in the Environment Agency flood maps.
- Established employment site (as set out under saved policy E1 of the SDLPR 2006).

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

- 3.1 The site covers approximately 0.8Ha which until 2016 was open scrub land when the temporary permission was implemented to part (southern half) of the site. The site now contains paraphernalia used in connection with the Davey Civils commercial business and the temporary access track and parking area are in situ.
- 3.2 To the north of the site are a handful of outbuildings within an open field and beyond this, the nearest neighbouring dwelling known as 'Holme View Farm, approximately 41m from the site.
- 3.3 To the west of the site on the opposite side of Dengemarsh Road is Lydd Town Football Club and the nearest neighbouring dwellings to the site on that side of the road are located to the north-east, the closest being 'The Owlers' in Robin Hood Lane, approximately 67m from the site.
- 3.4 To the south are a number of historic industrial units, the closest being Tudor Roof Company which shares a boundary with the application site.
- 3.5 To the west of the site, separated by open land and an access track are numerous outbuildings in connection with the MOD Lydd Army Camp base. Public footpath No. HL41 and a designated Coastal Footpath run along this access track to the west.

### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 Y16/1094/SH - Use of land for the temporary stationing of portacabins for use as offices.  
This application granted temporary planning permission until 1<sup>st</sup> October 2020 for the southern half of the site and for no more than 4 portacabins. Temporary permission was granted on the understanding that the applicant needed to relocate their commercial business to the site and that they intended to seek planning permission for a change of use of the land. The necessary ecology surveys for the full planning application were in the process of being produced at that time. The LPA did not wish to see the portacabins retained as a permanent feature and sought to ensure their short-term basis by granting temporary permission to allow the applicant time to carry out the necessary surveys and submit a change of use application for the site as a whole. Under the temporary planning permission the portacabins have to be removed from the site by 1<sup>st</sup> October 2020.

## **5.0 CONSULTATION RESPONSES**

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

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

Responses are summarised below.

5.2 Lydd Town Council

Have requested mitigation for neighbouring residential properties is put in place. This should include the deadening of noise from reversing lorries and that the hours of access and work are limited from 8am to 5pm so that anti-social noise is not a factor. Acoustic barriers and an earth bund are installed separating the industrial site from neighbouring residential property.

5.3 KCC Highways and Transportation

Parking provision is over capacity for the floor area of proposed land use but considering remote nature the parking levels are acceptable. Vehicle turning area is more than adequate. Visibility splays are acceptable. Confirm that subject to conditions proposal is acceptable.

5.4 Environmental Health

Suggested conditions relating to hours and days of operation and maximum noise levels

5.5 KCC Ecology

Following amended plans they are satisfied that development can retain the badgers and reptiles within the site and ensure that there is connectivity to the surrounding area.

5.6 Merebrooks

Conclusions and recommendations of the desk study and risk assessment report are accepted. The report would fulfil part 1 of the Council's standard land contamination condition.

5.7 Environment Agency

Following amended details consider that planning permission could be granted as submitted if conditions are included. Without these conditions the proposed development would pose an unacceptable risk to the environment.

## **6.0 PUBLICITY**

- 6.1 Neighbours notified by letter. Expiry date 24.09.2018

- 6.2 Site Notice. Expiry date 01.10.2018

## **7.0 REPRESENTATIONS**

7.1 Representation responses are available in full on the planning file on the Council's website.

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

Responses are summarised below:

7.2 31 letters/emails received objecting on the following grounds:

- Flood risk to neighbouring property
- Proposed use of a water treatment plant for foul sewerage is unlikely to be acceptable. Could be direct discharge of effluent to ground water and nearby ditches/streams and could be impacted by outflows.
- High water table does not allow for adequate drainage/filtration
- Hard standing is non-permeable
- Large environmental impact
- Land was a former landfill site and is a habitat for birds, badgers, foxes, rabbits and rare lizards
- Surrounding area and road are subject to flooding after rainfall because of lack of adequate drainage
- Noise / smells / fumes from machinery
- Traffic speeds along road are dangerous / no footpaths
- A local councillor has been working and advising Davey Civils. Conflict of interest
- Applicant has already built some drainage chambers and manhole covers
- Positioning of fencing and bunds
- Acoustic fence should be higher
- CCTV and floodlights proposed 5 or 6m high next to neighbouring property. Invasion of privacy and light would shine into dwelling
- Machinery and plant will be visible from garden and neighbouring windows
- Council were aware of contamination and wildlife but still approved first application on land that had remained empty for over 50 years. Second application should not be allowed
- Slot drainage channels and soakaways
- Fuel inceptor chambers
- Substation
- Noise reverberation/echo/wind direction and disturbance
- Proposed working hours
- Vehicle parking
- Storage unit
- Boundaries
- Employees
- Removal trees, bushes
- The applicants persistent non-compliance
- Proximity and privacy, peace
- Run-off
- Claimed land at front of site effect on habitat if owner comes forward

7.3 1 letter email of support raising the following points:

- Land is being used to bring employment in to Lydd
- Existing wildlife and ecology is being accommodated responsibly

## **8.0 RELEVANT POLICY GUIDANCE**

8.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

8.2 The following saved policies of the Shepway District Local Plan Review apply: SD1, E1, BE1, BE16, U1, U3, U4, TR11, TR12, CO1, CO11

8.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS2, SS3, SS4

8.4 The Submission draft of the PPLP (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies Local Plan (2018) may be afforded weight where there has not been significant objection.

The following policies of the Places and Policies Local Plan Submission Draft apply: HB1, E1, T2, NE2, NE5, NE7

8.5 The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

The following policies of the Core Strategy Review Submission Draft 2019 apply: DSD, SS1, SS2, SS3, SS4

8.6 The following paragraphs of the National Planning Policy Framework 2018 apply: 7, 8, 9, 11, 12, 38, 47, 48, 54, 58, 80, 82, 83, 84, 108, 109, 117, 120, 122, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 170, 175, 177, 178, 179, 183

## **9.0 APPRAISAL**

### **Relevant Material Planning Considerations**

- 9.1 The relevant issues for consideration with regard to this application are the acceptability in principle of the use of the site, visual impact, highway safety, biodiversity, contamination, drainage/flooding and neighbouring amenity.

### **Principle and Change of Use**

- 9.2 The site is located outside of any settlement boundary but it is however, in a relatively sustainable location, very close to the settlement boundary of Lydd which is identified as a Service Centre in the Core Strategy which encourages employment. Whilst the Core Strategy at policies SS1& SS2 seeks to ensure that new development is provided within a hierarchy of locations from town centre outwards, this site as explained is both relatively sustainable in location (albeit outside of the settlement boundary).
- 9.3 The application site is designated on the Local Plan Proposals Map as an established employment site under saved policy E1 of the Shepway District Local Plan Review and under emerging policy E1 of the PPLP. The use classes for which it is allocated are: B1 (business), B2 (general industrial) and B8 (storage and distribution). These are the same use classes for which planning permission is being sought. Therefore, in principle, the proposed uses are acceptable. The site is located outside of any built up area boundary, although is in close proximity to the built up area of Lydd. Lydd is recognised as a Service Centre within policy SS3 of the adopted Core Strategy where its role is described as "to accommodate development appropriate to the district and its own needs in order to grow and consolidate its position as a District Centre serving the local hinterland with shops, employment and public services". As such the change of use in this location is considered to be acceptable subject to other material planning considerations.
- 9.4 In this case the current owner/occupier of the site would use the area for the storage of civil engineering/ground support equipment to be moved and used as required for the applicant's contract works. Machinery operation would extend to forklift telehandlers to load and unload the civil engineering equipment from the vehicles transporting to and from sites. The intended use of the site is considered appropriate in terms of planning policy.

### **Design, Layout and Visual Impact**

- 9.5 Works have commenced on site as a result of the temporary planning permission. This has changed the character of the site from one of vacant scrub land to a commercial use. But the principle of this change has been accepted by virtue of its allocation in the local plan. The proposal would include man-made features not uncommon with such a use and the layout of the site has been designed to take account of the protected wildlife located to the northern section of the plot with the hardstanding, car parking area

and building to be located to the southern half. Overall the amount of man-made paraphernalia on the site is fairly low level with the industrial unit being the most visually intrusive permanent feature to be contained within the site. The industrial unit has been positioned towards the rear of the site and this would reduce its visual appearance when viewed from outside the site. There would be plant and machinery associated with the commercial use but these are not fixed features. Given the height of the proposed acoustic fencing the majority of commercial items within the site would not be readily apparent from outside. As such, the fence would be the most visual feature of the site and this element is essential to serve for the purposes of security and to reduce noise impact to the local area in which there are some residential dwellings located. The main acoustic fence itself would be set back from the highway by approximately 6m at its closest point and up to 13m from the public highway at its furthest point. Such a fence is not uncommon given the nature of the business. Given that the site sits in close proximity with other commercial sites to the south of the site and it also sits in close proximity to the Lydd ranges to the west, it is considered that the overall visual appearance of the site as a whole would not appear out of context in the immediate area and therefore would be visually acceptable in this instance. The layout, design and choice of materials in the construction of the building and boundary treatments are considered to be typical of the intended use and no objections are raised.

- 9.6 Considering the site within the wider context it is accepted that the plot is located within an area of relatively flat and open land and therefore any development above ground level would appear as a prominent feature in the landscape when compared to its appearance prior to any development. On its own the site would have the potential to look out of place but when read against the other industrial units in the immediate vicinity it would not appear out of character and the land allocation has been chosen due to its close relationship with the other industrial units. The proposed works associated with the change of use are considered to be in keeping with the general form and pattern of industrial development within the immediate and surrounding area.

## **NEIGHBOURING AMENITY**

### **Noise**

- 9.7 The nearest neighbouring building to the site is the industrial unit to the immediate south which is currently occupied by Tudor Roof Tiles Ltd. Given the commercial nature of this neighbouring site it is considered that the occupiers would not be significantly detrimentally impacted by the proposal. The proposed industrial unit would sit alongside open storage space associated with Tudor Roof Tiles and would therefore cause minimal detrimental impact to the neighbouring commercial business in terms of overshadowing or overbearing.
- 9.8 The applicant has set out their hours of operation as being Monday - Saturday 07.30 – 20.00. These hours of operation have been supported by Environmental Health. Environmental Health have specifically requested



that the site is not to operate on Sundays or Bank Holidays. Hours of operation can be secured by condition. Deliveries to the site will also be restricted to within the operating hours as set out above. The intended hours of operation appear reasonable given the location of the site, in close proximity to other commercial units with the same permitted 'Use Class' as being sought under this application. The hours of operation as set out above would ensure that machinery is not operated at unsocial hours, thereby reducing the impact of noise disturbance to neighbouring residents in the early mornings or late evenings on any given day.

- 9.9 The nearest neighbouring residential property to the site is located approximately 40m to the north-west of the site. (Holme View Farm). Other nearby residential properties located in Robin Hood Lane are approximately 62m to the north east. The mitigation proposed by the applicant includes a bund across the northern and to part of the eastern boundaries together with a 2.5m high acoustic fence on the western, northern and eastern boundaries. The southern elevation faces existing commercial units and here there is existing 2.5m high palisade fencing.
- 9.10 It is accepted that B2 use (general industrial) has the potential to be a noisy operation. However the current applicant would be using the site mainly for storage and the limited space within the proposed industrial unit would limit the ability to carry out a significant amount of general industry activities. This industrial unit is to be sited at the south-western corner in the site, furthest from the residential properties. If further buildings were required these would be subject to planning permission and the necessary assessments in terms of noise would be considered during the life of any application.
- 9.11 Environmental Health have recommended that no manufacturing or repair work is to take place within the open areas of the site and that combined noise emissions from all plant (i.e. air condition units or other permanent plant, not moving vehicles) is not to exceed -5dB relative to background at the nearest residential façade at any time. It would be possible to place conditions on any planning permission to secure maximum permitted noise levels.
- 9.12 The site has been allocated for the proposed used in local plan policy and, therefore, the principle of these uses on this site has already been accepted. It is accepted that there will be a degree of noise associated with the use of the site and it is considered that necessary steps have been shown within the application documents to reduce noise impact (as set out above) to an acceptable level. Further mitigation measures, as set out above, would include conditions to restrict noise levels from plant and a restriction on the hours of operation. It is concluded that sufficient measures have been included within the scheme to ensure that noise nuisance has been mitigated as far as is reasonably practical and to an acceptable level. Such measures can be enforced by planning condition.

## **Visual impact**

- 9.13 In terms of visual impact, it is accepted that the proposed boundary fencing and part of the commercial building would be visible from outside the site but the space separation of the application site from the nearest neighbouring dwelling would ensure that the land use related items are not overbearing and would not give rise to loss of light or overshadowing to the neighbouring residential properties.

### **Light Pollution**

- 9.14 The applicant included 4 x 5m high CCTV/lighting poles on some of the drawings but no further details of the poles had been included on the application and they did not form part of the description of works on the application form. The applicant was asked to remove these CCTV/lighting poles from the plans and advised to submit a separate planning application for them. Amended drawing number 2017/68/08E received 06.06.2019 shows the CCTV/lighting poles removed from the scheme. The applicant may require some other low level lighting to the external of the building or low level lighting bollards, these can be dealt with via condition but the high level poles would require planning permission in their own right.

### **Ecology / Biodiversity**

- 9.15 The site contains a number of protected species, to include two badger setts and lizards. Of the two setts found one was found to have light use and the other remains active. A licence has been applied for (under the 1992 Protection of Badgers Act) that, if granted, will enable its closure.
- 9.16 Emerging policy NE2 refers to biodiversity and says that development proposals that would adversely affect European Protected Species (EPS) or Nationally Protected Species will not be supported, unless appropriate safeguarding measures can be provided (which may include brownfield or previously developed land (PDL) that can support priority habitats and/or be of value to protected species). This is in line with the aims of the National Planning Policy Framework (NPPF).
- 9.17 The main badger sett remains active and will be retained and protected by means of appropriate planting and fencing as shown on amended drawing number 2017/68/08E submitted with this application and also set out in the accompanying Ecological Mitigation and Management Plan submitted with the application. The drawing shows a reptile translocation site outside of the acoustic fence and the drawing confirms that the fencing around the reptile receptor site is post and rail and that three badger gates will be created in the acoustic fencing along the eastern boundary to enable movement between the retained badger sett and wider site. The existing badger site itself will be planted with gorse bushes and will be fenced off from the wider site with 1050mm high cleft chestnut fencing. Following consultation, KCC Biodiversity Officers have confirmed that they are satisfied with the mitigation measures proposed to ensure that the proposed development can retain the badgers and reptiles within the site and ensure that there is connectivity to the surrounding area. The implementation and retention of the mitigation measures can be secured by planning condition.

## **Drainage**

- 9.18 Following an objection from the EA, the scheme now proposes the use of septic tanks which would allow for treated water to discharge into a drainage field within the confines of the site. Rain water from the proposed building will discharge to a soakaway within the confines of the site. The EA have confirmed that they consider planning permission could be granted as submitted providing that the conditions as set out in their final comments dated 13<sup>th</sup> November 2018 are all complied with. The EA have confirmed that they consider all the conditions listed are achievable by the applicant. There are no valid planning reasons to disagree with the findings of the EA and, therefore, it is considered that the scheme is acceptable subject to conditions and that the risk of flooding within and outside of the site can be sufficiently mitigated for as a result.
- 9.19 Some drainage measures were approved as part of the 2016 planning permission and works with regards to drainage under the previous scheme (in connection with the portacabins) have commenced on site. This does not impact upon the current scheme for which separate conditions will be required as the portacabins are only temporary.

## **Contamination**

- 9.20 A desk based study and risk assessment report has been produced by Southern Testing Ltd as part of the application. The document includes a desk study / site walkover with conceptual site model and contamination risk assessment. The document has identified potential risk (albeit low) to the future development and recommends intrusive site investigation. In comments received 8<sup>th</sup> April 2019 the Council's external contamination consultants (Merebrooks) have confirmed that the submitted report meets the requirements of part 1 of the Council's standard land contamination condition. In this regard it is considered appropriate to allow planning permission to be granted subject to parts 2 - 5 of the standard contamination condition being applied to any planning permission. As part of the conditions the applicant would be required to submit a site investigation report to cover an assessment of the nature and extent of any contamination on the site and whether or not it originates on the site. If that report shows that remediation is necessary then a detailed remediation scheme to bring the site to a condition suitable for the intended use would then need to be submitted to the LPA. A verification report would also be required to be submitted which would need to demonstrate completion of the works set out in the remediation scheme.

## **Flooding**

- 9.21 Paragraph 155 of the NPPF says that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

- 9.22 The National Planning Practice Guidance (NPPG) (paragraph: 066 Reference ID: 7-066-20140306) defines “less vulnerable” development as including employment uses and covers buildings used for general industry, storage and distribution. In assessing where uses should go, the NPPG says (paragraph: 067 Reference ID: 7-067-20140306) in Table 3, that “less vulnerable” development is “appropriate” development in all flood zones 1-3, except 3(b) – the functional floodplain.
- 9.23 There was therefore no need to do a specific sequential test for the allocation of employment sites, as the use is considered appropriate for all levels of flood risk, except in a functional floodplain. Nevertheless, as part of the preparation of the emerging Places and Policies Local Plan, site allocations have been considered using the SFRA to steer development to the areas of least risk of flooding. This has been demonstrated through the local plan evidence base including Sustainability Appraisals.
- 9.24 The northern section of the site is shown to be at risk of flooding in 2115 under climate change projections, the southern section (the location of the hardstanding, parking and building) are outside of the projected flood area in the Council’s SFRA. Therefore, the risk of flood damage to building occupants is low and any increased risk of flooding elsewhere by water displacement is also considered to be low in this instance. Should the applicant (or any subsequent site owner) wish to erect further buildings etc within the northern area of the site further planning permission would be required and any flood risk concerns would be assessed as part of that application.

### **Highway safety**

- 9.25 The access and parking area has already been approved under Y16/1094/SH and the proposed location of these has not altered from that previously approved. The area of verge fronting the highway is not within the applicant’s ownership, which was also the case for the 2016 application, and the applicant has taken the appropriate steps in this regard (as was the case for the 2016 application) and has published statutory notices in the local paper to try and identify the land owner. No person or interested party has come forward since the notices were posted.
- 9.26 The applicant has submitted visibility splays showing 90m splays (albeit over 3<sup>rd</sup> party land) and these would normally only be sufficient for 40mph driven speeds. No speed data survey has been provided to support these proposed splays and the access is located in a derestricted speed limit. Kent Highways and Transport Services have noted this and notwithstanding this fact, they have taken account of the road alignment in both directions and have confirmed that they are satisfied that the available visibility in reality is significantly greater than the proposed splays, and as such the proposed splays are acceptable.
- 9.27 The proposed parking provision is over capacity for the floor area of the proposed land uses under KCC parking standards. However, considering

the remote nature of the site and taking account the civil engineering nature of the applicant's business which may require remote workers to arrive on site and then take company vehicles out, the proposed parking levels are acceptable. The vehicle turning area by way of the proposed concrete hard standing is more than adequate. Taking account of the above KH&TS have confirmed that no objections are raised to the proposal subject to conditions to include provision of wheel washing facilities, use of a bound material for the first 5m of the access from the edge of the highway, gates are to open away from the highway and provision and permanent retention of the vehicle parking spaces shown on the plans.

## **Environmental Impact Assessment**

9.28 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

9.29 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

9.30 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge.

## **Other Issues**

9.31 Comments have been received from interest parties, not all comments have been objections, not all comments are clear as to the concerns surrounding them and not all comments made are material planning considerations. Where clear and relevant to planning, the comments made have been addressed within the report.

9.32 It is noted that Lydd Town Council has requested a condition with regards to the deadening of noise from reversing lorries (the inbuilt beeping) Such a condition is not reasonable or enforceable. Most large vehicles include this safety feature and the inclusion of these beepers is for the purposes of health and safety. Any such condition to see safety measures impinged or reduced would be inappropriate and could lead to increased risk to life for employees of the site. Lorry movements on site would be adhoc during the

given hours of operation and the noise from reversing beepers would not occur for any significant continuous period. As set out above measures are proposed to mitigate unacceptable noise and disturbance from the site and these are considered acceptable and reasonable.

9.33 This application is reported to Committee at the request of Cllr Goddard on the grounds of loss of amenity, noise pollution and lighting intrusion.

## **Human Rights**

9.34 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

9.35 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **10.0 BACKGROUND DOCUMENTS**

10.1 The consultation responses set out at Section 5.0 and any representations at Section 7.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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**RECOMMENDATION – That planning permission be granted subject to the following conditions and that delegated authority be given to the Development Management Manager to agree and finalise the wording of the conditions and add any other conditions that she considers necessary:**

1. Development must begin within 3 years

2. Development must be in accordance with the submitted plans
3. Materials in accordance with the submitted plans
4. Details of any low level external lighting fixtures to the building and/or any other low level lighting within the site to be submitted and approved prior to installation. Details to include level of luminance and extent of light spill
5. No manufacturing or repair works to take place within any open external areas
6. Hours of operation – 07.30 – 20.00 Monday to Saturday. No opening on Sundays or Bank Holidays.
7. Combined noise emissions from all plant not to exceed -5dB relative to background noise at nearest residential façade at any time.
8. Provision and permanent retention of vehicle parking spaces
9. Access gates to open away from highway
10. Use of a bound surface for the first 5m of the access from the edge of the highway
11. Completion and maintenance of the access details and visibility splays as shown on the submitted drawings
12. Parts 2-5 of land contamination condition
13. Badger gates will be created in the site fencing as shown on the approved plans to enable movement to retained badger sett and wider site
14. Gorse planting shall take place within x months and replanting within 2 years if any plant is removed, uprooted or destroyed or dies.
15. The development shall not be commenced until such time as a scheme to connect the building to foul and or surface water drainage system has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved prior to the first used of the building.
16. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details



Y18/0948/FH  
Land adjoining Holm View Farm  
Dengemarsh Road  
Lydd

