

Application No: Y18/0768/FH

Location of Site: Land adjoining 39 Victoria Road West, Littlestone, Kent

Development: Outline application for up to 80 dwellings and access with matters of scale, layout, appearance and landscaping reserved for future consideration.

Applicant: Dean Lewis Estates Ltd.

Agent: Hobbs Parker Property Consultants LLP.

Officer Contact: Ross McCardle

SUMMARY

This application seeks outline planning permission (matters of scale, layout, appearance, and landscaping reserved) for up to 80 dwellings on land at Victoria Road West, Littlestone. The application site is allocated for residential development under policy RM2 of the emerging Places and Policies Local Plan; the development would not give rise to any serious amenity concerns, unacceptable flood risk, or harm to ecology; and the detailed appearance of the scheme would be considered by the Council through future applications. The application is therefore recommended for approval subject to receipt of final comments from the NHS; completion of a section 106 legal agreement to secure affordable housing, financial contributions towards the NHS; and an open space/ SUDS management plan and the conditions set out in the report.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

- 1.1 This application is being reported to the planning committee after being called in by Ward Councillors Rolfe and Wimble.

2. SITE AND SURROUNDINGS

- 2.1 The application site is an irregularly-shaped parcel of agricultural land situated at the north-western end of Victoria Road West (VRW), Littlestone.
- 2.2 Extending to approximately 4.6 hectares (11.4 acres) the land lies outside but immediately adjacent to the defined built up area boundary, which runs along the garden boundaries of the houses on VRW and Queens Road. The site is largely flat and level, is threaded by a number of drainage ditches, and is

currently used as grazing land. The land is bordered by the existing dwellings on VRW to the east and those on Queens Road to the north, by agricultural fields to the west, and New Romney Caravan Park to the south (see figure 1).



Figure 1: Site Location

- 2.3 The character of the site is of an open agricultural field bordered by suburban-style residential housing to the north and east, and by flat, open agricultural land to the west and south, across which there are long-range views. VRW is characterised by small terraces of residential houses set back from the road with detached garages to the rear, but on-street parking is common. Much of Littlestone as a wider area comprises residential developments of a similar age that are not particularly reflective of the traditional built character to be found in the centre of neighbouring New Romney; houses are generally set along straight roads running inland from the sea, which creates a distinct linear pattern to the village.
- 2.4 The site lies outside of, but adjacent to the defined built up area boundary but is wholly allocated for residential development under policy RM2, which is discussed in detail below. The site is within Flood Zone 3, but also within an area benefitting from flood defences. The site ranges from no risk to significant risk under the 2115 SFRA. It is within an area of archaeological potential, a local landscape area, and the southern ~1/3 of the site is classified as Grade 3 agricultural land (lower quality) while the upper ~2/3 are classified as urban grade land. There are no public footpaths crossing or bordering the site.
- 2.5 The wider area is subject to Community Infrastructure Levy (CIL) at a rate of £57.86 per sqm of residential development.

3. PROPOSAL

- 3.1 This application seeks outline planning permission for the erection of up to 80 dwellings on the site, with matters of scale, layout, appearance, and landscaping reserved for consideration under future applications. The only matters for determination under this application, therefore, are the principle of developing the site and the means of access (including the internal road layout).
- 3.2 The submitted drawings show that access would be gained from VRW by a continuation of the existing roadway into the site.
- 3.3 As this application is for outline permission only an indicative drawing has been provided to demonstrate how the proposed development could be accommodated on the site. This shows that VRW would be continued in a straight line across the site with short spurs projecting NE and SW; dwellings would face onto these roads to form a number of blocks on the northern half of the site, which would be occupied by detached and semi-detached houses.
- 3.4 The indicative layout shows that each dwelling would have a garden of at least 10m depth and houses would be appropriately separated to avoid mutual overlooking. It also demonstrates that each dwelling could be provided with a private driveway and garage, and shows a parking area along the eastern site boundary which would provide overspill/visitor parking for the development and for existing residents of VRW.
- 3.5 The southern half of the site is indicatively shown to be kept open to accommodate open space and drainage areas. Drainage ditches would draw water from across the site and feed in to an attenuation pond on the western part of the open space, which would then feed in to existing drainage ditches outside the site. An area of lower ground in the centre of the southern half would provide additional flood storage capacity. A band of planting would separate the northern and southern halves of the site.
- 3.6 I would reiterate that all matters other than access are reserved for consideration under future applications, and this application only seeks to agree the principle of development and the means of access. In that regard Members should note that the submitted drawings are indicative of how a development of up to 80 units *could be* accommodated on the site rather than a set-in-stone layout. It is normally the case, however, that indicative drawings agreed under outline consent for developments of this scale are often used as the layout (because the applicant will have carried out survey works, explored drainage routes, etc. to reach this stage).

4. RELEVANT PLANNING HISTORY

- 4.1 There are no relevant prior applications at the site.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

5.2 Consultees

New Romney Town Council recommends that the application should be refused, raising the following summarised comments:

- Policies SD1(a), (c), (j) and (k), HO6 (e), LR9, LR10, BE13, TR11 and TR13 would be contravened;
- The site lies outside of the defined built up area boundary;
- Lack of local infrastructure;
- Local parking problems will be exacerbated;
- Inaccuracies in Design & Access Statement;
- Potential flood risk to existing properties on Victoria Road West; and
- Increased population would add to pressure on existing local healthcare provision.

Natural England has no objection, commenting:

“I advise that the proposed mitigation measures are sufficiently evidenced, robust and deliverable for me to have reasonable certainty that your proposal will result in an increase in the ability of habitat within the site boundary.” (29.01.20)

“Based on the plans submitted, Natural England considers that the proposed development will not have likely significant impacts on the Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site and has no objection to the development.” (20.03.20)

Kent County Council Ecologist notes that there is evidence of Great Crested Newts within the site but, based on the submitted information, *“consider that the provided information is sufficient to ensure that the great crested newt population can be maintained at a ‘favourable conservation status.’”* They advise that mitigation needs to be secured in perpetuity, and ultimately have no objection subject to the conditions which secure management of the site to the benefit of biodiversity and wildlife.

The Environment Agency notes that the site lies in Flood Zone 3a (an area at high risk of flooding) but that the area benefits from flood defences as demonstrated by the Council’s Strategic Flood Risk Assessment and is therefore at relatively low risk. The Agency therefore has no objection subject to standard conditions as set out below.

Southern Water notes that a public sewer runs across the site, and the correct position thereof needs to be determined before a layout is finalised /agreed. Members will note layout is a reserved matter at this stage and an informative has been included to highlight this to the applicant for future reserved matters applications.

The Romney Marsh Internal Drainage Board initially objected to the development but, further to discussions with the applicant and an application made direct to the IDB, has now granted the applicant consent for drainage works associated with the proposed development.

Kent County Council Lead Local Flood Authority has no comments subject to standard SUDS conditions.

Kent County Council Economic Development have not requested any contributions to local public services; these will be provided for from the Community Infrastructure Levy (CIL) contributions secured through the Council's CIL process.

Kent County Council Archaeology has no objections subject to the use of a standard condition to secure investigation of the site prior to commencement of development.

Kent County Council Highways & Transportation has no objections subject to conditions, and commenting that *"the proposal does not cause safety concerns in terms of its impact on the wider public highway network."* With particular regard to vehicle parking on Victoria Road West their officers comment (in extract):

"...the existing parking situation on Victoria Road, particularly at the far western end, is such that two way traffic could not be maintained into the application site. The road in this location is not wide enough to accommodate parking on both sides and allow safe passage of vehicles. As a result this leads to parking on the verge and footway.

Although parking on the public highway is a benefit enjoyed by many at their convenience, it is important to remember that the purpose of the public highway is the free movement of people and goods. There is no 'right' to park on the public highway. There is certainly no right to park on the verge or footway, causing damage and obstruction to the safe passage of pedestrians.

To ensure free movement of vehicles onto the proposal site, the applicant has produced a proposal of mixed parking restrictions which would limit on street parking to one side only, staggered to reduce vehicle speeds, as well as some sections of no footway/verge parking.

These are shown on drawing P17008-002B in Appendix 1 of the Transport Technical Note 1 (upload date 19th July 2019 with the registered documents). These have been discussed with Folkestone and Hythe District Council's Parking Manager as workable in terms of enforcement and I am satisfied that the proposal is a practical

compromise in achieving safe access to the application site, allowing a large amount of the existing on street parking to remain yet preventing damage to verge/obstruction of footways.

Conscious of the resulting displacement of existing parking from the far western end of Victoria Road West, the developer is willing to provide a parking lay-by just within the proposal site (adjacent to the south east boundary of the site) as an alternative parking location for 5 of these displaced vehicles.

Taking account of the above, the proposed access arrangement and routing is acceptable.

The Council's Housing Strategy Manager has no objection, commenting that they are pleased with the developer's affordable housing offering. They set out that affordable housing must be secured at a split of 60% affordable rent / 40% shared ownership, at a rate of 25% one-bed, 40% two-bed, and 35% three-bed and above; this will all be secured in the associated s.106 agreement. The manager also sets out that the location of affordable housing within the site should be agreed by officers; this will be a consideration for the future reserved matters applications.

The Council's Arboriculture and Grounds Manager has confirmed he has no objections.

The Council's Environmental Health Manager concurs with the contamination consultant's findings (below) and has no objections subject to a standard condition regarding submission of a construction method statement. They do comment that properties should meet the British Standard on sound insulation, but this would be a matter for consideration under the Building Regulations and not a material planning consideration.

The Council's Contamination Consultant has no objection subject to a standard contamination condition to secure on-site remediation if necessary, as set out below.

I await final comments from the NHS in regards financial contributions towards local healthcare services. Such contributions would be secured within a s.106 agreement to accompany any grant of planning permission, and I will update Members of the NHS' response at the meeting.

5.3 Local Residents Comments

42 letters have been submitted by 21 individual local residents, raising the following summarised comments:

- Victoria Road West is not wide enough to allow HGV access to the site;

- Access to and from the site is poor, and the A259 is increasingly congested from other local developments;
- The road is in poor condition;
- The road is often obstructed by parked vehicles, which would make emergency vehicle access difficult;
- Highway safety impacts;
- Will adequate parking be provided?
- Can the Council lawfully impose parking restrictions on existing residents?
- Local schools, doctors, and police service can't cope with additional residents;
- Housing development in the area will only benefit "greedy developers";
- Local drainage is poor;
- Existing houses must be protected from flooding;
- Impact on soakaways at existing properties;
- Is the existing sewage pumping station sufficient?
- The site is within a flood zone, and floods during periods of heavy rain;
- Where will water drain to?
- Impact on local wildlife and loss of habitat;
- Will change character of the area;
- The local area should be kept undeveloped to retain tourism, and the application site should be kept agricultural;
- The development will require removal of marsh stone and shingle;
- Are contributions to off-site lay areas a "sweetener" for the Council?
- The Council hasn't properly informed local residents;
- A local referendum should be held to determine the application;
- The planning department has not listened to local concern;
- Loss of value for existing houses [NB: this is not a material planning consideration];
- Damage to existing properties during construction;
- There is no demand for additional housing;
- Will the houses be affordable during a period of austerity?
- The site is Green Belt [NB: there is no Green Belt in Folkestone and Hythe district];
- Noise and disturbance from construction and construction traffic, particularly for night shift workers; and
- Contractors and builders parking in local area
- Building on green space not the answer
- This is agricultural land
- Will be a dead end with no through road
- Housing numbers have increased to 80 from 70.

A further letter has been submitted by the "Darcy Square Management Company." (Darcy Square comprises a number of properties in a courtyard development on VRW, close to the application site.) The residents thereof raise concern in regards loss of on-street parking and consequent reliance upon the allocated rear garage blocks which are accessed by a private driveway.

New Romney Caravan Park has objected on grounds set out within the comments above, and on the following summarised additional grounds:

- Potentially increased flood risk to the caravan park;
- Insects breeding in the attenuation pond could affect residents / visitors;
- The attenuation pond could become polluted;
- Risk of drowning; and
- The site is not required to meet the Council's 5yr supply.

A link to a 378-signature petition on Change.org, titled "Save our rural community from overdevelopment," has also been submitted to the Council (https://www.change.org/p/the-council-save-our-rural-community-from-overdevelopment?recruiter=758500525&utm_source=share_petition&utm_medium=facebook&utm_campaign=share_for_starters_page). The petition sets out:

"We the undersigned register our objection to the development proposed & referred 'The Proposal', on the grounds highlighted in the points 1 – 6 below

The proposal: To build 70 dwellings, including 4 self build plots, to the rear of Queens Road with access via extension of the road that is Victoria Road West.

- 1. No plan for through road or exit from the development other than via Victoria Road West, significantly increasing traffic flow on surrounding roads, both during & post construction.*
- 2. Current Infrastructure failures: Over-subscribed schools, both primary & secondary & Doctors Surgeries, insufficient waste water drainage (Queens Road Pumping Station operates at full capacity now!)*
- 3. Flood risk from the fields to adjacent properties, this has long been a local issue.*
- 4. Destruction of established wildlife habitats: Newts & other amphibians, Bats, Slow worms, Badgers etc.*
- 5. Local property values could decrease.*
- 6. Minimum of 12 months disruption from building works, heavy plant activities & materials/waste transport in & out of the site."*

5.4 **Ward Member**

The application has been called in by Ward Councillors Rolfe and Wimble.

- 5.5 Responses are available in full on the planning file on the Council's website: <https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. **RELEVANT PLANNING POLICY**

- 6.1 The Development Plan comprises the saved policies of the Shepway District Local Plan Review (2006) and the Shepway Core Strategy Local Plan (2013).
- 6.2 The Places and Policies Local Plan Submission Draft (February 2018) has been the subject to public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.

6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

6.4 The relevant development plan policies are as follows:

Shepway District Local Plan Review (2013)

SD1 (sustainable development), CO1 (development in the countryside) HO1 (new residential development) U3 (drainage) BE1 (design), BE16 (retaining landscape features), and TR5 (cycling) TR6 (pedestrians), TR11 (Access to the highway network), TR12 (car parking).

Shepway Local Plan Core Strategy (2013)

DSD (Delivering Sustainable Development), SS1 (District Spatial Strategy), SS3 (place-shaping and sustainable settlements strategy), SS5 (district infrastructure planning), CSD1 (Balanced Neighbourhoods for Shepway), CSD2 (District Residential Needs), CSD5 (Water and Coastal Environmental Management in Shepway).

Places and Policies Local Plan Submission Draft (February 2018)

Policy RM2 (Land of Victoria Road West) allocates the site for residential development:

Attachments:

Site Location Plan

Policy RM2

Land off Victoria Road West, Littlestone

Land off Victoria Road West, Littlestone is allocated for residential development with an estimated capacity of 70 dwellings.

Development proposals will be supported where:

1. Vehicular access to the site is from Victoria Road West, and a suitable layout is provided to enable an emergency access along the southern boundary of the site to the satisfaction of the local highway authority. Adequate parking to serve the new development should be provided;
2. At least 4 self-build or custom build plots are provided on site in accordance with Policy HB4: Self-build and Custom Housebuilding Development;
3. Extra flood resistant and resilient construction measures are incorporated into the design of the development to reduce the risk of life to occupants in an extreme flood event and improve flood risk management;
4. A surface water drainage strategy forms a fundamental constituent of the design concept for the site, and is submitted to the satisfaction of the statutory authority;
5. The archaeological potential of the land is properly considered and appropriate archaeological mitigation measures are put in place;
6. Provision is made for open and play space on site or at an appropriate locality within walking distance, and reinforces the integration and connectivity of green infrastructure in accordance with Core Strategy Policy CSD4: Green Infrastructure of Natural Networks, Open Spaces and Recreation;
7. Mitigation measures are employed to prevent adverse effects on the nearby Ramsar, Special Area of Conservation and Site of Special Scientific Interest, and where possible provide biodiversity enhancements;
8. Appropriate and proportionate contributions are made to healthcare facilities in New Romney through a site-specific Section 106 agreement; and
9. The masterplanning of the site takes account of the nearby pumping station to allow for odour dispersal and prevent unacceptable impact from vibration.

Policies HB1 (quality places through design), HB2 (cohesive design), HB3 (space standards), C1 (creating a sense of place), C3 (provision of open space), C4 (children's play space), T1 (street hierarchy and site layout), T2 (parking standards), T3 (residential garages), T5 (cycle parking), NE2 (biodiversity), NE9 (development around the coast), CC2 (sustainable design and construction), CC3 (SUDS), and HE2 (archaeology) are relevant.

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. An examination-in-public was held in 2019, with hearing sessions taking place from 15-17 May 2019. The Inspector recommended a limited number of Main Modifications to the Plan which were consulted on from 13 January to 24 February 2020. The council is currently waiting for the Inspector's Report on the Plan before proceeding to adoption.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (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), as proposed to be modified by the published Main Modifications (2020), may be afforded significant weight.

Core Strategy Review Submission draft (2019)

SS1 (district spatial strategy), SS2 (housing and economy growth), SS3 (place-shaping and sustainable settlements), SS5 (district infrastructure planning), CSD1 (balanced neighbourhoods), CSD8 (New Romney strategy)

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. Following changes to national policy, a further consultation was undertaken from 20 December 2019 to 20 January 2020 on proposed changes to policies and text related to housing supply. The Core Strategy Review was then submitted to the Secretary of State for independent examination on 10 March 2020.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (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.

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

Supplementary Planning Guidance/Documents

Kent Vehicle Parking Standards.

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The following paragraphs of the NPPF are relevant to this application:

Para. 8 sets out the three main strands of sustainable development: economic, social, and environmental. Para. 11 then sets out that to achieve these aims development proposals that accord with an up-to-date development plan should

be approved “without delay.” Para. 12 clearly sets out that the starting point for decision-making is the development plan.

Para. 20 requires Councils to have strategic policies that make sufficient provision for housing, infrastructure, and community facilities in appropriate locations, while ensuring conservation of natural and historic environments. Para. 22 then sets out that such strategic policies should look ahead over a minimum of 15 years (hence the lengthy span of the adopted and emerging Local Plans).

Section 5 of the NPPF requires Councils to deliver a sufficient supply of homes, of varying types and tenures, to meet an identifiable need. Para. 67 requires Councils to have an identifiable supply of specific and deliverable housing sites to meet demand for at least 5yrs hence, and para. 72 advises Councils to identify and allocate sites to meet this need.

Para. 109 states that *“development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Para.117 encourages best, most productive use of land to meet the need for homes, while safeguarding the environment and ensuring safe and healthy living conditions. Para. 122 encourages development at appropriate densities, taking into account the character of the site and the need for different types of housing.

Section 12 aims to achieve well-designed developments and places.

Section 14 requires Planning Authorities to have appropriate regard to climate change and flood risk, and para. 155 sets out that development *“should be made safe for its lifetime without increasing flood risk elsewhere.”*

Para. 170 requires planning decisions to protect and enhance the natural environment; to protect valued landscapes; minimise impact upon and provide net gain for biodiversity; and mitigate and remediate despoiled land and pollution. Para. 175 deals with biodiversity in particular, and sets out that developments which give rise to significant harm in this regard should be refused.

The National Design Guide and Nationally Described Space Standards are also relevant.

7. APPRAISAL

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

- a) Principle of development.
- b) Five year housing land supply.

- c) Means of access.
- d) Highways and parking.
- e) Residential amenity.
- f) Ecology and biodiversity.
- g) Flooding and drainage.
- h) Other matters.

a) Principle of development

- 7.2 The application site lies outside of the built up area boundary, where residential development is normally restricted. However, in this instance the land is proposed to be formally allocated for residential development (of approximately 70 dwellings) by policy RM2 of the emerging Places and Policies Local Plan (PPLP). This allocation forms part of the Council's formal housing land supply strategy going forward to 2031, and is the basis of how the Council will meet its identified rolling 5yr housing land supply requirement.
- 7.3 While the PPLP is still an emerging document, as set out at section 6.4 above, it has been through a formal review by the Local Plan Inspector and at this advanced stage of the adoption process it can be given significant weight in the determination of applications. The Inspector has not requested any modifications to policy RM2 and the Council can therefore have a high degree of certainty that the wording of the policy (as set out above) will remain unchanged.
- 7.4 The site would also provide a reasonably significant contribution towards the Council's 5yr housing land supply requirement, as set by the NPPF (see above) Ensuring an adequate supply of housing land is one of the principal reasons for allocating sites under the local plan process, as it ensures an identifiable supply of sites rather than a reliance on windfall applications.
- 7.5 The principle of residential development on this site is therefore agreed as being acceptable through the Local Plan process, and policy RM2 in particular. Members will note that the wording of RM2 refers to an "estimated capacity of 70 dwellings," while the current application is for "up to 80 dwellings." Officers consider that "up to 80" accords with the spirit of the policy in that it is not a significant departure from the estimated capacity, and from a review of the submitted indicative layout it is evident that up to 80 dwellings can be comfortably accommodated on the site without appearing cramped or over-developed. (This is considered further in the amenity section below.) It is also considered that the additional units would contribute towards realising the full potential of the site and thus make efficient use of the land.

- 7.6 Whilst the site does currently lie outside of the defined built up area boundary it is set hard against that boundary, and is within a sustainable location close to local shops and services in Littlestone and the wider shops, services, and public transport links available in New Romney. In that regard residential development of the site can be considered to contribute to sustainable development as required by the NPPF. Policies SS1 and SS3 of the emerging Core Strategy (which, like the PPLP, has been through a review and can be afforded significant weight) specifically direct residential development to sustainable, allocated sites such as this.
- 7.7 While local concerns about the impact of additional houses on the A259 and local distributor roads it must be noted that KCC Highways and Transportation, as the relevant highway authority, do not object to development here on the basis of an unacceptable impact upon the strategic highway network.
- 7.8 Taking the above into account officers consider that the principle of developing the site has been clearly established.

b) Five-year housing land supply

- 7.9 The Council calculates the five-year housing land supply for the District each year at the end of March. For the 2019 year the five-year supply was 5.17 years with a 5% buffer. This is based on the current annual housing requirement of 738 dwellings per annum. As the application site is included within the Places and Policies Local Plan it has been included in that five year calculation as contributing 65 dwellings (estimated at time of calculation) phased in the years 4 and 5 of that five-year strategy.
- 7.10 If the site were to be refused permission those estimated 65 units would need to be removed from the projected five-year supply. It is important to note that if the Council cannot demonstrate a five year supply then the policies which are most important for determining applications will be considered out-of-date (as specified by NPPF paragraph 11 d), and all applications for residential development will have to be considered against the 'presumption in favour of sustainable development' as set out in the NPPF, which has the potential to open up unallocated greenfield sites throughout the district for residential development until such time as the Council can demonstrate that the five-year supply has been met. This has been an issue at other Kent authorities in recent years.
- 7.11 Members must be clear when considering this issue that refusing permission on an allocated site, which has been agreed through the Local Plan process, and which contributes substantially to the calculated five-year supply, may have a considerable impact on the future of development elsewhere in the district.

c) Means of access

- 7.12 Means of access is the only matter put forward for consideration under this outline application and, as set out in the description of development at section 3, would be provided via a continuation of VRW into the site. The site layout

shows that the existing field gate / fence at the head of the road will be removed to create an access point (see figure 2). The proposed access would then continue through and across the site in a reflection of the linear avenues throughout wider Littlestone (see figure 3).



Figure 2: Proposed access and internal road layout

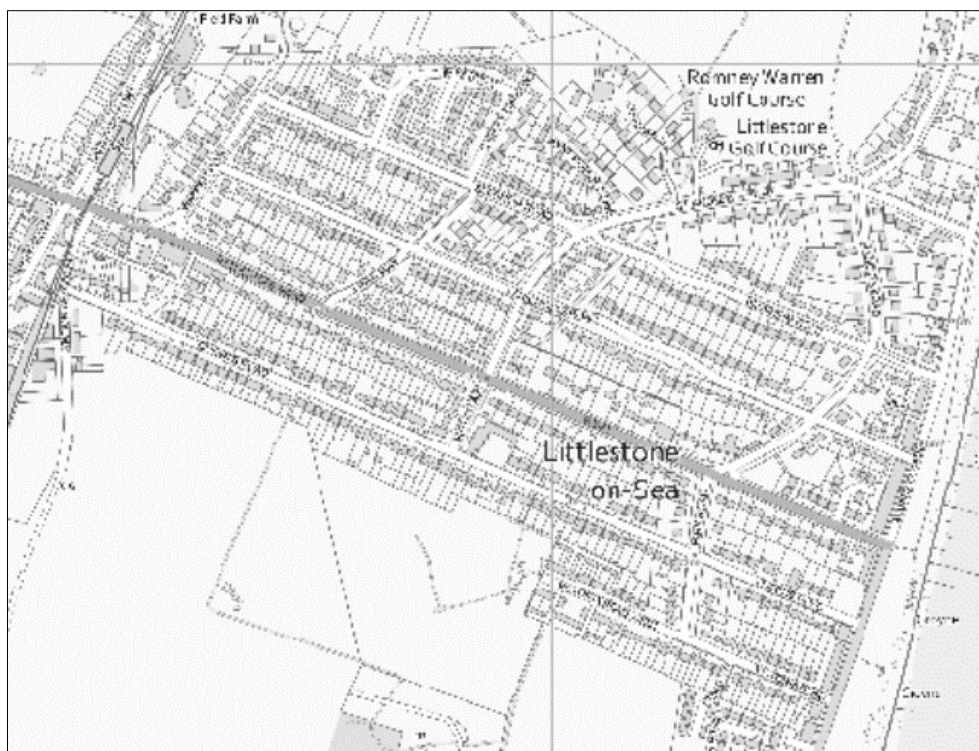


Figure 3: Linear road layout of Littlestone

7.13 While local objection is noted officers consider that this is a sensible point from which to take access. If the principle of developing the site is accepted (as above) then there are no other points from which to enter the land; the applicant

does not control / own the land to the west (beyond which is Station Approach), access from the north is blocked by existing houses on Queens Road, and access from the south would require a substantial roadway to be laid across fields.

- 7.14 It is also noted that KCC Highways and Transportation have no objection to the proposed access.
- 7.15 Taking this into account I have no concerns in regards the proposed means of access.

d) Highways and parking

- 7.16 The submitted layout demonstrates that on-plot parking can be provided for each dwelling, and additional visitor parking can be provided throughout the development in accordance with the requirements of the adopted Kent Vehicle Parking Standards (maximum requirement is 2 spaces per unit for a 4-bed house).
- 7.17 While the access point is considered acceptable in itself (as above), it is recognised that this gives rise to wider highway concerns for the local residents. In particular the volume of traffic using VRW and the perceived impact upon parking from the installation of double yellow lines.
- 7.18 The volume of traffic on the road as a result of the development would be more than at present, but I take the advice of KCC Highways and Transportation that vehicle movements would not be excessive or exceed the capacity of the local highway network:

“The estimated trip rates as presented by the applicant by the using the TRICS database have output figures of 42 trips (11 arrivals and 31 departures) in the AM peak traffic hour and 45 trips (30 arrivals and 16 departures) in the PM peak traffic hour. This is in line with what would normally be expected from a development of this size.

At less than one vehicle per minute, particularly when taking into account of the split in direction due to arrivals and departures, this does not constitute a severe impact on highway capacity or safety. As such, the proposal is acceptable to the local highway authority.”

- 7.19 While local concern is appreciated and understood – any increase in traffic levels on a residential street is understandably bound to cause concern for local residents, however, on the basis of KCC’s expert advice I do not consider that there is justification to refuse the application on the grounds of traffic, in terms of either volume or movement.
- 7.20 Double yellow lines will need to be installed along VRW to prevent on-street parking and maintain free flow of traffic. This would be a change from the current situation where local residents have enjoyed on-street convenience

parking for many years. I fully appreciate that the loss of this convenience would be a cause for concern, but would reiterate KCC's comments at para. 5.1 above that there is no right to park on the highway, rather it is a benefit that locals have thus far incidentally enjoyed.

- 7.21 The existing properties on VRW benefit from either on-plot parking or, on the blocks closest to the application site, dedicated garage blocks to the rear which are accessed by private roads. Access to these garages/parking spaces will not be affected by the development and, as such, residents will still be able to park their vehicles albeit at the rear of the properties rather than on the street to the front.
- 7.22 Objections have been submitted in regards to restricted access to these allocated parking spaces, particularly by the Darcy Square Management Company – which as I understand it manages the access and forecourts of the garages. Residents have a right to use the access and forecourt but not a right to park anywhere other than their dedicated spaces. Development of the application site in no way infringes upon that right of access, nor would it prevent residents from parking in their allocated spaces. Any changes to the right of access would be a private legal matter between residents and the owner of the access roads/forecourts, and is not a material planning consideration on which planning permission could justifiably be refused. I would also refer Members to KCC Highways comments on this aspect (my emphasis in **bold**):

I am aware that an issue has been raised in terms of availability of and access to rear serviced parking for existing properties. An observation was made that some existing residents have access to rear parking but may choose to park on street at the front of their properties (as is common in many locations with rear access parking). Although there may be no "additional" parking court available for use, the implication in this case is simply that dwellings to the west of Victoria Road West each have a garage associated with their property and a lawful right of access to it. Some residents may, or may not utilise the parking that they already have access to at the rear of their property, as with any house with a garage this is a personal choice for the individual resident.

This issue does not have any bearing on the access / parking discussion as detailed above, particularly as the developer has offered to locate an additional visitor parking allocation on site close to the site entrance.

- 7.23 The installation of parking restrictions on VRW would ensure adequate and appropriate emergency / service vehicle access to the site.
- 7.24 Damage to the highway or to existing dwellings by any traffic using the highway would be a private legal matter, and not a material consideration to determination of this application.

7.25 Taking the above into account, while parking and highways are acknowledged as particular local concerns, it is considered that there are no justifiable or reasonable grounds on which the application could be refused on these issues.

e) Residential amenity

7.26 As referred to above: the layout demonstrates that the site can comfortably accommodate up to 80 dwellings. They would be appropriately spaced to ensure each plot has an appropriately-sized garden and that there would be no unacceptable overlooking or overshadowing of any unit. Layout is, however, a reserved matter and the precise details would be fully considered during the course of a future reserved matters application to address this should Members resolve to grant permission, but I am satisfied that the layout shows sufficient space such that no serious or insurmountable issues will arise. The layout also demonstrates that each dwelling would be of an acceptable scale in terms of footprint / floor space such that future residents would enjoy a good standard of amenity.

7.27 There is adequate space within the site to ensure that the proposed dwellings are set away from existing houses so as to prevent any serious overlooking, overshadowing, or unacceptable loss of amenity for local residents.

7.28 While the policy refers to an estimated site capacity of 70 dwellings this is not a prescriptive restriction to be rigidly enforced. Rather it is a guide figure to ensure that the site is not over-developed and, as above, officers are confident that the site can comfortably accommodate up to 80 units.

7.29 I consider that there are no justifiable grounds for refusal on amenity issues at this stage, and would reiterate that officers can fully consider a detailed layout during the course of future applications.

f) Ecology and biodiversity

7.30 As set out above: Natural England has no objection to the development further to additional information that was provided by the applicant in the document *Information to Inform a Habitat Regulation Assessment of the Potential Impacts on the European Designated Sites* (dated February 2020). This sets out two main aims within the site – i) habitat creation and ii) management.

7.31 The formation of the flood attenuation pond; introduction of micro-variations in site level; seeding with species-appropriate grassland mix; structural scrub planting; and fencing to prevent access to the majority of the southern portion of the site (around the attenuation pond) will create improved habitat both on the site and on land immediately to the east which is also owned by the applicant. This will not just be better suited for Curlews (a particular noted species on the site) by providing an optimal foraging habitat, but also encourage a wider range of animal and plant species that will result in a significant biodiversity net-gain overall.

- 7.32 The proposed measures will be secured in perpetuity through the accompanying s106, which lead Natural England to support the scheme:

“These measures, secured in perpetuity, appear appropriate to increase the suitability of the existing habitat for foraging curlew chiefly by: increasing the density of earthworms and other invertebrate prey species, reducing the impacts of human disturbance and managing the existing habitat to optimise the foraging potential of curlew.”

- 7.33 I would also reiterate that, further to the additional information and Natural England’s comments, the KCC Ecologist has no objections subject to the conditions below. I am therefore satisfied that development of the site would not have a serious impact upon local ecology and biodiversity, and do not consider there to be any justifiable grounds for refusal on this aspect.
- 7.34 An Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (the “Habs Regs”) is appended below.

g) Flooding and drainage

- 7.35 While the site lies within Flood Zone 3a, and is shown in parts to be at risk of flooding in the 2215 Strategic Flood Risk Assessment (SFRA), the wider area benefits from flood defences as detailed within both the SFRA and the applicant’s submitted Flood Risk Assessment (FRA). It is therefore, in actuality, at relatively low risk of flooding. The FRA also demonstrates that development of the site would not increase the risk of flooding elsewhere (i.e. for existing residents or neighbouring parcels of land).
- 7.36 In respect of flood risk, CS policy SS3 and emerging CSR policy SS3 state “For development located within zones identified by the Environment Agency as being at risk from flooding, or at risk of wave over-topping in immediate proximity to the coastline (within 30 metres of the crest of the sea wall or equivalent), site-specific evidence will be required in the form of a detailed flood risk assessment. This will need to demonstrate that the proposal is safe and meets with the sequential approach within the applicable character area of the district of the three identified, and (if required) exception tests set out in national policy. It will utilise the Shepway Strategic Flood Risk Assessment (SFRA) and provide further information. The Core Strategy recognises that development within the Romney Marsh area is necessary (suggesting in the region of 800 dwellings within the plan period) to avoid stagnation of growth. The NPPF requires plans to apply a sequential, risk based approach to the location of development. Development within the Romney Marsh area has been allocated in accordance with the Sequential Test via the Folkestone and Hythe Places and Policies Local Plan and the Core Strategy review both of which are at an advanced stage in their preparation. As such and in accordance with the NPPF and the National Planning Policy Guidance (NPPG), the sequential test has been applied at the plan level for development of this site and in accordance with paragraph 162 of the NPPF does not need to be reapplied at the site specific level.

- 7.37 As the development is located within Flood Zones 2&3 as depicted on the Environment Agency flood maps and includes 'more vulnerable' development, it is necessary to apply the exceptions test. The exceptions test states that in order to grant planning permission or allocate a site:
- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment
 - a site-specific flood risk assessment must demonstrate that 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.
- 7.38 It is considered that this site meets the requirements of the exception test. Firstly, the site has wider sustainability benefits – the site is proposed to be allocated to provide sufficient housing in order to meet the Council's requirements for housing land supply. Emerging Policy RM2 of the PPLP provides for additional housing on this site in order to bring forward and support other wider sustainability benefits to the area and seeks to develop the wider Romney Marsh area as a residential, business, service, retail and tourist centre. Secondly, it is considered that the development could be made safe for its lifetime provided mitigation measures as submitted within the Flood Risk Assessment are provided. The Environment Agency's comments are set out in section 5 of this report. These raise no objection provided the necessary mitigation measures are included, such as a ground floor finished floor level of at least 3.2 ODN, with all sleeping accommodation to be set at first floor level and the incorporation of flood protection measures. In addition, subject to a SUDS scheme being implemented, which can be required by condition the proposal would not increase flood risk elsewhere. KCC as the lead flood authority have not raised objection to the proposal subject to a suitable SUDS scheme being employed. As such, the development is considered to pass the exceptions test.
- 7.39 I note that, as set out above, the Environment Agency has no objection to the scheme subject to the imposition of standard conditions as set out below, and I therefore consider the development to acceptable in terms of flood risk.
- 7.40 The Romney Marsh Internal Drainage Board (IDB) – in their initial response to the application – identified issues in the originally submitted FRA. The IDB made it clear that they did not object to the planning application but identified that layout changes were necessary to enable a workable surface water disposal strategy for the site, and for future maintenance. In response to this the applicant has engaged in discussions with the IDB which have resulted in the FRA being updated. The revised FRA was submitted in May 2019, and the approach proposed by the applicant received formal consent from the IDB in July last year.
- 7.41 The scheme has therefore fully addressed the IDB concerns and achieves the following:

- Avoids the infilling of existing watercourses;
- Provides mitigation to address any overflow of the existing public foul water drainage system;
- Provides increased flood storage capacity for existing surface water drainage systems, thereby reducing the risk of flooding;
- Provides a resilient drainage solution with inbuilt diversion measures to deal with the possibility of a drainage channel becoming full;
- Provides on-site flood storage (to ensure flood water is not displaced in a manner which increases risk of off-site flooding) via the use of a controlled flow rate;
- The site flood storage areas are designed to enhance the ecology of the site by providing a habitat rich wetland feature; and
- All the land required to provide the drainage solution is contained within the application site, and can thus be secured in perpetuity.

7.42 Therefore, while I note local concern on this issue, I am satisfied that development is acceptable in terms of drainage and flood risk, and I don't consider there to be any justifiable reasons for refusal on these matters.

h) Other matters

7.43 The detailed design of the attenuation pond can be agreed under future applications to ensure bank gradients allow for safe egress in the event anyone should fall in. However, the area in which the attenuation pond is proposed will be enclosed to discourage access and preserve it as wildlife habitat; this can be achieved through defensive planting and carefully designed fencing, again to be agreed through future applications. I note the neighbouring caravan park refers to the potential for insects as a result of the pond, but this is unlikely to be more of a significant concern than from any standing water in the ditches already present on the site, or within the wider marsh landscape.

7.44 The applicant has confirmed that the requisite CIL payment will be met, in accordance with the Council's agreed CIL schedule. NHS contributions don't fall under CIL; these will be secured through the associated section 106 legal agreement (as above: I will update Members on the NHS comments at the meeting).

7.45 The applicants have agreed that Affordable Housing will be secured in accordance with the Council's policy requirements, in the mix stipulated by the Housing Manager (see above) through the accompanying s.106 agreement.

Environmental Impact Assessment

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

Local Finance Considerations

- 7.47 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.

Human Rights

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

Public Sector Equality Duty

- 7.49 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

Working with the Applicant

- 7.50 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner. However this application is retrospective, and the concerns noted above can't be resolved by anything other than removal of the development in its entirety. Officers therefore consider that there are no amendments that would resolve the matter.

8. CONCLUSION

- 8.1 This application seeks outline planning permission for the erection of up to 80 dwellings on land which has been allocated for residential development by the Council's emerging Places and Policies Local Plan. All matters of detail other than access are reserved for consideration under future applications. The means of access is considered to be acceptable, and the site is capable of being developed without giving rise to any serious issues of amenity, as set out in the report.
- 8.2 I have considered local objections to the scheme. While local concern is understood and appreciated none of the concerns raised amount to a justifiable or defensible reason for refusal in this instance.
- 8.3 I therefore recommend that planning permission should be approved, subject to receipt of final comments from the NHS and KCC Ecology; completion of a section 106 legal agreement to secure affordable housing, financial contributions towards the NHS and an open space/ SUDS management plan; and the conditions set out below.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

That planning permission be approved subject to the following condition(s):

Reserved matters details

1. Details relating to the layout, scale and appearance of the proposed building(s), and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. No development shall place other than in accordance with drawings 7731-L-01-D and 7731-L-03-M, (up to 80 dwellings) and the details set out within the approved Design and Access Statement, Flood Risk Assessment (prepared by Herrington Consulting April 2019, Issue 8, revision 7), and *Information to Inform a Habitat Regulation Assessment of the Potential Impacts on the European Designated Sites* (dated February 2020).
5. Any application for reserved matters subject to conditions 1, 2 and 3 above shall make provision for a minimum of 4 self-build or custom-build plots.

Reason: To ensure suitable provision for a range of dwelling types in accordance with policies RM2 & HB4 of the Places & Policies Local Plan.

Pre-commencement

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. the timing of deliveries
 - iii. haulage route
 - iv. loading and unloading of plant and materials
 - v. storage of plant and materials used in constructing the development
 - vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - vii. likely noise levels to be generated by plant and machinery
 - viii. wheel washing facilities
 - ix. measures to control the emission of dust and dirt during construction
 - x. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of the amenities of the area and highway safety and convenience.

7. No development shall take place (including any ground works, site or vegetation clearance) until a method statement for ecological mitigation has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
 - a) Purpose and objectives for the proposed works:
 - b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives including any necessary updated ecological surveys;
 - c) Extent and location of proposed works, including confirmation of the full extent of the ecological receptor site, shown on appropriate scale maps and plans;

- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- f) Use of protective fences, exclusion barriers and warning signs;
- g) On going management until the site wide management plan is implemented.
- h) Disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: In the interest of minimising harm and disturbance to protected species, and to encourage and support biodiversity and ecology.

8. Within 3 months of works commencing on site a detailed ecological management plan for the habitat creation areas as depicted on drawing ref. Figure 2 (within the approved document *Information to Inform a Habitat Regulation Assessment of the Potential Impacts on the European Designated Sites* (dated February 2020)) is produced and submitted to the LPA for written approval. It must detail how the open space area will be managed and include the following:
- Details of the habitats to be managed
 - Details of the aims/objectives of the management
 - Rolling 5 year management plan
 - Details of enhancements to be incorporated in to the site.
 - Details of who will be implementing the management.
 - Details of on-going monitoring
 - Details of how access will be restricted to the site.

The plan must be implemented as approved.

Reason: In the interest of minimising harm and disturbance to protected species, and to encourage and support biodiversity and ecology.

9. Within 6 months of works commencing on site an ecological enhancement plan, must be submitted for approval in writing by the LPA, detailing what ecological enhancements will be incorporated in to the site. The plans must be incorporated in to the site as detailed in the approved plan.

Reason: In the interest of minimising harm and disturbance to protected species, and to encourage and support biodiversity and ecology.

10. (1) No development shall take place until a desk top study has been undertaken and submitted to and approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical

representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.

(2) If the desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

(i) A survey of the extent, scale and nature of contamination;

(ii) An assessment of the potential risks to:

- Human health;
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- Adjoining land,
- Ground waters and surface waters,
- Ecological systems,
- Archaeological sites and ancient monuments; and

(iii) An appraisal of remedial options and identification of the preferred option(s).

All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

(3) If investigation and risk assessment shows that remediation is necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

(4) Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to and

approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

(5) In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

11. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the District Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

12. No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials to be used in the construction of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

13. No development shall take place until the parking restrictions on Victoria Road West (as shown on drawing P17008-002B) have been implemented.

Reason: In the interest of highway safety and amenity.

14. (a) Construction shall not proceed beyond slab level until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving the development will achieve a maximum water use of 110 litres per person per day as defined in paragraph

36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator. (b) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason In accordance with the requirements of policies CSD5 and SS3 of the Shepway Core Strategy Local Plan 2013 which identify Shepway as a water scarcity area and require all new dwellings to incorporate water efficiency measures. Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings' <https://www.gov.uk/government/publications/the-water-efficiency-calculator-for-new-dwellings>

During construction

15. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

16. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-

Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Flooding / drainage

17. No development shall be carried out other than in accordance with the recommendations as set out in the approved Flood Risk Assessment (prepared by Herrington Consulting April 2019, Issue 8, revision 7).

Reason: To minimise the risks in the event of flooding.

18. No development shall take place until details of measures to prevent the discharge of water on to the highway have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety and amenity.

19. The finished floor level of all dwellings on the site shall be 300mm above the design flood level (at 3.11maODN), with all sleeping accommodation 600mm above (at 3.41maODN).

Reason: To reduce the impact of flooding on the proposed development and future occupants.

20. No development shall take place until a detailed storage compensation scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate (to the satisfaction of the LPA, Internal Drainage Board and the Environment Agency) that the loss of pluvial storage/conveyance caused by the infilling of depressions across the site will not exacerbate flooding elsewhere in the vicinity.

Reason: To ensure the risk of flooding to site and surrounding area is not exacerbated by the approved development.

21. No development shall place until:

- i) The details required by condition 1 have demonstrated that requirements for surface water drainage (and the conveyance of existing flows via watercourse / sewers) can be accommodated within the proposed development layout; and
- ii) A detailed sustainable surface water drainage strategy has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon proposals within the submitted Flood Risk Assessment (prepared by Herrington Consulting April 2019, Issue 8, revision 7) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and discharged from the site at an agreed controlled discharge rate. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction).

22. No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:

- A description of the drainage system and its key components;
- A general arrangement plan with the location of drainage measures and critical features clearly marked;
- An approximate timetable for the implementation of the drainage system;

- Details of the future maintenance requirements of each drainage or SUDS component, and the frequency of such inspections and maintenance activities;
- Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime;

The drainage scheme as approved shall subsequently be maintained in accordance with these details.

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction).

23. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

Reason: To ensure that flood risks from development to the future users of the land, neighbouring land, controlled waters, property, and ecological systems are minimised.

Highways / parking

24. The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards). Such land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

25. Prior to the occupation of the dwellings hereby approved, the proposed estate road, footways, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, access, carriage gradients as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved by the District Planning Authority in writing before their construction begins. For this purpose plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the District Planning Authority.

Reason: To ensure that the roads are constructed and laid out in a satisfactory manner.

26. No development beyond laying of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority for the installation of a High Speed wholly Fibre broadband To The Premises (FTTP) connection to the dwellings hereby permitted. Following approval the infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process, and be available for use on the first occupation of the dwellings unless otherwise agreed in writing by the Local Planning Authority (where supported by evidence detailing reasonable endeavours to secure the provision of FTTP and alternative provisions that been made in the absence of FTTP).

Reason: To ensure that the new development is provided with high quality broadband services.

INFORMATIVES

1. Please note that (as set out in Southern Water's letter dated 04.06.2019) a public sewer crosses the site. Construction or tree planting over or within the standoff distance (3m either side) of public sewers will not be permitted by Southern Water, and the exact position of the public sewer must therefore be determined before a layout is agreed under any forthcoming reserved matters applications.
2. Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads and transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly

established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways

Appendices

1. **Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017**

This Appropriate Assessment (AA) has been undertaken with regard to information provided by the applicant, and the comments of Natural England and the Kent County Council Ecologist.

The application site is situated 400m from the Dungeness, Romney Marsh and Rye Bay SSSI and a Ramsar site, which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

Dungeness, Romney Marsh and Rye Bay is a nationally important site by reason of a diverse range of biological and geological features, specifically the coastal geomorphology of Dungeness and Rye Harbour and the following important habitats: saltmarsh, sand dunes, vegetated shingle, saline lagoons, standing waters, lowland ditch systems, and basin fens. These habitats and others within the site support a number of nationally and internationally important species of plants, moss, water voles, breeding birds, waterfowl, great crested newts, and invertebrates.

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. The proposal is not necessary for the management of the European sites. However, further to the advice of Natural England and subject to the conditions set out within the report, it is considered that the proposal is unlikely to have significant effects upon the integrity of these sites or the species which they contain.

The April 2018 judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*” The development therefore cannot be screened out of the need to provide an Appropriate Assessment.

However, the proposed development, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure strategic mitigation against any impacts of the development and that such strategic mitigation must be in place before the dwelling are occupied.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off-site mitigation is required. It is noted that such mitigation is to be provided in the form of creation and management of two areas of mitigation to benefit curlews (and other birds associated with the designated sites). Measures to be implemented within these areas include formation of ponds, micro-adjustments to ground level to create areas of wetland, seeding with appropriate plant species and introduction of scrubland planting. These areas will be secured, retained, and managed in perpetuity through a s.106 agreement to accompany any grant of planning permission.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.