

# DCL/20/49

**Application No:** 20/1212/FH

**Location of Site:** Land rear of 2 Willop Close, Dymchurch, TN29 0HU

**Development:** Erection of 2 three-bedroom dwellings and associated parking.

**Applicant:** Mr J. Jones

**Agent:** RDA Architects, Evegate Park Barn, Smeeth, Kent, TN25 6SX.

**Officer Contact:** Ross McCardle

## SUMMARY

This application seeks planning permission for the erection of two detached dwellings on land to the rear of existing houses at Willop Close, Dymchurch. Planning permission was previously refused on the grounds of flood risk but, further to additional information being submitted to demonstrate that the sequential test can be passed and the upgrading of the sea defence works, the site is now at lesser risk as development and considered to be safe under the exceptions test. The development is not likely to give rise to any serious harm to local visual, residential, or highway amenity, and the provision of two well-designed houses would contribute towards meeting the Council's five-year housing land supply. The application is therefore recommended for approval.

## 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. The application is reported to Committee because it has been called in by Cllr Treloar.

## 2. SITE AND SURROUNDINGS

2.1. The application site comprises a parcel of overgrown land to the rear of 1 and 2 Willop Close, Dymchurch.

2.2. The site is roughly rectangular, measures a maximum of approximately 38m deep x 22m wide, and is enclosed on all sides by the boundary fences of existing dwellings; 1 and 2 Willop Close to the southeast, 108 Hythe Road to the west and southwest, 109 Hythe Road to the north, and 1 and 3 Willop Way to the east and northeast. (A site location plan is attached to this report as **Appendix 1.**)

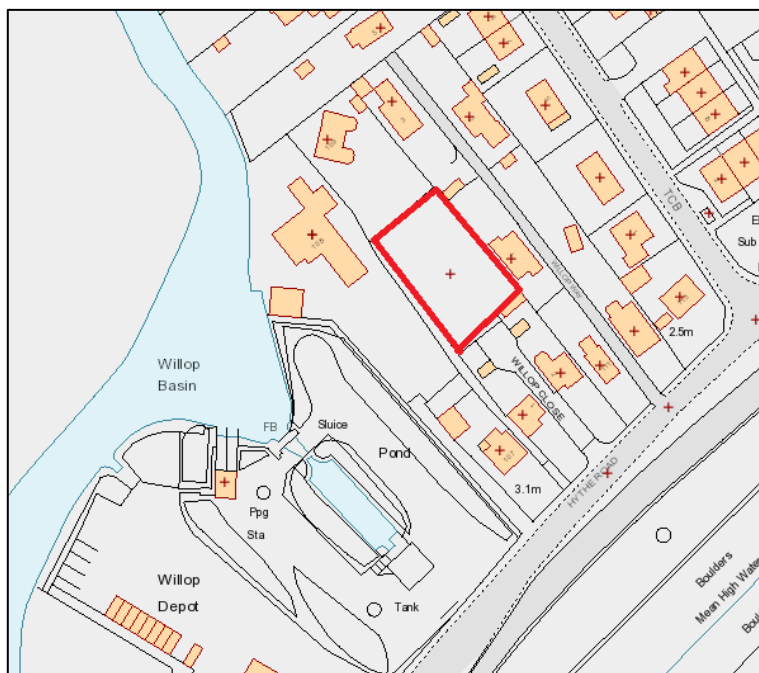


Fig. 1 – Map of local area with approximate outline of site

- 2.3. The land is enclosed by a close-boarded timber fence and has been left undisturbed for some time, with brambles, scrub growth, and a number of small (seemingly self-seeded) trees dotted across it. Land levels drop down from Hythe Road to the site, but then rise gently towards the centre of the site so that it forms a noticeable higher point within the immediate (generally low-lying) landscape.
- 2.4. The surrounding properties are of a mix of types and designs, including a small bungalow at 107 Hythe Road, contemporary detached houses at 1 and 2 Willop Close, and detached post-war prefab style bungalows on Willop Way. This very mixed character is reflective of this part of the district, and Marine Avenue (to the east) also shows a variety of house types, designs, and ages.
- 2.5. The Willop Sewer and Willop Basin run approximately southwest to northeast along the rear of neighbouring properties, and the Willop Depot and pumping station – to the west – are Environment Agency facilities associated with local drainage. It is therefore not surprising that the site lies within flood zone 3, and is marked as being at significant risk in the Council's Strategic Flood Risk Assessment to 2115.
- 2.6. As regards other designations: the site is within the defined built up area boundary; the beach (on the other side of the sea wall) is a Special Protection Area; 2 Ash trees within the garden of 108 Hythe Road (near to the western site boundary) are covered by TPO no.18 of 2020; the site is within an area of archaeological potential; close to a local landscape area (beyond no.108, to the northwest); and within CIL residential zone B (£56.99 per sqm).



Photo 1: 1 and 2 Willop Close with site access between.



Photo 2: Site access



Photo 3: Within the site (white bungalow is 1 Willop Way)



Photo 4: Rear of 1 and 2 Willop Close



Photo 5: Willop Way, facing towards road/ rear of 1 Willop Way.



Photo 6: Rear garden of 1 Willop Way, facing towards application site.



Photo 7: Rear garden of 118 Hythe Road, facing existing garage to rear of 1 Willop Close.

### **3. PROPOSAL**

- 3.1 Full planning permission is sought for the erection of 2no. three-bed houses.
- 3.2 The properties would be set towards the rear of the plot, approximately 11.3m from the rear boundary fence, with a parking/turning area to the front accessed via the existing roadway running between 1 and 2 Willop Close. Each plot would be roughly 11m wide.
- 3.3 The houses would measure approximately 7.6m wide x 10m deep (maximum, including front porch) x 8.2m tall to the ridge, and would be of a relatively simple contemporary design featuring facing brick at ground floor and vertical cladding at first floor. The houses would be set on a high point within the site, and feature eaves that are lower at the front than the rear, with the rooms at the rear set into the roof space to keep overall ridge height low. This has the effect of the houses appearing two-storey from the front and 1.5 stories from the rear.
- 3.4 Internally the houses would provide a kitchen, utility room, WC, and open-plan living/dining room at ground floor; and three bedrooms, bathroom, and en-suite at first floor/within the roof space. Internal floor levels rise up three steps from the entrance hall to the living space (a flood risk mitigation measure) resulting in the kitchen window (within the front projecting bay) being taller than the utility room window (to the side of the front door).
- 3.5 Vehicle parking would be provided to the front of the units, with two spaces per dwelling positioned either side of a turning head within the centre of the site, and with soft landscaping surrounding this. Each property would have a rear garden measuring approximately 11m deep, there would be approximately 2m from the outer flank wall of each property to the side boundaries (with 1 Willop Close and 108 Hythe Road), and a 2m gap between the two proposed houses.



Fig.2 – Proposed front elevation



Fig. 3 – Proposed rear elevation

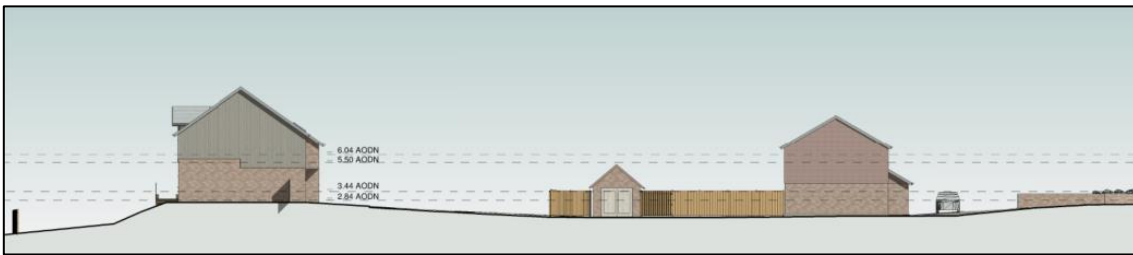


Fig. 4 – Proposed side elevation and site section (1/2 Willop Close to right, proposed house to left)

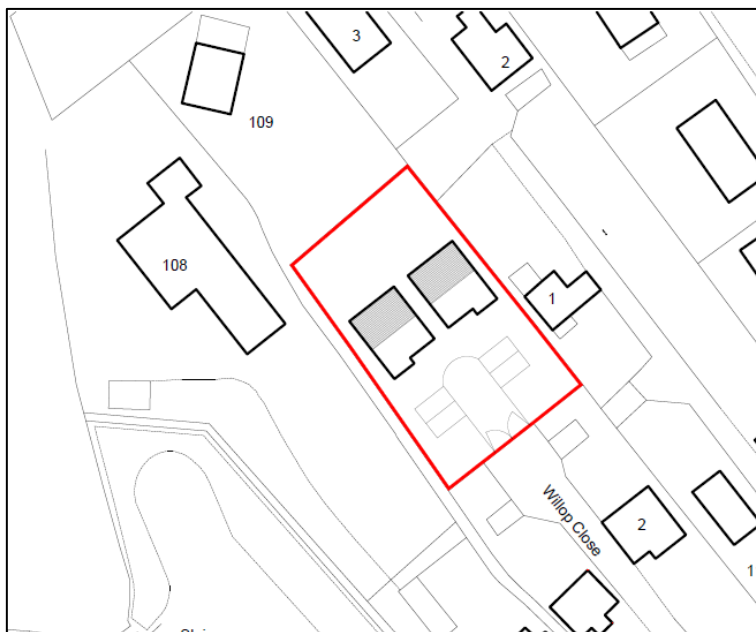


Fig. 5 – Proposed site layout

3.6 The following reports were submitted by the applicant in support of the proposals:

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Design & Access Statement: sets out the planning history of the site, the design concepts, and key considerations that have gone into design such as flooding, sun path, etc. It concludes that the development would be appropriate in terms of its scale, design, and general impacts on the local area.

Flood Risk Assessment: this is a full technical assessment undertaken by Herrington's Consulting. It sets out the physical and planning context of the site, explores the background of flood risk and flood protection in the area with a site-specific focus, and examines likely risks arising from the development and mitigation measures that can be put in place. It ultimately concludes that the development is acceptable in flood risk terms, with reference to the Council's Strategic Flood Risk Assessment (SFRA), subject to the implementation of a suitable surface water drainage scheme and flood mitigation measures within the new dwellings (such as raised internal floor levels, and dry proofing / flood resistant construction).

Archaeological desktop assessment: evaluates the history and evolution of the area and concludes that there is probably low potential for any archaeological remains to be found on the site.

## 4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

84/0513/SH	Outline application for demolition of existing building and erection of three chalet bungalows, and alterations to access.	Refused
84/0852/SH	Outline application for demolition of existing building and erection of two dwellings and garages.	Approved
87/1111/SH	Erection of a house.	Approved
87/1112/SH	Erection of a house.	Approved
90/0660/SH	Outline application for erection of pair of semi-detached chalet bungalows.	Refused
90/1024/SH	Outline application for erection of a house.	Refused
Y16/1221/SH	Erection of 2no. two-storey dwellings and associated parking.	Refused

4.2 The most recent application, ref. Y16/1221/SH was refused on the grounds that the site was identified at being at extreme risk of flooding under the Council's SFRA, and the sequential test identified that there were other sites available for development at lower risk of flooding, in preference to the application site.

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Dymchurch Town/Parish Council**: object to the application and request that it be determined at planning committee. They raise the following summarised concerns:

- Local flooding and drainage issues will be exacerbated by additional buildings;

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- The site originally contained a pond which was filled in by the previous developer;
- There are historic issues of water waste and sewerage in the area, which additional dwellings will add to;
- Additional vehicle movements and impact upon highway safety and amenity;
- Little information regarding the height of the dwellings;
- Impact on privacy and amenity of neighbouring residents; and
- Overlooking of neighbouring properties.

**KCC Ecology:** no objection subject to a standard condition to secure ecological enhancements, and an informative regarding breeding birds.

**KCC Archaeology:** no objection subject to a standard condition to secure a programme of archaeological work.

**Natural England:** has no objection.

**Environment Agency:** the EA has no objection subject to a standard finished floor levels condition as set out below, which will ensure that the development passes the Exceptions Test. They note, however, that the site is within flood zone 3 and that the Council needs to be satisfied that the development passes the Sequential Test, which aims to steer development to areas at lowest probability of flooding, and the Agency accepts that the Hythe flood defences greatly reduce the risk of a breach.

**Southern Water:** suggest there are no public sewers in the area to drain surface water from the development, and suggest that alternative means need to be considered. CPO comment – the development would connect to main drainage.

**Environmental Protection Officer:** has no objection subject to the Council's standard land contamination condition, as set out below.

**Contamination consultant:** has no objection subject to the Council's standard land contamination condition, as set out below.

**Arboricultural Manager:** has no objection subject to submission of a pre-development tree survey indicating how the TPO Ash trees close to the site boundary will be protected during construction. This is secured by the condition below.

### Local Residents Comments

5.2 16 neighbours directly consulted. 18 letters of objection and 1 letter of support received, but it must be noted that 9 of those letters are supplementary letters from the same households.

5.3 I have read all of the letters received. The key issues are summarised below:

#### Objections

- Rear elevations and block plan were not available for public view when the initial consultation letters were sent out [CPO comment: further consultation has been carried out, and these plans made available];
- Officer's site visit was too brief;



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- Objector's property was not visited by planning officer;
- Request a site meeting;
- Request the application be determined by planning committee;
- The land is low-lying and prone to flooding;
- If sea defences are adequate the buildings shouldn't be set on raised levels;
- Local soil includes clay and does not drain well;
- Groundwater flooding is a local problem;
- Proposed flood/drainage mitigation is inadequate;
- Additional water run-off will affect neighbouring properties;
- Previous application was refused on flood risk, and further to EA objection;
- Inadequate water pressure in the area;
- Local sewage system isn't able to cope, extra dwellings will worsen problems;
- Applications and subsequent appeals to develop the site in the '90s were refused by the Council and the Planning Inspector due to the impact on neighbours;
- Site levels and drainage have not been investigated [CPO comment: a site section and FRA are provided];
- Loss of privacy and overlooking of existing properties;
- Cars accessing the rear will affect the amenity of 1 and 2 Willop Close;
- Noise and disturbance during construction;
- Proposed dwellings will be taller than existing properties and incongruous within the area;
- Impact on highway safety from additional vehicles;
- Visitors could park on the A259 and cause problems;
- Limited access for emergency vehicles;
- Additional wheelie bins etc. on collection day would cause visibility issues for drivers;
- Impact on local wildlife;
- No new housing needed on this plot further to larger-scale development elsewhere; and
- Asbestos has been dumped on the site and will need to be disposed of properly.

### Support

- Has no objections to the proposals.

#### 5.4 **Ward Member**

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 Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 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 and has been subject to an Examination in Public in January 2021. As such its policies should be afforded weight where there are not significant unresolved objections.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

Policies HB1 (quality places through design)  
HB2 (cohesive design)  
HB3 (space standards)  
HB8 (alterations and extensions)  
HB11 (loss of residential care homes)  
T2 (parking standards)  
T5 (cycle parking)  
NE2 (biodiversity)  
C3 (Provision of Open Space)  
C4 (Children's Play Space)  
CC2 (sustainable design and construction)  
HE2 (Archaeology)

Shepway Local Plan Core Strategy (2013)

DSD (Delivering Sustainable Development)  
SS1 (District Spatial Strategy)  
SS3 (Sustainable Settlement Strategy)  
SS5 (District Infrastructure Planning)  
CSD1 (Balanced Neighbourhoods)  
CSD2 (District Residential Needs)  
CSD5 (Water Efficiency)  
CSD8 (New Romney Strategy)

Core Strategy Review Submission draft (2020)

SS1 (district spatial strategy)  
SS2 (housing and economy growth)  
SS3 (place-shaping and sustainable settlements)  
SS5 (district infrastructure planning)  
CSD1 (balanced neighbourhoods)  
CSD2 (District Residential Needs)  
CSD5 (Water Efficiency)  
CSD8 (New Romney Strategy)

SS3 requires applications for development within flood risk areas to provide site-specific flood risk assessments, and sets out that no residential development (other than replacement dwellings) will be allowed in areas identified as being at "extreme" risk."

Dymchurch falls within the New Romney area, which policy CSD8 identifies as bringing forward approximately 300 new dwellings across the plan period.

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

**Supplementary Planning Guidance/Documents**

**Government Advice**

National Planning Policy Framework (NPPF) 2019

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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 NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections 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” but excludes identified flood risk areas from the automatic presumption in favour of development. 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.

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.

Section 14 seeks to ensure development meets the challenges of flooding and climate change.

Para. 150 requires developments to avoid increased vulnerability and to ensure risks can be managed through suitable adaption measures. Para. 155 directs “inappropriate” development away from areas of flood risk, but advises that where development is necessary in such areas it needs to be made safe for its lifetime without increasing risk elsewhere. Paras/. 157 to 159 require the sequential and exceptions tests to be applied to development within flood risk areas, and para. 161 stipulates that

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both parts of the exceptions test must be met for development to be permitted. Para. 163 requires submission of site-specific flood risk assessments, and incorporation of mitigation measures within new development.

### National Planning Policy Guidance (NPPG)

The NPPG provides advice on how to determine, assess, and consider flood risk on applications for new development.

### National Design Guide October 2019

## 7. APPRAISAL

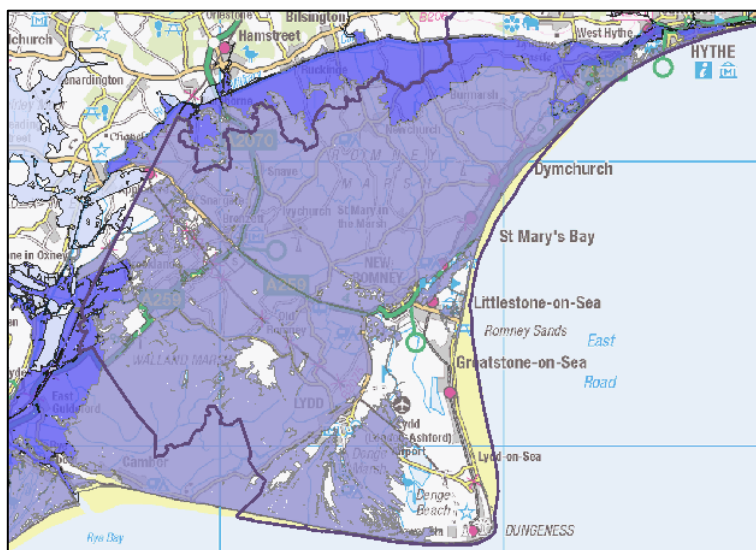
7.1 In light of the above the main issues for consideration are:

- a) Principle of development, flood risk, and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Ecology and biodiversity
- e) Protected trees
- f) Drainage
- g) Archaeology
- h) Highways and parking
- i) Other matters

### **a) Principle of development, flood risk, and sustainability**

7.2 While the site lies within the defined built up area it also lies within flood zone 3, which is considered to be at highest risk from flooding. Paragraph 11 and footnote 6 of the NPPF make it clear that the presumption in favour of sustainable development does not automatically apply to sites in identified flood risk zones, and the risk of developing in this area needs to be fully considered against the sequential test, exceptions test, and adopted local and national policy.

7.3 The sequential test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding, and other potential sites need to be considered before progressing to develop those of lesser preference / greater risk (in flood risk terms). When considering other potential development sites the geographic range is limited to those within the same character area, which in this instance would be the Romney Marsh Character Area. Where other sites at no/lesser risk are not available within the character area local planning authorities can consider sites within identified flood risk areas, which cover substantial parts of the district due to land levels.



7.4 Fig. 6 – map of flood zone 3 within the Romney Marsh area

7.5 In this instance there is one site within the Romney Marsh character area with planning permission for similar scale of development, and which works are not thought to have yet been commenced; this site offers a *potential* alternative to developing on this land:

- 1) Application ref. Y18/0030/PA granted prior approval for conversion of a former agricultural building to two dwellings at Chittenden Lane, St Mary in the Marsh. This development is not considered to offer a suitable alternative to development as the dwellings are substantially bigger buildings (being converted barns) that would not be a direct comparison to the more modest properties proposed here.

7.6 I am therefore of the opinion that there are no other sites reasonably available within the local area that serve as somewhere to direct the applicant towards in preference to this location. This satisfies the sequential test which allows for consideration of development to proceed.

7.7 The next step is to consider the proposals under the exceptions test, which is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.

7.8 In this instance the Environment Agency do not object, and have commented that the finished floor levels shown on the submitted drawings (secured by condition below) are sufficient for the proposals to pass the exceptions test. The Exceptions Test has two parts:

- a) *It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risks; and*
- b) *A site-specific FRA must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.*

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- 7.9 In the case of the current proposal I consider that part a) – the wider sustainability benefits – is addressed through the inclusion of the site within the defined built up area boundary; the settlement hierarchy (core strategy policy SS3) identifying the wider area for residential development; and policy CSD8 identifying the wider area as a priority centre for residential development to support New Romney as a primary local centre and Dymchurch as a key tourist location. Residential development here would contribute to the broader aim of sustainable development within the district and reduce any pressure on the Council to consider development proposals on greenfield sites elsewhere.
- 7.10 In regards part b of the exceptions test: while the previous application (ref. Y16/1221/SH) was refused on the site being identified as being at “extreme/significant” risk under the Council’s SFRA, the dwellings themselves are away from any part of the site at ‘extreme’ risk falling within an area as ‘significant’ risk and since the previous refusal on this site works to improve the sea defences at Hythe Ranges have been completed (<https://www.gov.uk/government/publications/hythe-ranges-sea-defences-renovation/hythe-ranges-sea-defences-renovation>) sets out that works were finished in December 2020 and that the improvements “*will better protect the area for the next 100 years, taking into account climate change and sea level rise*”). The submitted site-specific FRA takes these works into consideration and, as a result, concludes that the site will (upon future review of the SFRA) fall within an area of “low” risk. The development also includes a number of flood resilience measures (set out within the FRA (section 7.3 in particular) and secured by condition 14 below) such as raised internal floor levels, no sleeping accommodation at ground floor, and flood resilient construction methods.
- 7.11 The application today therefore has a different context in respect of flood risk compared to the 2016 scheme and, given no objection from the EA (unlike in 2016), the likely decrease in risk as a result of flood defence improvement works, and the lack of available alternative sites, I consider development here to be acceptable in principle.
- 7.12 The site is otherwise considered to be sustainable, falling as it does within a defined built up area within which the Council’s adopted and emerging policies have a general acceptance of new residential development. I am satisfied that the proposal passes the sequential and exceptions tests, and note that the EA does not object to the proposals.

### **b) Design, layout, and visual amenity**

- 7.13 The existing development surrounding the site and along the main road is mixed and varied, with no uniform building typology and a mix of bungalows, ‘chalet’ bungalows, and two-storey dwellings surrounding the site. As such there is no distinct form of building style to conform to or contradict. It is acknowledged that traditionally this coastal stretch would have been characterised by low level bungalows, however new development (such as 1 & 2 Willop Close) has generally been two-stories high due to flood risk and the demands for larger properties (compared to the properties built 40 or 50 years ago, for example). Increasingly these areas of low level development are punctuated by higher new development, as with some of the surrounding and nearby properties, and the proposed development would therefore not be incongruous within the context of the area. A two-storey dwelling would also be safer in the event of a flood (as residents could seek refuge upstairs) and it’s therefore likely that all new

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housing development within this part of the district will need to be two-storey, going forward.

- 7.14 While I acknowledge that the proposed houses (at 8.2m high to the ridge and situated upon an area of raised ground – roughly 1.1m above ground level of 1 and 2 Willop Close, total height approximately 9.4m as shown in figure 7 below) would be taller than the surrounding bungalows, they are designed to be read as being substantially lower, with lowered eaves and a partial catslide roof to the front. The design means that even accounting for the level change the buildings would not stand significantly taller than any other modern two-storey house. To ensure this remains the case I have recommended a conditions removing permitted development rights for roof extensions to ensure that the buildings remain as low as possible. The proposed designs are contemporary but feature traditional stock brick, horizontal cladding, and tiled roofs – precise materials are controlled by condition below to ensure they blend appropriately with the surrounding area. Therefore, while the proposed houses would be visible from the highway, the seawall, and from a public footpath across the fields to the north-west, I don't consider that they would be harmful to local visual amenity, or that planning permission could justifiably be refused on such grounds.

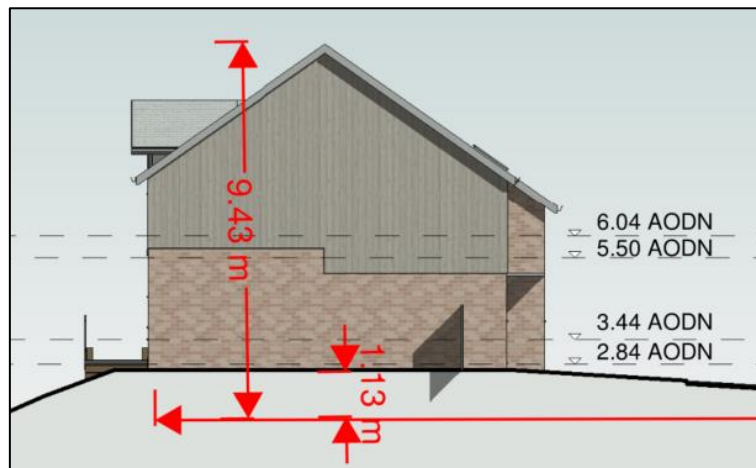


Fig. 7 – Level changes and height in relation to 1 and 2 Willop Close

- 7.15 The layout of the site is sensible, in my opinion. It allows space at the front of the site to accommodate parking and turning, sets the buildings away from the common boundaries, and allows for suitably-sized rear gardens. Layout is considered with regard to residential amenity in the following paragraphs.
- 7.16 Internally the buildings are well designed and would provide a good standard of amenity for future occupants, and would conform to the requirements of policy HB3 and the National Space Standards.

### **b) Residential amenity**

- 7.17 1 Willop Way is the closest neighbouring property, and occupies a narrow plot running along the north-east side of the application site. The proposed houses have been positioned within the site to be set away from no.1 (see fig.9 below), prevent overshadowing or obscuring of the side windows, to minimise overshadowing of the rear garden and, in combination, prevent an unacceptably overbearing impact upon the outlook of those residents. There would be some late afternoon/early evening overshadowing as the sun sits directly west, but otherwise the property would continue

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to receive uninterrupted sunlight (see fig.8 below). As set out above the designed height of the buildings is such that they would not be overly tall or imposing in views from the neighbouring gardens, and while I do understand local concerns in regards new development near their properties I do not consider that this scheme would give rise to any impacts so significant as to justify a reason for refusal.

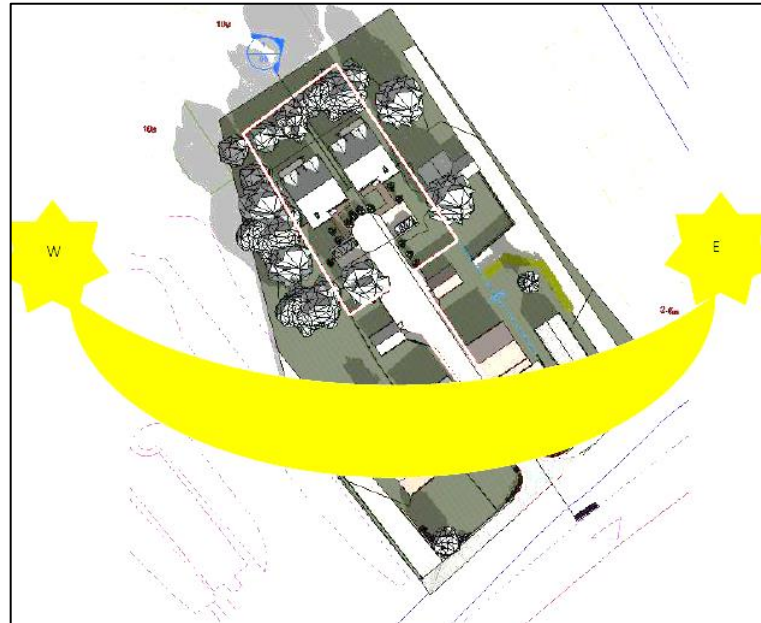
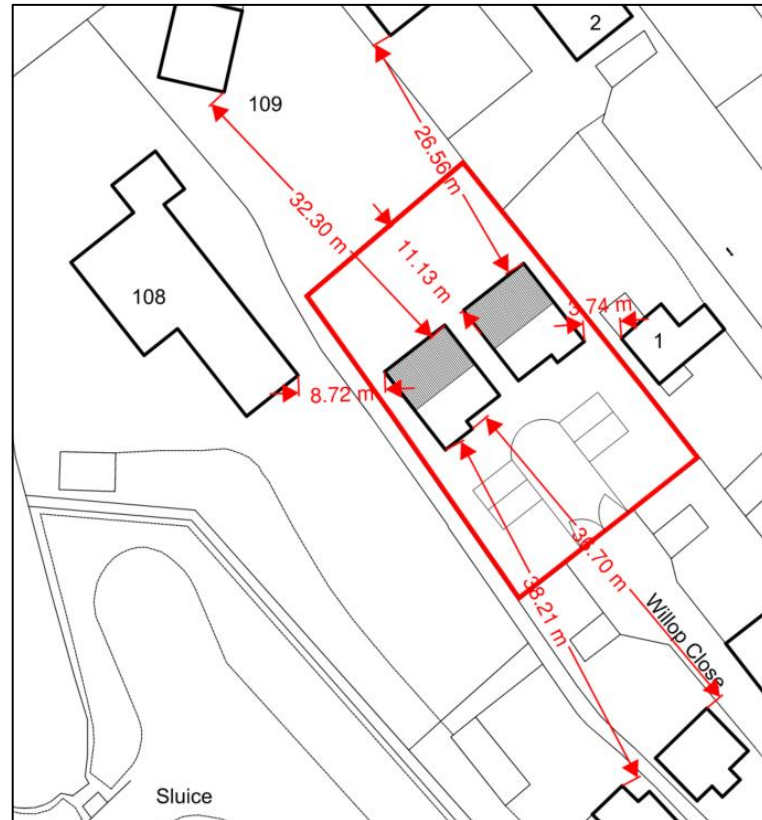


Fig. 8 – Sunlight and shadow study

7.18 Other than the above, and while I understand local objections, the proposed layout does not present any serious concerns in regards impacts upon neighbouring properties. The proposed houses are situated away from the common boundaries and other properties (see fig.9 below) such that no serious overshadowing, loss of light, or overlooking is likely. Fig. 9 below shows that the gardens would be 11m deep, there would be a minimum of 26m to the properties to the rear (in excess of the required 21m minimum), a minimum of 36m to the houses to the front, and reasonably-sized gaps maintained to the side. While I do very much understand local concern I do not consider there to be justifiable reasons for refusal in regards local residential amenity.





**Fig. 9 – Separation distances to existing properties**

#### **d) Ecology and biodiversity**

7.19 KCC Ecology and Natural England have no objections to the development; KCC are satisfied with the ecological investigation that has been carried out, no protected species have been identified on the site, and the works would be unlikely to affect the SSSI due to their relatively small scale and separation distances involved. Conditions below secure ecological enhancements within the site, and I have no serious concerns on this aspect.

#### **e) Protected trees**

7.20 The TPO trees to the west lie outside of the site and are unlikely to be affected by the proposed development. The condition below secures a pre-development tree investigation and protection measures, however, to ensure that they will be adequately protected during the course of construction and not affected in the long-term.

#### **f) Drainage**

7.21 I note that site drainage is a particular local concern, and residents have mentioned that the land drains slowly and may have contained a pond at some stage in the past (although this is not evident on the 2015 and 2018 aerial photos, after the site had been cleared of trees).

7.22 This matter is covered in detail within the submitted FRA, which calculates (on pg.30) that the total volume of water discharged from the site from the 100 year 6 hour event (including for a 40% increase for climate change), after construction of the proposed development, equates to 25 cubic metres. The FRA acknowledges that this will need to be mitigated in order to be discharged safely and sustainably.

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- 7.23 The FRA sets out that Part H of the Building Regulations sets a preferred hierarchy for drainage of surface water: first via infiltration, then by discharge to a watercourse, and if neither of these options are possible then into the public sewer system.
- 7.24 Ground investigation indicates that the site has moderate to poor ground permeability (as evidenced by resident's claims of localised flooding), but sufficient for *some* infiltration drainage to be used, which can be enhanced through the use of purpose-made SUDS within the site. Section 8.6 of the FRA sets out the elements that will be included within a detailed surface water drainage scheme (secured by condition below), including permeable paving, infiltration blanket, or cellular storage (which would retain water and release it at a reduced rate to prevent water-logging. This would achieve sustainable drainage rates across the site, and on this basis I have no serious objections on this aspect. I also note that the calculations within the FRA include a 40% buffer to account for the effects of climate change, so in the short, immediate term the drainage scheme would exceed current requirements.
- 7.25 The FRA notes that long-term maintenance and management of any drainage system is crucial. I have included a requirement for a management scheme to be provided as part of the detailed drainage strategy condition set out below.
- 7.26 Foul sewage can be connected to the existing foul sewer crossing Willop Close to the south of the application site.
- 7.27 Taking the above into account, and while I understand and appreciate local concerns, I consider that drainage can be adequately controlled and mitigated such that a reason for refusal on this ground would not stand up to scrutiny at appeal.

### **g) Archaeology**

- 7.28 The County archaeologist notes that there is potential for artefacts within the former pond on the site (particularly items associated with Romano-British salt-working), but has no objections subject to the condition below, which will ensure that any remains found during construction are appropriately examined and recorded. I therefore have no concerns on this matter.

### **h) Highways and parking**

- 7.29 The development makes use of the existing access onto/off Hythe Road, which allows for suitable and safe access. The addition of two dwellings onto this access would not generate levels of vehicle activity that would overburden this access point or give rise to any serious highway safety or amenity concerns.
- 7.30 The site layout drawing shows that parking can be provided in accordance with the current adopted Kent Vehicle Parking Standards, and this can be secured by conditions as set out below.
- 7.31 There is sufficient space within the proposed gardens to provide cycle parking/ storage. Such facilities can be can be erected as necessary under permitted development rights.

### **i) Other matters**

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7.32 The development is liable for CIL at a rate of £56.99 per sqm. No other contributions are required.

7.33 The site lies outside of the Stodmarsh SSSI drainage catchment.

### **Environmental Impact Assessment**

7.34 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**

7.35 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.

7.36 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. The CIL levy in regards the application area is charged at £56.99 per square metre for new residential floor space.

### **Human Rights**

7.37 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**

7.38 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

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- 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

7.39 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.

## 8. CONCLUSION

8.1 Summarise issues and conclude the planning balance and conflict or otherwise with Development Plan.

## 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 granted subject to the following conditions 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.**

### Conditions:

#### Time limits

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

#### Drawings

2. No development shall take place other than in complete accordance with drawings (all prefaced 20.128) 03 rev. P, 04, 05, 06, 07, and 08, and the submitted Herrington's Flood Risk Assessment.

Reason: For the avoidance of doubt.

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3. 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 District 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. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. 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.

4. 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.

5. (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,

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- 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.

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

Reason: In the interest of visual amenity.

7. No development shall take place until a tree survey, carried out in accordance with BS5837:2012, and demonstrating how the TPO Ash trees close to the western site boundary will be accommodated within the scheme and protected during development (including a tree survey schedule, tree constraints plan, arboricultural assessment and method statement, tree protection plan, and shade pattern arcs), has been submitted to and approved in writing by the Local Planning Authority. Upon approval development shall be carried out in accordance with the agreed details.

Reason: To ensure the trees are adequately protected and retained.

8. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the District Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

9. 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.

10. No development beyond the construction of foundations shall take place until details of how the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, have been submitted to and approved in writing by the

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Local Planning Authority. Upon approval the measures shall be implemented as agreed and thereafter retained and maintained in perpetuity.

Reason: To support the transition to a low carbon future through the use of on-site renewable and low-carbon energy technologies.

### During development

11. 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 District Planning Authority.

Reason: In the interests of residential amenity.

### Flooding and drainage

12. No development beyond the construction of foundations shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the District Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

13. No development shall take place until a detailed surface water drainage / management strategy (including proposal for long-term maintenance and management of any on-site SUDS) has been submitted to and approved in writing by the Local Planning Authority. The strategy 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 disposed of without increase to flood risk on or off-site. On approval the scheme shall be implemented as agreed and thereafter maintained in perpetuity.

Reason: To ensure the site is properly drained and to ensure the development does not exacerbate the risk of on/off site flooding.

14. The development shall be carried out in accordance with the submitted flood risk assessment (Herrington Consulting FRA updated September 2020) and the mitigation measures it details:
- Finished floor levels shall be set no lower than 3.44m above Ordnance Datum (AOD);
  - All sleeping accommodation to be set on the first floor above 3.74m ODN;
  - Flood risk resilience measures outlined in the FRA (section 7.3) shall be incorporated into the dwellings wherever practicable.



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These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To minimise risk in the event of a flood.

### Ecology and landscaping

15. Within six months of development commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This includes the planting of native species and the provision of bird/bat boxes. The approved details will be implemented as agreed and thereafter retained.

Reason: In the interest of enhancing biodiversity.

16. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the District Planning Authority.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

17. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the District Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

### Highways and parking

18. The vehicle parking spaces shown on the approved drawings shall be kept available for such use 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 the land so shown or in such 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 of cars is likely to lead to car parking inconvenient to other road users.

19. Prior to the first occupation of any dwelling hereby permitted suitable Electric Vehicle Charging ductwork capable of receiving the underlying infrastructure for

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a future Electric Vehicle Charging point to serve each dwelling shall have been installed, details of which shall have been submitted to and agreed in writing by the Local Planning Authority prior to installation. The ductwork channelling shall thereafter be made available to the individual or company responsible for the long term governance and maintenance of the car parking area, enabling the installation of Electric Vehicle Charging Infrastructure as and when demand from residents arises.

Following installation the charging points shall thereafter be retained available in a working order by the respective owners / individual or company responsible for long term governance.

Reason: In the interest of sustainable development and reducing carbon emissions.

### Amenity

20. No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the first floor flank walls of the dwellings hereby permitted.

Reason: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.

21. Upon completion, no further development, whether permitted by Classes AA or B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the amenities of the area.

### Informatives:

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.