

DCL/21/42

Application No: 21/1997/FH

Location of Site: Princes Parade Promenade
Princes Parade
Hythe CT21 6EQ

Development: Storm water outfall drainage pipes

Applicant: Folkestone & Hythe District Council

Agent: Tibbalds
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London SE1 3JB

Officer Contact: David Campbell

SUMMARY

This application is for two storm water outfall drainage pipes to serve the future development of Princes Parade that already has planning permission. Notwithstanding that, it is a full planning application that is required to be considered on its own merits. It is considered that there would be no adverse impacts in respect of the Scheduled Monument, ecology, archaeology, contamination, maintenance of the canal, design, visual or residential amenity, and the application is considered acceptable.

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 in accordance with the scheme of delegation and due to the objection from Hythe Town Council.

2. SITE AND SURROUNDINGS

- 2.1 The wider Princes Parade application site is located in a prominent position on the coast, immediately to the south of the Royal Military Canal (RMC), which is a Scheduled Monument (SM) and Local Wildlife Site (LWS). Beyond the RMC to the north is the residential area of Seabrook, focussed along the A259 and to the south is Princes Parade, the sea wall promenade and the beach.

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- 2.2 The wider site is located approximately 260 metres to the south and south-east of the Kent Downs Area of Outstanding Natural Beauty, which extends as far as Cliff Road on the hillside above.
- 2.3 This specific application site consists of two locations on the southern side of the wider Princes Parade development, noted in the submission as the western and eastern outfall pipes. The pipes connect the wider site with the beach, through the existing promenade and the beach access.
- 2.4 A site location plan is attached to this report as Appendix 1. Figure 1 shows the site in the context of the wider development.

3.0 PROPOSAL

- 3.1 Full planning permission is sought for two surface water drainage outfall pipes. The pipes would be approximately 15m long (western outfall) and 20m long (eastern outfall) from the existing promenade and 0.6m in diameter.
- 3.2 The pipes would be metal with timber piles and steel grilles at the end. They would also be fitted with valves underneath the existing promenade. As can be seen above, the majority of the pipe would be below ground level and would run under the existing promenade, the beach access as well as the beach itself. They have been designed to allow for the movement of beach material/ shingle. It is only the end of the pipes that would therefore be visible from the beach.
- 3.3 The proposal would serve the approved Princes Parade development addressing its flooding/ drainage needs and would connect into any future surface water scheme that is proposed. Notwithstanding that, it is a full planning application that is required to be considered on its own merits.
- 3.4 Figure 1 below shows how the pipes would relate to the Princes Parade development approved under ref: Y17/1042/SH. Figures 2 and 3 show the plan view of the two pipes.
- 3.5 The proposed drainage system is proposed as gravity fed and passive, with no need for pumping infrastructure and as such no noise would be generated.
- 3.6 The proposed storm water outfall infrastructure would not be adopted and the outfall would remain the property of Folkestone and Hythe District Council and would be maintained by the Council for the life of the drainage requirement.

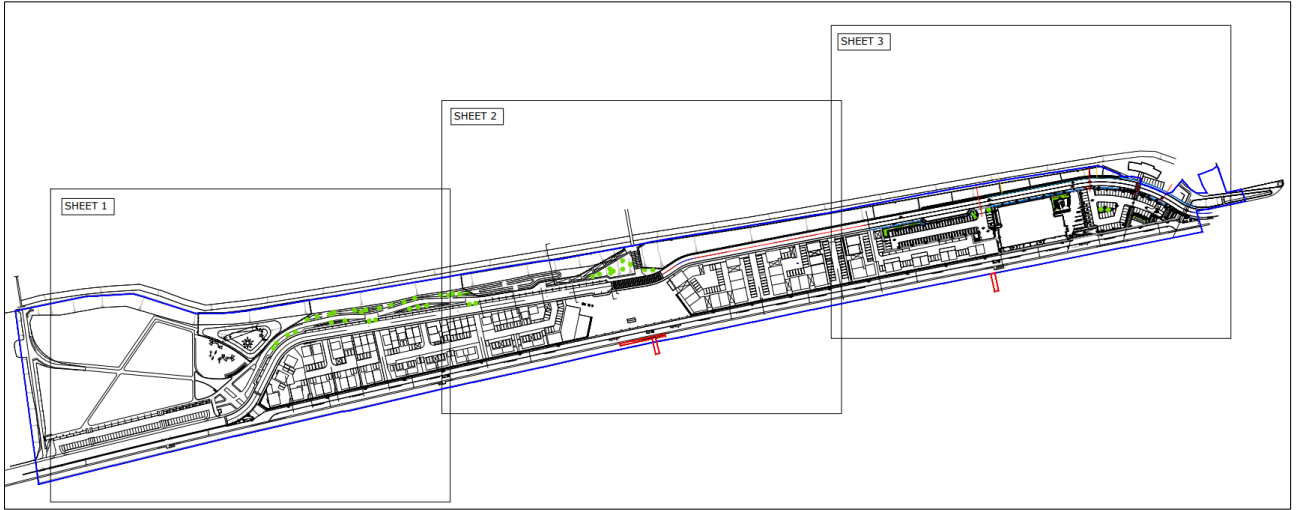


Figure 1 – Site Plan showing location of the pipes within the wider site area.

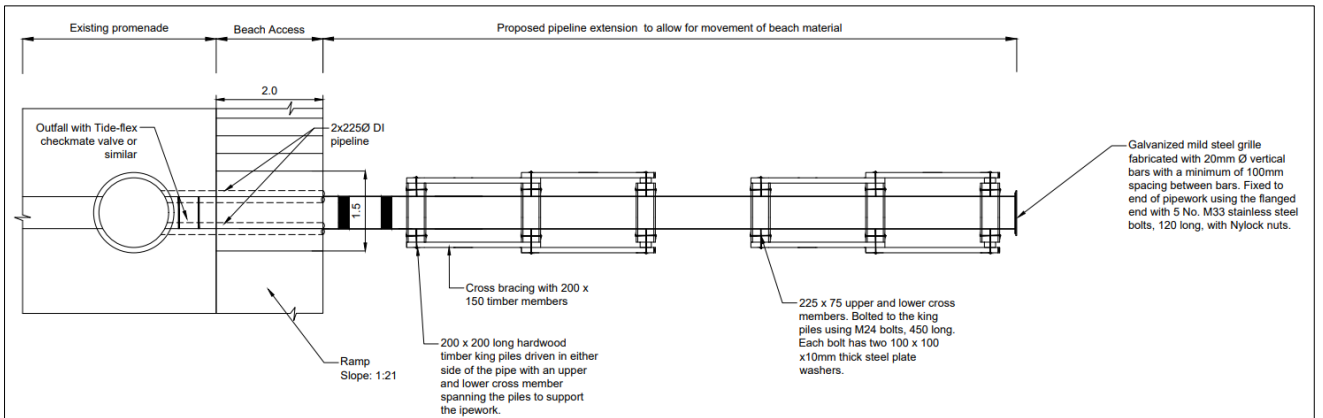


Figure 2 – Plan View of the Western Outfall.

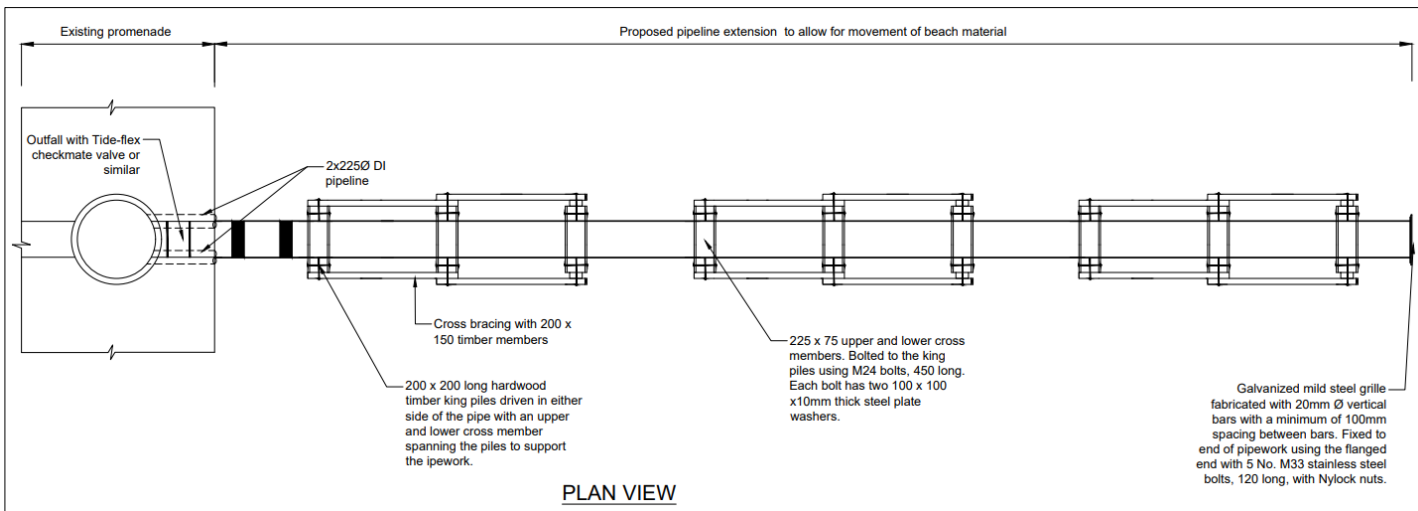


Figure 3 – Plan View of the Eastern Outfall

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3.7 The following reports were submitted by the applicant in support of this current application:

Flood Risk Assessment – The FRA sets out the strategy to ensure that the risk of surface water flooding offsite would not increase as a result of the development and to demonstrate a sustainable solution for surface water to be dealt with that is discharged from the development site. It concludes that risk to the proposed development is low and by restricting the flow of water into the RMC it would help reduce the risk of flooding elsewhere and as such meets the criteria of the NPPF and local policy.

Site Investigation Report – A contamination report has been submitted with the application. It is a factual account of the site investigation undertaken. The report includes site investigation methods; ground conditions; soil sample testing procedures; groundwater sampling and level monitoring; gas monitoring.

4. RELEVANT PLANNING HISTORY

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

Y17/1042/SH	Hybrid application accompanied by an Environmental Statement for the development of land at Princes Parade, comprising an outline application (with all matters reserved) for up to 150 residential dwellings (Use Class C3), up to 1,270sqm of commercial uses including hotel use (Use Class C1), retail uses (Use Class A1) and / or restaurant/cafe uses (Use Class A3); hard and soft landscaped open spaces, including children's play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout, site levelling and groundworks, and all necessary supporting infrastructure and services. Full application for a 2,961sqm leisure centre (Use Class D2), including associated parking, open spaces and children's play facility.	Approved
21/1182/FH/CON	Approval of details pursuant to conditions 15, 16 & 17 of Y17/1042/SH	Approved
21/1209/FH	Formation of a new badger sett including associated earthworks	Approved

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council: Objection

Object on the grounds that there is insufficient details. It is not in keeping with the beach affected, will discourage use of the beach and will cause pollution into the sea.

KCC Ecology: No objection.

- The proposal is located within area covered by the ecological mitigation strategy 21/1182/FH/CON.
- It would have been preferable if the ecologist letter had clearly set out what aspects of the mitigation strategy had to be completed to prior to the commencement of the works associated with this application.
- The ecological mitigation agreed under 21/1182/FH/CON must be carried out as this is a separate application to the original outline application
- They understand that the beach is recharged regularly and if this is the case there is no need for a specific mitigation strategy.
- If works are being carried out during the bird breeding season and further survey will be required and if breeding birds are found works should cease until the young have fledged.
- This should be specified within a construction management plan.

KCC Public Rights of Way: No comments to make.

KCC Highways and Transportation: No comments to make.

KCC Archaeology: No objection.

It is unlikely that the proposed works would have a significant impact at this location.

KCC Flood and Water Management: No objection.

Estimation of required volume for tide-locking scenario in an extreme event has been provided and calculations have been included to model the proposed network. The report includes assessment of situation where contributions would be made to the Royal Military Canal. Mitigation is proposed to manage extreme events and KCC agrees with the approach.

Natural England: No objection.

Environment Agency: Objection.

Pending further response

Southern Water: No objections

The Council's technical and the relevant authority should be consulted.

Historic England: Do not wish to offer any comments

Contamination Consultant: No comments.

Environmental Protection Officer: No comments.

Local Residents Comments

5.2 95 neighbours directly consulted. 8 letters of objection have been received. Objections made to the wider approved development of the site have not been included as they do not specifically relate to the application under consideration.

I have read all of the letters received. The list of key issues is summarised below:

Objections

- This application seeks to change the storm water drainage method from the scheme that was granted.
- The plans for present application (21/1997/FH) shows that the Principal Development is not in accordance with original scheme.
[CPO Comment: The plans have been checked and have been found to be accurate.]
- Insufficient information.
- The EA have objected as the development needs a flood risk activity permit.
- No images are provided so it is impossible to judge the visual impact on the beach.
- The structures will be off putting to current users of the beach and will give rise to concern that polluted water is being discharged into the sea.
- The contamination report which has been submitted is incomplete and has no conclusion or interpretation of the results.
- No information which explains how the water will be treated before it is discharged into the sea.
- Not in keeping with the beach.
- Will cause pollution into the sea.
- Does the original plan still exist whereby there would be a one and a quarter acre attenuation pond at the western end and large tanks underground at the front of the development?
- Not satisfied that the scheme will be sufficient.
- Risk of contamination.
- Increase in flooding.
- Due to the current Climate emergency there has been very exceptional rate of rainfall throughout the country and there is a great risk of flooding in coastal areas.
- The shingle on the beach is forever moving and the crest of the beach may not be as stated in years to come.

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- FHDC have been premature in all their actions so far relating to the development site and things are being rushed without proper investigations being done.

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 Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

- Policy UA18 – Princes Parade, Hythe
- Policy HB1 – Quality Places Through Design
- Policy HB2 – Cohesive Design
- Policy T1 – Street Hierarchy and Site Layout
- Policy NE2 – Biodiversity
- Policy NE7 – Contaminated Land
- Policy NE9 – Development around the Coast
- Policy HE1 – Heritage Assets
- Policy HE2 – Archaeology

Core Strategy Local Plan (2013)

- Policy DSD – Delivering Sustainable Development
- Policy SS1 – District Spatial Strategy
- Policy SS2 – Housing and the Economy Growth Strategy
- Policy SS3 – Place Shaping and Sustainable Settlements Strategy
- Policy SS5 – District Infrastructure Planning

Policy CSD1 – Balanced Neighbourhoods for Shepway

Policy CSD2 – District Residential Needs

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

Policy CSD5 – Water and Coastal Environmental Management in Shepway

Policy CSD7 – Hythe Strategy

Core Strategy Review Submission draft (2019)

Policy SS1 – District Spatial Strategy

Policy SS2 – Housing and the Economy Growth Strategy

Policy SS3 – Place Shaping and Sustainable Settlements Strategy

Policy SS5 – District Infrastructure Planning

Policy CSD1 – Balanced Neighbourhoods for Shepway

Policy CSD2 – District Residential Needs

Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

Policy CSD5 – Water and Coastal Environmental Management in Shepway

Policy CSD7 – Hythe Strategy

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans.

Paragraph 127 -130 – Achieving well designed places.

Paragraph 174 - Conserving and enhancing the environment

Paragraph 180 – Mitigation and compensation for harm to biodiversity and habitats.

Paragraphs 183 & 184 – Development and contamination.

Paragraph 194 – Proposals affecting heritage assets

Paragraphs 199 – 205 – Considering potential impacts on heritage assets.

7. APPRAISAL

- 7.1 The principle of the overall development of which this site forms a part, has been established by the grant of permission for development of the wider site. The two outfall pipes would be small in scale and located in a position to serve the whole development. As such the principle of the development is considered to be acceptable.
- 7.2 Given the above, the main considerations are the following issues:
- a) Visual amenity
 - b) Contamination
 - c) Ecological implications
 - d) Flood risk/maintenance of the RMC bank

a) Visual amenity

- 7.3 Policy HB1 states that planning permission should be granted where the proposal makes a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density, materiality and mix of uses so as to ensure all proposals create places of character.
- 7.4 Due to the small scale of the proposal relative to the buildings that have been approval around it, the drainage pipes would not have a significant visual impact when viewed in the context of the wider site. The materials proposed are typical of outfall pipes, as is the construction and as such it is not considered that a reasonable objection could be sustained on these grounds, particularly given that the majority of the works would be below ground.
- 7.5 It is acknowledged that the visual impact would be at its most significant when viewed from the beach, although it is also acknowledged that a similar situation exists at the beach in Sandgate and in many circumstances along British coastlines.
- 7.6 For the reasons set out above it is considered that the application meets the criteria of the aforementioned policies and as such there are no objections on these grounds.

b) Contamination

- 7.9 In the 1930s the wider site was used for gravel extraction and in the 1960s and 1970s it was used as a refuse tip, leading to contamination and raised land levels. A contamination report has been submitted with the application.
- 7.10 The Council's Contamination Consultant has stated that no comment is required given the nature of the application which should not give rise to any contamination issues in its own right. Further information concerning drainage details from the wider site will be submitted with a subsequent application and these details will need to ensure that water that may be at risk of contamination from historic uses would not enter the drainage system. However, with regards to the current application, given that this part of the wider site already has permission to be built on, it is not considered that any objection can be raised to the application on these grounds.

d) Ecology

- 7.11 The Ecology Method Statement (EMS) which has now been approved under 21/1182/FH/CON requires a number of actions to mitigate ecological harm which KCC Ecology have recommended should be dealt with prior to this application being implemented. This is considered to be a sensible approach and as such a condition has been attached accordingly.
- 7.12 KCC highlight that the development itself would not have an impact on ecology other than on wintering birds on the beach when it is being constructed. To address this KCC have requested a condition to ensure that breeding birds are protected in the wintering period to ensure there is no harm to the population. This is considered to be appropriate. Subject to this, it is considered that it has been satisfactorily demonstrated that any impacts on other wildlife and habitats can be mitigated to an acceptable level which addresses the concerns raised by KCC Ecology.

e) Flood Risk/Maintenance of the RMC

- 7.13 The EA initially objected to the scheme on the impact to the Royal Military Canal, however they have withdrawn their objection providing the mitigation measures set out in the Ecological Method Statement (previously approved) are adhered to. They note that access to the 8m bylaw margin required by the EA would be maintained. The scheme is therefore considered to be acceptable on these grounds.

e) Other issues

- 7.14 In terms of impact on the scheduled monument (RMC) it is not considered that the scheme would cause any harm. The western outfall would be 82.8 m to the south of the RMC and the eastern outfall would be 74.8m to the south. The future development site would also be located in between the pipes and the RMC. It is therefore not considered that the proposal would cause any harm to the setting of the heritage asset.
- 7.15 I note concerns raised in public consultation that the proposal is a different method of draining for the Principe Parade development. It should be highlighted that the hybrid application approved two options for drainage, with the less favourable out of the two was drainage to the RMC. The option to drain to the beach was included within the thinking for the hybrid application, while acknowledging that the development would need to secure the drainage to the beach under a separate application. This submission achieves this and provides what is considered to be a more acceptable solution for the drainage needs of the site.
- 7.16 In terms of the potential pollution of the beach by surface water draining to the site, it should be highlighted that the existing Princes Parade road already drains to the shingle beach. Furthermore the existing drainage is unlikely to involve any oil interceptors. Whereas any surface water passing through the pipes subject of this application would have been subject to an oil interceptor and as such the surface water entering the beach would at worst be the same as at present if not demonstrably

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cleaner. It is therefore considered that the solution proposed in this application is acceptable and could bring about positive change over the existing situation.

Environmental Impact Assessment

- 7.15 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 in its own right. It is however noted that the wider site was submitted with an Environmental Statement.

Human Rights

- 7.16 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

- 7.17 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

- 7.18 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 This application is for two storm water outfall drainage pipes to serve the future development for Princes Parade that already has planning permission. It is considered that there would be no adverse impacts in respect of the Scheduled Monument, ecology, archaeology, contamination, maintenance of the canal, design, visual or residential amenity, and the application is considered acceptable.

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:

1. The development hereby permitted must be begun within three years of the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990.

2. The development, which only includes the area of land identified in red on the site location plan, hereby permitted shall be carried out in complete accordance with the following plans and details: Site location plan HC-1494-500, Indicative Surface Water Drainage Layout HC-1494-501 Sheet 1, Indicative Surface Water Drainage Layout HC-1494-501 Sheet 2, Indicative Surface Water Drainage Layout HC-1494-501 Sheet 3, Outfall Details Drawing Western Outfall HC-1494-502, Outfall Details Drawing Eastern Outfall HC-1494-502, Surface Water Drainage Ownership and Maintenance Plan HC1494-504 Sheet 1, Surface Water Drainage Ownership and Maintenance Plan HC-1494-504 Sheet 2, Surface Water Drainage Ownership and Maintenance Plan HC1494-504 Sheet 3, SK21_Porous& Non-Porous Finishes Drainage report, Flood Risk Assessment and Drainage Strategy, Ecology letter by Lloyd Bore and Contamination report. Any other alternation not within the red line of the application site do not form part of this application and are therefore not approved here.

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. No development shall take place, until the mitigation measure agreed under application 21/1182/FH/CON have been carried out to the satisfaction of the Local Planning Authority. A written statement confirming this will be submitted to and be approved in writing by the Local Planning Authority before any works hereby permitted are carried out.

Reason: In order to safeguard wildlife on site.

4. The development shall not begin until a detailed sustainable surface water drainage scheme for the whole site, as approved under Y17/1042/SH, has been submitted to and been approved in writing by the Local Planning Authority. The

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drainage scheme shall be implemented in accordance with the approved details and remain in place thereafter.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

5. No development is to take place during the bird wintering period without the written permission of the Local Planning Authority.

Reason: In order to safeguard wildlife on site.

