

Application No: 21/2380/FH/CON

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

Development: Approval of details pursuant to conditions 12 (visibility splays) (Phases 1, 2a and 2b), 13 (phasing plan), 14 (leisure centre funding), 15 (preliminary ecological appraisal) (Phases 1, 2a and 2b), 16 (detailed ecological statement) (Phases 1, 2a and 2b), 18 (lighting) (Phases 1, 2a and 2b), 19 (foul water) (Phases 1, 2a and 2b), 20 (sewer protection) (Phases 1, 2a and 2b), 21 (suds) (Phases 1, 2a and 2b), 22 (suds maintenance) (Phases 1, 2a and 2b), 24 (suds outfalls), 26 (construction management plan) (Phases 1, 2a and 2b), 27 (Archaeology) (Phases 1, 2a and 2b), 28 (foundation designs), 29 (fibre optics), 30 (highway redesign) and 31 (surface water) of planning permission Y17/1042/SH Hybrid application for the development of land at Princes Parade.

Applicant: Folkestone & Hythe District Council

Agent: Tibbalds
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London SE1 3JB

Officer Contact: David Campbell

SUMMARY

This report considers whether approval should be given for the submitted details in pursuance of the conditions set out above. The submitted information details how the scheme is to comply with these conditions, to satisfy all material planning considerations and to ensure the scheme that was granted hybrid planning permission remains high quality. This reports incorporates advice from technical consultees who have confirmed that the submitted details are acceptable and as such the application can be approved.

RECOMMENDATION:

That the conditions submission be approved in accordance with the details and documents provided. That the informatives included at the end of the report be attached to the approval, and authorisation is given to the Chief Planning Officer to amend the wording of these/ include additional informatives as he feels is appropriate.

1. INTRODUCTION

- 1.1. The application is reported to Committee because it forms part of a larger development that the Council has a substantial interest in.

2. SITE AND SURROUNDINGS

- 2.1 The 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. To the west is the Hythe Imperial golf course and Hotel Imperial with the recent residential development to the rear. To the east is a block of apartments, Olivia Court, with a petrol filling station and restaurant beyond.
- 2.2 At the eastern end of the site is a small visitors' car park, children's play area and temporary accommodation for the Seabrook Canoe Centre. Public Bridleway HB83 runs along the northern extent of the application boundary/southern side of the RMC, with the National Cycle Route 2 Bridleway along the southern edge, on the existing promenade.
- 2.3 The majority of the application site is covered in scrub vegetation and is relatively flat, although the former use as a waste disposal site and the past dredging of the canal has raised the ground level by approximately 3.5 metres above the adjacent canal and golf course and resulted in widespread ground contamination. The main promenade and road sit at approximately +6.8 metres (AOD) and the site ranges between +6.5 metres and +8.0 metres AOD. The site drops sharply along the northern boundary, forming a vegetated slope where it meets the canal tow path (HB83). The site covers 10.07 Ha of land owned by the applicant, Folkestone and Hythe District Council.
- 2.4 Access to the interior of the site is heavily curtailed by the vegetation and lack of paths, with the main access across the centre of the site being via the existing path leading to the Seaview Bridge connecting to Seabrook Road. A similar path to the Seabrook Lodge Bridge exists at the western end of the application site.
- 2.5 The 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.
- 2.6 A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Approval is sought for details pursuant to conditions 12 (visibility splays), 13 (phasing plan), 14 (leisure centre funding), 15 (preliminary ecological appraisal), 16 (detailed ecological statement), 18 (lighting), 19 (foul water), 20 (sewer protection), 21 (suds), 22 (suds maintenance), 24 (suds outfalls), 26 (construction management plan), 27 (Archaeology), 28 (foundation designs), 29 (fibre optics), 30 (highway redesign) and 31 (surface water) of planning permission Y17/1042/SH, a hybrid application for the development of land at Princes Parade. Members will note that this submission seeks to discharge some of the conditions for certain phases only. The conditions in question read as follows:

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- 3.2 **Condition 12:** The reserved matters details submitted pursuant to Condition 1 of this planning permission shall include details of all pedestrian and vehicular visibility splays either side of any access to the highway. Such visibility splays as approved shall be provided before the building(s) to which the access relates is first occupied or brought into use and shall be maintained clear of all obstructions in excess of 0.9 metres above the carriageway thereafter.

Reason: To secure adequate visibility for vehicles and pedestrians using the site in the interests of highway safety.

- 3.3 The applicants have provided drawing PPLC-SWE-RU-Z0-DR-90047 Rev: A entitled Forward Visibility and PPLC-SWE-RU-Z0-DR-90048 Rev: B entitled Visibility Splays to demonstrate that the required visibility splays are achieved. This condition submission relates to phases 1, 2a and 2b only. A phasing plan is submitted for approval under condition 13 below.

- 3.4 **Condition 13:** Prior to commencement of the development hereby permitted a phasing plan identifying all proposed phases or sub-phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include details of likely commencement dates of all principal elements of the development hereby permitted (including the leisure centre, residential development and the commercial development). Thereafter all phases or sub-phases of the development shall be carried out in accordance with the phasing plan unless otherwise previously agreed in writing with the Local Planning Authority.

Reason: The development will not be carried out as a whole, so certain conditions require details to be submitted only in relation to individual plots comprised within the site or for the whole development. The boundaries of those plots must be identified in order for those conditions to be effective.

- 3.5 A site phasing plan has been submitted which sets out four stages of development which are as follows:

Phase 1: Remediation and enabling works.

Phase 2a: New road and western car park.

Phase 2b: Leisure centre, western open space and linear park

Phase 3: Character area east and central open space

Phase 4: Character area west

- 3.6 **Condition 14:** Prior to commencement of any part of the development hereby permitted evidence shall be submitted to and have been approved in writing by the Local Planning Authority demonstrating that full funding is available for the construction and fitting out of the leisure centre and that it is deliverable with that funding.

Reason: Provision of the leisure centre was a material planning consideration in the decision to grant planning permission for the overall development.

- 3.7 The applicants have provided details of Folkestone and Hythe District Council's Cabinet decision to fund the sports centre.

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- 3.8 **Condition 15:** Prior to commencement of the development on each relevant phase or sub-phase relating to the planning permission hereby permitted, a preliminary ecological appraisal (PEA) shall be carried out, the results and recommendations of which shall inform a review/ update of the detailed mitigation strategy to be submitted as part of condition 16 of this planning permission.

Reason: In order to ensure up to date information is available to inform appropriate mitigation against the environmental effects of the development in accordance with the planning permission.

- 3.9 The applicants have submitted a letter from Lloyd Bore which confirms that the baseline ecological data has not significantly changed since the original Preliminary Ecological Appraisal. This is based on visits to the site in April and September 2021. No additional constraints were identified. This condition submission relates to phases 1, 2a and 2b only.

- 3.10 **Condition 16:** Prior to commencement of the development hereby permitted (including any ground works, site or vegetation clearance) within any relevant phase or sub-phase, a detailed Ecological Method Statement (EMS) (informed by the submitted Ecological Mitigation and Enhancement Plan, Lloyd Bore, August 2017; Appendix 4: Schedule of Environmental Mitigation; Appendix 5: Ecological Mitigation Strategy, Lloyd Bore REF: 3609-LLB-RP-EC-0010-S4-P04 03/07/2018; Appendix 6: Reptile report, Lloyd Bore REF: 3609-LLB-RP-EC-0011-S4- P01 26/06/2018; Appendix 7: Badger Report, Lloyd Bore REF NO. 3609-LLB-RP-EC-0012-S4-P02 03/07/2018) shall be submitted to and approved in writing by the Local Planning Authority. The content of the EMS shall include but not be limited to: a) Purpose and objectives for the proposed works, to include the eradication of Japanese knotweed from the site; b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives; c) Extent and location of proposed works, including the identification of a suitable 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) Initial aftercare and long-term maintenance (where relevant); h) Disposal of any waste material; i) Interim management plan to ensure the habitats created/enhanced as part of the mitigation strategy will be managed appropriately; j) Details of ongoing monitoring. The works shall be carried out in accordance with the approved details and retained as required thereafter. This condition relates to phases 1, 2a and 2b only.

Reason: In order to ensure appropriate mitigation against the environmental effects of the development.

- 3.11 The previously approved (at the August 2021 Planning & Licensing Committee Meeting) Ecological Method Statement dated 11.08.21 from Lloyd Bore has been resubmitted. A further letter from Lloyd Bore explains that this Ecological Method Statement (EMS) sufficiently covers the issues and takes into account design decision changes that have been implemented between the issue of the EMS and the next stage of the development. In terms of individual issues, with regards to the reptile receptor site location, this is taking place as per the original EMS and is currently taking place, including monitoring of the receptor site. No further measures are necessary. In terms of lighting the application seeks a reduction in lux levels on the overall light spill towards the existing retained habitat along the RMC. Further details on this have been

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provided under condition 18. This condition submission relates to phases 1, 2a and 2b only.

3.12 **Condition 18:** Prior to commencement of the development hereby permitted within any relevant phase or sub-phase, details of a street lighting plan and a lighting design plan for biodiversity, for that phase or sub-phase shall be submitted to and have been approved in writing by the Local Planning Authority, with such details as approved, implemented in accordance with the specifications and locations set out in the approved details for that phase or sub-phase and maintained thereafter in accordance with those details. The plans shall include:

- a) details of the design and external appearance and siting of all street and footpath lighting;
- b) details of how the impact of the lighting on the wider landscape has been considered;
- c) the hours of operation;
- d) identification of those areas/features on site that are particularly sensitive for badgers and bats and where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- e) details of how, where and what external lighting will be installed so that it can be clearly demonstrated that lighting will not disturb or prevent the above species using their territory.

Reason: To ensure the lighting scheme minimises harm to the character and appearance of the area and to minimise light-related impacts upon foraging bats.

3.13 The applicants have submitted a Lighting Impact Assessment Technical Note to address this. This condition submission relates to phases 1, 2a and 2b only.

3.14 **Condition 19:** Prior to commencement of the development hereby permitted within any relevant phase or sub-phase, details of the proposed means of foul water sewerage disposal shall be submitted to and approved in writing by the Local Planning Authority for that phase or sub-phase, with such details as approved for that phase or sub-phase, implemented in full at the time of the relevant development.

Reason: To ensure suitable measures are incorporated for the disposal of foul water from the site.

3.15 The applicants have submitted a Technical Note by Engenuiti to address this condition which show the foul drainage details for the leisure centre, phase 1 of the development and for phases 2a and 2b which shows the drains under the proposed access road. This condition submission therefore relates to phases 1, 2a and 2b only.

3.16 **Condition 20:** Prior to commencement of the development hereby permitted within each phase or sub-phase, details shall be submitted to and have been approved in writing by the Local Planning Authority of the measures proposed to protect the public sewers within that phase or sub-phase, with such details as approved, implemented in accordance with the approved details.

Reason: In order to protect existing infrastructure.

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3.17 A sewer protection plan has been submitted detailing the proposed diversion route of the sewer and setting out how it will be protected. This condition submission relates to phases 1, 2a and 2b only.

3.18 **Condition 21:** Prior to commencement of any relevant phase or sub-phase of the development hereby permitted a detailed sustainable surface water drainage scheme for that phase or sub-phase shall be submitted to and have been approved in writing by the Local Planning Authority. The detailed drainage scheme shall take into account the overall development and drainage requirements of the whole site and 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 discharged from the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

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 and off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

3.19 The applicants have submitted a Technical Note by Engenuiti to address this condition which show how surface water is to be dealt with across the site. The strategy includes the provision of attenuation tanks, permeable pavement systems and the two drainage outfall pipes approved by the Planning & Licensing Committee in January 2022. Separate documents entitled Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington, Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington also reinforce this and include pollution interceptors from oil/ petrol, checkmate valves with a piped drainage network. This condition submission relates to phases 1, 2a and 2b only.

3.20 **Condition 22:** Prior to commencement of any relevant phase or sub-phase of the development hereby permitted details of the implementation, maintenance and management of the sustainable drainage scheme associated with that phase or sub-phase, to include the drainage measures required by conditions 7, 21 and 31 shall be submitted to and have been approved in writing by the Local Planning Authority. The sustainable drainage scheme for that phase or sub-phase shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include: a) A timetable for its implementation; and b) A management and maintenance plan for the lifetime of the development which shall include 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.

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).

3.21 The applicants have submitted a Technical Note by Engenuiti to address this condition which includes a maintenance plan in Appendix B of that document. It explains that

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maintenance will be required throughout the lifetime of the system, which is to be carried out by the Council. This is supported by documents entitled Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington, Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington. This condition submission relates to phases 1, 2a and 2b only.

- 3.22 **Condition 24:** Prior to commencement of the development hereby permitted within any relevant phase or sub-phase, the relevant planning approval(s) shall have been obtained for any surface water drainage outfalls or other necessary engineering operations required to serve the development hereby permitted.

Reason: In the interests of the proper planning of the site.

- 3.23 The applicants have submitted documents entitled Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington, Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington. It includes the details of the outfalls that have been previously approved by the Planning & Licensing committee. This condition submission relates to phases 1, 2a and 2b only.

- 3.24 **Condition 26:** Prior to commencement of the development hereby permitted in any relevant phase or sub phase, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environment Management Plan shall include, but not be limited to, the following:

- a) Access point for HGVs and site personnel;
- b) Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction;
- c) Dust suppression methods;
- d) Commitment to no burning of materials on site;
- e) Details of and location of any lighting used for construction;
- f) Details of plant and noise generated from operation of vehicles and machinery;
- g) Location of any fencing/hoardings in order to avoid physical encroachment into adjoining habitats;
- h) HGV routing;
- i) Hours of operation;
- j) Details of any temporary traffic management/signage required;
- k) Pollution prevention and control;
- l) Prohibition of dewatering or discharge of wastes into canal and use of temporary on-site drainage works to divert runoff away from the canal
- m) Monitoring of works to avoid indirect effects upon surrounding habitats;
- n) Details of the supervised clearance and erection of herptile fencing and trapping and translocation of reptiles to created or enhanced off-site habitats;
- o) Details regarding how the clearance of bird nesting habitat will be prioritised within the period October to February (inclusive), which is outside the typical bird breeding season. If any areas of bird nesting habitat cannot be removed within this period, and need to be removed within the typical bird breeding season (March to mid-September), details of a bird nesting check by a suitably experienced ecologist and a protocol that must be followed if an active nest is recorded, shall also be provided;
- p) Details of tree protection measures to be installed around trees which have been agreed to be retained within the development

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q) Details of appointment of an Ecological Clerk of Works (ECoW) for the duration of the construction stage;

All details of the approved Construction Management Plan shall thereafter be adhered to during the construction of the relevant phase or sub-phase.

Reason: To ensure appropriate mitigation of environmental effects and the provision of adequate off-street parking for construction-related vehicles, in the interests of highway safety and to protect the amenity of local residents during the construction phase.

3.25 The applicants have submitted a Construction and Environmental Management Plan (Rev: 3) and a series of Appendices (Rev: 2) to satisfy the requirements of this condition. This condition submission relates to phases 1, 2a and 2b only.

3.26 **Condition 27:** Prior to commencement of the development hereby permitted within any relevant phase or sub-phase the Applicant, or their agents or successors in title, shall secure the implementation of a programme of archaeological work in accordance with a written specification and timetable which shall first be submitted to and approved in writing by the Local Planning Authority.

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

3.27 An Archaeological Desk-Based Assessment has been submitted to support the application which explains the close proximity of the development to the RMC and that no previous excavations have taken place on site. A series of trenches have been dug that have not revealed any archaeological finds or features. The report concludes that there is low potential for prehistoric, Roman or medieval remains and low to moderate potential for post-medieval remains. Surviving archaeology are likely to be of local area significance or sub-regional significance in the case of remains relating to the RMC. Piling measures and ground reduction may cause some impact, however the site has been assessed as having low paleoenvironmental potential as set out in the Geoarchaeological Deposit Model which has also been submitted to support the application. This condition submission relates to phases 1, 2a and 2b only.

3.28 **Condition 28:** Prior to commencement of the development hereby permitted within any relevant phase or sub-phase details of foundations designs and any other development involving below ground excavation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure the preservation in situ of archaeological remains.

3.29 Drawings PPLC-ENG-XX-FN-DR-S-0810 Rev: P5, PPLC-ENG-XX-00-DR-S-1010 Rev: P5 and PPLC-ENG-XX-B1-DR-S-0910 Rev: P5 show the location of the foundations. The details received just relate to the leisure centre and therefore only seek to partially approve the condition for phases 1, 2a and 2b.

3.30 **Condition 29:** Prior to the commencement of the development hereby permitted within each relevant phase or sub-phase, details shall be submitted for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multipoint destinations and all buildings. The

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submitted details shall illustrate sufficient capacity, including duct sizing, to cater for all future phases of development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall thereafter be laid out in accordance with the approved details and at the same time as other services during the construction process.

Reason: To ensure that there is sufficient capacity for high speed telecommunications provision

3.31 The applicants have submitted a plan from Openreach entitled 'Openreach Connectorised Fibre Network' Work Order Name: HOT/00J and a letter from Openreach confirming that they will provide ultrafast speeds of up to 1Gbps.

3.32 **Condition 30:** Prior to commencement of the development hereby permitted in any relevant phase or sub-phase, details of a phasing strategy for the realignment of the highway at Princes Parade shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

Reason: In order to minimise the extent and duration of parking displacement and ensure that roadworks follow highway authority procedures in the interests of highway safety and the amenity of road users.

3.33 The phasing plan submitted in pursuance of condition 13 also shows the phasing of the highway to address this condition.

3.34 **Condition 31:** Prior to construction above slab level of the leisure centre building hereby permitted, details of measures to prevent the discharge of surface water onto the highway shall be submitted to and approved in writing by the Local Planning Authority. Such details as approved shall be implemented in full prior to the leisure centre building first opening to the public and thereafter maintained in a functioning condition at all times.

Reason: To prevent highway flooding, in the interests of highway safety.

3.35 The applicants have submitted a Technical Note by Engenuiti to address this condition which show how surface water is to be dealt with on the leisure centre building. The documents confirm that the site wide attenuation tanks will be sufficient to serve the leisure as well as the residential elements of the scheme. Separate documents entitled Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington, Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington also support this condition. This condition submission relates to phases 1, 2a and 2b only.

3.36 It should also be noted that condition 25 relating to contamination has been withdrawn from this application and is therefore not considered as part of this assessment.

4. RELEVANT PLANNING HISTORY

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

Y17/1042/SH Hybrid application accompanied by an Approved Environmental Statement for the development of subject to land at Princes Parade, comprising an outline conditions 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.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

KCC Highways and Transportation: No objection. Revised drawings have been provided which show the extent of the proposed 30mph speed limit which justifies the visibility splays. Splays have been shown for the western car park facility as 43m which is for a 30mph speed limit. The indicated extent of the revised 30mph limit does not encompass the proposed western car park and as such three of the four splays from these two access points are still in the 40mph speed limit. This said, the highway in this location is dead straight and the depth of footway allows for the longer splay as required for 40mph to be delivered within the public highway. Therefore they accept this and agree details for condition 12 to be approved. No objections following the receipt of additional information on the street lighting (condition 18). KCC have no objections to the CEMP in condition 26. Condition 30 is described as highway redesign, however the wording of the condition refers to phasing of the highway project. The phasing is acceptable and detailed highway plans have been submitted under separate planning application 21/2282/FH and therefore they have no objection to the discharge of condition 30. KCC also have no objections to the approval of condition 31 on drainage.

KCC Archaeology: No objections. The submitted desk based assessment and geoarchaeological report have been submitted with deposit modelling and an impact assessment. It is unlikely that the development of the leisure centre will have a significant below ground archaeological impact and therefore they recommend approval of the details.

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KCC Flood and Water Management: The documents submitted by Herrington Consulting contain updated FRAs that contain the final drainage designs and maintenance proposals. KCC have no objections to the approval of condition 22 (SUDs Maintenance) and 24 (SUDs Outfalls). Following the receipt of additional information with regards to the occurrence and direction of exceedance events, KCC also have no objections to the approval of condition 21 (SUDs).

KCC Ecology: No objections. In terms of conditions 15 and 16 the submitted documents to approval of the documents given that circumstances on site remain largely unchanged. They also comment that additional lighting information has been provided demonstrating that the horizontal lux levels do reduce below 1lux before they reach the PROW along the edge of the development site and therefore demonstrate that the anticipated light spill level is expected to be minimal on the RMC.

Natural England: No comments to make.

FHDC Environmental Health: No objections to the proposed CEMP in condition 26.

Southern Water: Would not recommend the discharge of conditions 19 and 20 regarding foul drainage and sewer protection to the application as any diversion proposal would have to be agreed under a section 185 agreement by Southern Water before being implemented on site. Given that the applicant proposes to retain ownership and maintenance of the SUDs, they have no comments with regards to the condition for SUDs maintenance. They have no other comments with regards to any of the other conditions.

Environment Agency: No objections are made on the grounds of flood risk and given that no infiltration is proposed across the whole site, they raise no objections from a groundwater perspective. With regards to fisheries, biodiversity and geomorphology they have no objections, but stress that no development can happen in the buffer zones of any kind. Lighting should also not have a negative impact on the river corridor for nocturnal wildlife such as bats. Given there is no discharge to the environment in terms of foul water, (which is connecting into the main sewers), they have no objections. They have also not objected to the updated FRA and Surface water Drainage Strategy.

Local Residents Comments

- 5.2 Local residents are not consulted as part of condition applications as they relate to technical details only. However one comment has been received objecting to the application mainly on the grounds of condition 25, which has been withdrawn from the application. Comments have also been received relating to the lack of information regarding condition 14.
- 5.3 Hythe Civic Society have also objected to the contamination report.

5.4 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 None. This application relates to the assessment and approval, or refusal, of technical details relating to the approved development at the site. It is not an application for planning permission, where regard must be had to development plan policies and other material considerations. Paragraphs 7.1 and 7.2 below set this out in greater detail.

7. APPRAISAL

7.1 Members should be clear that this is not an application for planning permission. As such, the merits of the approved scheme are not being revisited here. This application seeks approval of technical details relating to the approved scheme and Members' decision must be based wholly on the merits or otherwise of the submitted details, having regard to the expert opinion provided in relation to these details by the Council's consultees.

7.2 Unless there is evidence to demonstrate that the information submitted is incorrect, or that the comments of consultees are incorrect, Members should be wary of reaching a different conclusion. Without sufficient evidence, any decision contrary to the expert advice provided by consultees is challengeable and could be the subject of an award of costs against the Council.

7.3 In light of the above the paragraphs below go through each of the conditions separately

Condition 12 (Visibility Splays)

7.4 The submitted visibility splays have been examined by KCC Highways and Transportation. The details provided show the visibility from the access road and how the new road adjoins the Princes Parade to the west and the east of the site. They have confirmed that for the speed of the road, the proposed visibility splays are acceptable. This submission relates to Phases 1, 2a and 2b as set out in the phasing plan submitted in pursuance of condition 13 below and has been submitted to support the reserved matters application for the new access road.

Condition 13 (Phasing Plan) and 30 (Princes Parade Realignment)

7.5 The phasing plan submitted sets out the following phases of development as required by this condition. This includes:

Phase 1: Remediation works, enabling works, road preparation and notes that the existing Princes Parade road remains fully operational.

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Phase 2a: Utilities installed to new road, new road and western car park completed and opened to the public and the existing road is stopped up once the new road is complete.

Phase 2b: Remediation works completed, leisure centre constructed, western open space and linear park completed and promenade works phased so public route is maintained.

Phase 3: Character area east (residential) and the central open space.

Phase 4: Character area west (residential and commercial).

- 7.6 There are no objections to this as a phasing plan or the purposes of the road realignment which reflects the order that development was expected to proceed. The numbering of different elements has changed from previous versions of the phasing plan, however the sequence of events has remained largely unchanged. It should be noted that all reference to phases in this document, refer to the details as set out above.

Condition 14 (Leisure Centre Funding)

- 7.7 The applicants have provided letter and a link to the Cabinet reports that confirm the Council's commitment to funding the leisure centre. This has provided the evidence needed to ensure the project will be funded and therefore meets the requirements of the condition.

Conditions 15 (Preliminary Ecological Appraisal) and 16 (Ecological Method Statement)

- 7.8 Information has been provided detailing that there has been no significant changes within the site since the previous surveys were carried out. KCC Ecology are satisfied with these conclusions and that sufficient information has been provided to approve details for this condition for phases 1, 2a and 2b only. An interim management plan has not been provided for the retained habitats, these should be included within the Landscape and Ecological Management Plan (LEMP) pursuant to condition 47. On the basis of KCC's advice, it is therefore accepted that this information is not required as part of this application, however a subsequent application for the approval of details in relation to condition 47 will have to ensure it is consistent with the details submitted here.
- 7.9 Detailed advice was previously provided for condition approval application 21/1182/FH/CON which covered reptile and amphibian mitigation, bats, breeding birds, other mammals and badgers. The details of this assessment have been previously approved by the Planning & Licensing Committee and are not repeated here, however KCC Ecology are satisfied that on the basis of this information remaining unchanged, the conditions for the specified phases can be granted.

Condition 18 (Lighting)

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7.9 KCC Highways and Transportation have raised no objection to the application, following the receipt of amended drawings and have confirmed that the proposals are acceptable in terms of highway safety and convenience by providing adequate lighting of the road. KCC Ecology have also commented that the additional lighting information has demonstrated that the horizontal lux levels do reduce below 1lux before they reach the PROW along the edge of the development site and therefore demonstrate that the anticipated light spill level is expected to be minimal on the RMC. As a result, nocturnal protected species such as bats, should be protected and not be harmed as a result of the lighting scheme. The details submitted are therefore considered to be acceptable.

Conditions 19 (Foul Water) and 20 (Sewer Protection)

7.10 The details submitted show the location of the mains sewer following the road and the required 3.5m buffer zone to both sides for access and maintenance.

7.11 The EA have raised no objections to the proposal for these two conditions on the basis that the plan is to connect into the main sewers. However Southern Water have stated that they would not recommend approval of the conditions at this stage. This is because any diversion proposal would have to be agreed under a section 185 agreement by Southern Water before being implemented on site. However this is not considered to be a reason to refuse the application, as the need for a section 185 agreement falls under a different regime and to in refusing the details relating to this condition, the Council would have to demonstrate harm and provide technical reasons why it was refusing the application and which policies the proposal was conflicting. This is the only concern that Southern Water have raised, which relates to a procedural issue, as opposed to a technical issue or any concerns regarding capacity. The applicants have confirmed that they are in discussions with Southern Water on this issue.

7.12 It is not considered that the Council could refuse the application on these grounds and successfully defend its decision at appeal. Should alternative proposals need to be considered as a result of the section 185 process, then the applicants would need to resubmit to the Local Planning Authority for the further approval of details under these conditions. It is therefore considered that these conditions should be approved, with an informative advising of the potential need to reapply if the scheme needs to change.

Condition 21 (SUDs), 22 (SUDs Maintenance) and 24 (Suds Outfalls)

7.13 The original hybrid planning application as approved proposed a drainage strategy into the canal, however this strategy has now been re-visited and a strategy for draining onto the beach is now the proposal following approval of the two drainage outfall pipes onto the beach. A Sustainable Drainage System (SuDS) which sub-divides the development site into five separate drainage catchments that manage water run-off from impermeable areas before being discharged at a restricted rate to the adjacent beach is proposed. The drainage catchments would use permeable paving to drain water run-off either into lined underground storage tanks or a 1m deep layer of lined

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open graded sub-base to ensure that there is no interaction between any leachates and surface water.

- 7.14 The documents submitted by Herrington Consulting contain updated FRAs that contain the final drainage designs and maintenance proposals. KCC Flood and Water Management have no objections to the approval of condition 22 (SUDs Maintenance) and 24 (SUDs Outfalls) based on this information. Following the receipt of additional information with regards to the occurrence and direction of exceedance events, KCC also have no objections to the approval of condition 21 (SUDs) either.
- 7.15 Southern Water raise no objections given that the applicant proposes to retain ownership and maintenance of the SUDs, they have no comments with regards to the condition for SUDs maintenance. The EA have also not objected to the updated FRA and Surface water Drainage Strategy which sets out how these conditions are to be addressed as stated above.
- 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 be 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 cleaner. It is therefore considered that the solution proposed in this application is acceptable and could bring about positive change over the existing situation.

Condition 26 (Construction Management Plan)

- 7.17 Neither KCC Highways and Transportation, KCC Ecology nor Environmental Health have objected to the details submitted to address this condition. The submission has addressed all of the elements set out in the condition.
- 7.18 KCC ecology have highlighted that some of the information is contained within the Ecological Method Statement (Lloydbores; August 2021) submitted to discharge condition 15 and as such they do not require the information to be repeated in the CEMP providing the mitigation is adhered to. Additional clarification has been provided regarding protected species being found during construction works or if it is suspected that a protected species may be present, work will be stopped when it is safe to do so and access restricted to the affected area to allow for the Ecological Clerk of Works to be contacted. KCC Highways also requested clarification on the proposed routing of construction vehicles. Both issues have since been clarified and considered to be acceptable.
- 7.19 It is therefore considered that the updated version of the Construction and Ecological Management is acceptable and it is therefore recommended for approval.

Conditions 27 (Archaeology) and 28 (Foundation Designs)

- 7.18 KCC Archaeology have raised no objections to the submitted desk based assessment and geoarchaeological reports that have been submitted with deposit

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modelling and an impact assessment. The reports conclude that it is unlikely that the development of the leisure centre will have a significant below ground archaeological impact and therefore they recommend approval of the details.

7.19 On this basis, it is recommended that these condition details be approved.

Condition 29 (Fibre Optics)

7.20 The letter submitted from Openreach confirms that 1Gbps could be achieved at the new properties which will be delivered on the subsequent phases of the development. This exceeds the 100MB requested under the condition. As such, these details are considered to be acceptable.

Condition 31 (Surface Water on the Highway)

7.21 KCC Highways and Transportation have raised no objection to the surface water details submitted as part of this application. The comments made in relation to conditions 21, 22 and 24 are also applicable here. It is considered that the submitted Surface Water Drainage Strategy is therefore acceptable and would safeguard against surface water on the highway.

8. CONCLUSION

8.1 It is considered that the submitted details are acceptable and that the condition detail application should be approved (partially approved in the case of conditions only seeking partial approval for certain phases only) for the reasons given above.

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 approval be granted in accordance with the documents and details submitted with the application.

Informatives:

1. This approval of this condition details application is given on the basis of the following documents:

Condition 12 (Visibility Splays): Drawings PPLC-SWE-RU-Z0-DR-90047 Rev: A entitled Forward Visibility and PPLC-SWE-RU-Z0-DR-90048 Rev: B entitled Visibility Splays.

Condition 13 (Phasing Plan): Site phasing plan PP01 received 29.11.21.

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Condition 14 (Leisure Centre Funding): PP02 Leisure Centre Funding Letter 12.10.2021 and email dated 09.05.22 from Mr Bottomley.

Condition 15 (Preliminary Ecological Appraisal): Ecological Method Statement dated 11.08.21 from Lloyd Bore and Lloyd Bore Letter dated 3.11.21 Ref: 3609-LLB-CO-Ec-0008

Condition 16 (Detailed Ecological Statement): Ecological Method Statement dated 11.08.21 from Lloyd Bore and Lloyd Bore Letter dated 3.11.21 Ref: 3609-LLB-CO-Ec-0008.

Condition 18 (Lighting): LIA Technical Note dated November 2021 by Elementa,

Condition 19 (Foul Water): Technical Note by Engenuiti dated 06.10.21 Ref: 00942-ENG-XX-XX-TN-C-0001, PPLC-ENG-LC-00-DR-C-3011_P5, PPLC-ENG-LC-00-DR-C-3012_P5, PPLC-SWE-RU-Z0-DR-90050, PPLC-SWE-RU-Z0-DR-90051, PPLC-SWE-RU-Z0-DR-90052, PPLC-SWE-RU-Z0-DR-90053 and PPLC-SWE-RU-Z0-DR-90054

Condition 20 (Sewer Protection): PP06 Sewer Protection Plan

Condition 21 (SUDs): Technical Note by Engenuiti dated 06.10.21 Ref: 00942-ENG-XX-XX-TN-C-0001, document entitled 'Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington and Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington.

Condition 22 (SUDs Maintenance): Technical Note by Engenuiti dated 06.10.21 Ref: 00942-ENG-XX-XX-TN-C-0001, document entitled 'Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington and Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington.

Condition 24 (Suds Outfalls): Document entitled 'Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington and Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington.

Condition 26 (Construction Management Plan): Construction and Environmental Management Plan Rev: 01 dated 05.05.2022 by BAM Rev: 3 and Appendices Rev: 2.

Condition 27 (Archaeology): PP13 Archaeological Desk-Based Assessment dated October 2021 from Icenii and PP14 Geoarchaeological Deposit Model dated October 2021 from Icenii.

Condition 28 (Foundation Designs): PPLC-ENG-XX-FN-DR-S-0810 Rev: P5, PPLC-ENG-XX-00-DR-S-1010 Rev: P5 and PPLC-ENG-XX-B1-DR-S-0910 Rev: P5 from Engenuiti.

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Condition 29 (Fibre Optics): A plan from Openreach entitled 'Openreach Connectorised Fibre Network' Work Order Name: HOT/00J and a letter from Openreach dated 10.08.2021 confirming that they will provide ultrafast speeds of up to 1Gbps.

Condition 30 (Highway Re-design): Site phasing plan PP01 received 29.11.21.

Condition 31 (Surface Water): Document entitled 'Discharge of Conditions 21, 22, 24 & 31 dated 24.11.2021 by Herrington, Flood Risk Assessment dated August 2017 by Herrington, Flood Risk Assessment and Surface Water Drainage Strategy dated November 2021 by Herrington,

2. Should alternative proposals need to be considered for conditions 19 and 20 as a result of the section 185 process with Southern Water, the applicant and agent are advised that they would need to resubmit to the Local Planning Authority for the further approval of details under these conditions.