

**Application No:** 22/0213/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 refused last year on the grounds of bulk, scale, and height of the proposed dwellings being harmful to the amenity of neighbouring residents; this application seeks to address that refusal through an amended design and layout. The development would not cause unacceptable 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.**

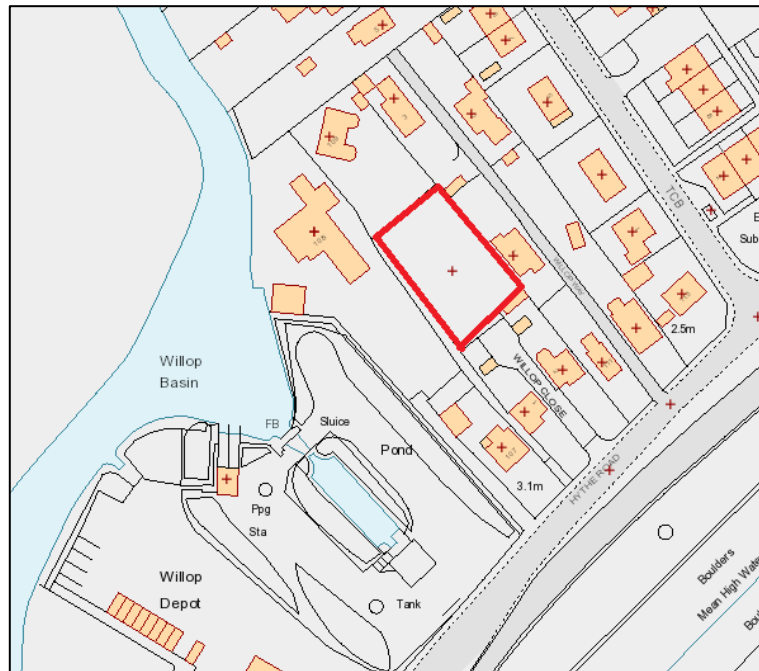
## 1. INTRODUCTION

1.1. The application is reported to Committee because of an objection from Dymchurch Parish Council.

## 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. 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. The site is within the defined settlement 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 (£58.86 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 111 Hythe Road, facing existing garage to rear of 2 Willop Close.

### 3. PROPOSAL

- 3.1 Planning permission is sought for the erection of two 3-bed dwellings and associated parking, access, and landscaping.
- 3.2 The properties would be set roughly central on the plot, approximately 10.2m 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 11.9m deep (maximum, including front porch) x a maximum of 8m 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 slightly lower at the front than the rear, with the rooms at the rear set into the roof space to keep overall ridge height low.
- 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). Steps lead from the rear of the house down into the garden (the previous scheme showed raised patio areas).
- 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 10m deep, there would be approximately 1.5m between the two houses, and a distance of between 2.3m and 2.7m to the side boundaries with 1 Willop Close and 108 Hythe Road.
- 3.6 The following reports were submitted by the applicant in support of the proposals:

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. The D&A also comments as to how the applicants consider the previous reason for refusal has been addressed, and explains that the height of the buildings have been reduced from that of the previous submission.

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, examines likely risks arising from the development and mitigation measures that can be put in place, and considers the development against the Sequential and Exceptions Tests. 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.

Arboricultural impact assessment: sets out tree protection measures to be employed during construction to ensure protected trees on neighbouring land are not damaged.

An ecological assessment has been requested and officers will update Members at the meeting.



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

## 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
20/1212/FH	Erection of two detached dwellings.	Refused

- 4.2 Most relevant to this current proposal is application ref. 20/1212/FH which sought planning permission for the erection of two detached houses on the site and was refused by the planning committee in June last year for the following reason:

*The proposed dwellings, by reason of their bulk, scale, height, and relationship to existing dwellings would amount to overbearing structures that give rise to overlooking, loss of privacy, and harm to the residential amenity of the occupiers of neighbouring properties. The proposal is therefore contrary to policy DSD and CSD1 of the adopted Core Strategy 2013; policy CSD1 of the emerging Core Strategy Review (February 2020 Submission Draft); and policy HB1 of the adopted Places and Policies Local Plan.*

- 4.3 An appeal has been submitted to the Planning Inspectorate against the above refusal, which has yet to be registered.

## 5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

### Consultees

**Dymchurch Parish Council:** object on the grounds of flood risk in regards surface water run-off and potential impacts on neighbouring properties; additional strain on local sewage infrastructure; highway safety and amenity (with particular reference to two cars not being able to pass on the access); scale and height of proposed buildings; and the potential for overlooking and loss of privacy.

**KCC Highways and Transportation:** development falls below their minimum protocol response threshold.

**KCC Ecology:** have No objection subject to the condition and informative set out below.

**KCC Archaeology:** no objection subject to a standard condition to secure a programme of investigative works.

**Natural England:** no objection.

**Environment Agency:** no objection subject to conditions securing finished floor levels within the dwellings.

**Southern Water:** note that no details of foul drainage have been provided, and advises that an application for connection to the public sewer would be required.

**Contamination Consultant:** No objection subject to imposition of the Council's standard contamination condition.

**Arboricultural Manager:** no objection subject to conditions to secure the tree protection measures set out within the submitted tree report.

### Local Residents Comments



5.2 19 neighbours directly consulted. 32 letters of objection received in response, including a number of repeat letters from the same address.

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

## Objections

- No need for residential development to meet housing supply;
- Scale and design;
- Harm to character and appearance of the area;
- Harm to amenity of neighbouring residents;
- Noise and disturbance from additional dwellings and vehicles;
- Noise and disturbance during construction;
- Overshadowing / loss of light;
- Overlooking / loss of privacy;
- Flood risk has been incorrectly appraised by officers; **[CPO comment: Members may recall from the previous application that the assessment of this proposal in respect of flood risk was appraised by Counsel, who concluded that it had been carried out correctly.]**
- Increased run-off onto neighbouring land;
- Impact on local drainage;
- Highway safety and amenity;
- Maintenance of Willop Close **[CPO comment: it is a private road and maintenance would be a private legal matter];**
- Impact on ecology and wildlife;
- Potential impact on TPO trees;
- Potential contamination on the site;
- Contrary to Human Rights Act;
- Impact on property values **[CPO comment: this is not a material planning consideration];**
- Reference to refusals of permission elsewhere on the marsh;

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 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Review 2022. (The Folkestone & Hythe District Core Strategy Review was adopted by Council on 30 March 2022.

6.2 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

- 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)

## Core Strategy (2022)

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.

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

## **Government Advice**

### National Planning Policy Framework (NPPF) 2021

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 Local Plan and Core Strategy).

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. 68 requires Councils to have an identifiable supply of specific and deliverable housing sites to meet demand

for at least 5yrs hence, and para. 73 advises Councils to identify and allocate sites to meet this need.

Para. 111 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.119 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. 124 encourages development at appropriate densities, taking into account the character of the site and the need for different types of housing.

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

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

Para. 154 requires developments to avoid increased vulnerability and to ensure risks can be managed through suitable adaption measures. Para. 159 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. 161 to 166 require the sequential and exceptions tests to be applied to development within flood risk areas, and para. 165 stipulates that both parts of the exceptions test must be met for development to be permitted. Para. 167 requires submission of site-specific flood risk assessments, and incorporation of mitigation measures within new development.

Para. 174 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. 179 deals with biodiversity in particular, and sets out that developments which give rise to significant harm in this regard should be refused.

## 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 The issue of flood risk was fully considered under the application presented to committee last year, and as set out above, that application was not refused on flood risk grounds. Also as set out above, the Council sought legal advice in regards officer's assessment of flood risk, which Counsel considered to be appropriate and robust. Nevertheless the matter is reconsidered below.
- 7.3 While the site lies within the defined settlement boundary 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.
- 7.4 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.
- 7.5 In this instance there are no sites within the Romney Marsh character area with planning permission for a similar scale of development to which the site could be compared to, or to which the applicant could be directed in preference. The site referred to within the report for 20/1212/FH – Chittenden Lane, St Mary in the Marsh – has now been commenced. All other sites with permission are for fewer units or for significantly larger developments.
- 7.6 Officers are 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 (and as per the previous application at the site) the Environment Agency does not object subject to the conditions set out below in respect of finished

floor levels. They comment that if the suggested condition is attached the development would meet the requirements of the NPPF, which includes the Exceptions Test.

7.9 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.*

7.10 In the case of the current proposal officers 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 the release of less preferable sites elsewhere.

7.11 With regard part b of the exceptions test, whilst an historic application on the site (ref. Y16/1221/SH) was refused due to the site being identified as being at “extreme/significant” risk under the Council’s SFRA, the dwellings currently proposed would not be located on part of the site at ‘extreme’ risk, falling instead within an area identified as being at ‘significant’ risk. Importantly, since then, 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>) These works were finished in December 2020. 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 and secured by conditions below) such as raised internal floor levels, no sleeping accommodation at ground floor level, and flood resilient construction methods.

7.12 The application today therefore has a different context in respect of flood risk compared to the 2016 scheme and, given the lack of 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, officers consider development here to be acceptable in principle.

7.13 Local objectors have referred to backfilling of foundations and land raising works as part of this development, and the impact on flood risk – there is no suggestion of any such works within the application particulars.

7.14 The site is otherwise considered to be sustainable, falling as it does within a defined built up area within which the Council’s adopted 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.

7.15 Having regard to the above, it is concluded that the proposals are acceptable in this respect.

## b) Design, layout, and visual amenity

7.16 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 wider marsh area.

7.17 Officers acknowledge that the proposed houses would be taller than the surrounding bungalows but they would not be significantly taller than the existing houses at 1 and 2 Willop Close and, despite a level change of approximately 1.1m, the ridge height would be just 890mm taller (9.92m AODN) than those of nos. 1 and 2 (9.03 AODN) as is shown in fig. 4 above; this is not considered to be significant. This has been achieved by slacking the roof pitch of the proposed dwellings to reduce the overall height compared to the previous application, as shown in fig. 7 below. A condition removing permitted development rights for roof extensions is set out below to ensure that the buildings would not get taller in future without due consideration by the Council. The proposed dwellings are of a simple contemporary design featuring traditional stock brick, vertical cladding, and tiled roofs – precise materials would be 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, it is not considered that they would be harmful to visual amenity.

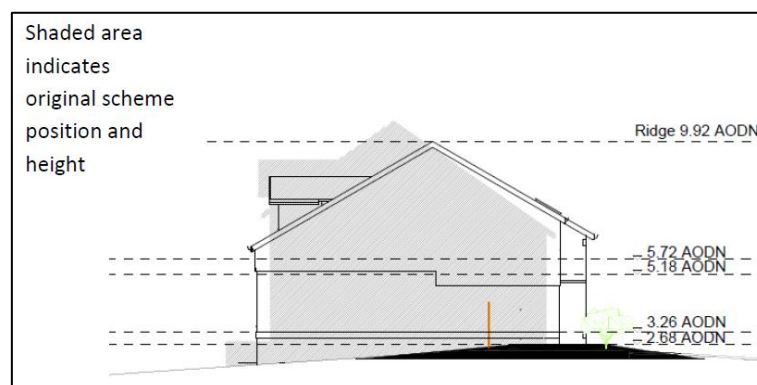


Fig.7: Proposed scheme vs previous refusal

7.18 The layout of the site is sensible, in officer's 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 below.



7.19 Internally the buildings would conform to the requirements of policy HB3 and the National Space Standards, and suitably-sized rear gardens will be provided

## c) Residential amenity

7.20 Members raised particular concern on application ref 20/1212/FH with regards the impact of the development upon the amenities of neighbouring residents; this formed the basis of the sole reason for refusal as set out at para. 4.2 above.

7.21 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 the common boundary (see fig.9 below), prevent overshadowing or obscuring of the side windows, minimise overshadowing of the rear garden and, in combination, prevent an unacceptably overbearing impact upon the outlook of surrounding residents. There would be some late afternoon/early evening overshadowing of the rear garden as the sun sets directly west, but otherwise that property would continue to receive uninterrupted sunlight from the south (see fig.8 below). As set out above the height of the proposed buildings has been reduced from the previous application, and they would therefore not be overly tall or imposing in views from the garden of no.1.



Fig. 8 – Sunlight and shadow study

7.22 The proposed houses are situated away from the common boundaries with other properties (see fig.9 below) such that no unacceptable degree of overshadowing, loss of light, or overlooking is likely to occur. The rear gardens would be 10m deep, there would be a minimum of 31m to the properties to the rear (in excess of the required 21m minimum), a minimum of 31m to the houses to the front, and reasonably-sized spaces maintained to the side boundaries. The current proposal is considered to overcome the previous reason for refusal.



Fig. 9 – Separation distances to existing properties



Fig. 10 – Separation between proposed house and 1 Willop Way

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

7.23 KCC Ecology has reviewed the submitted ecological survey and considers it to be sufficient; they raise no objection subject to the standard condition and informative set out below which will secure a scheme of ecological enhancements to be incorporated into the development. This will ensure a positive impact on biodiversity and ecology as a result of the development. Officers therefor have no objections to this aspect.

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

7.24 The TPO trees to the west lie outside of the site and would not be affected by the proposed development provided the protection measures set out within the submitted arboricultural report are adhered to. The condition below secures these protection measures.

#### **f) Drainage**

- 7.25 Site drainage is a particular local concern, and residents have commented 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).
- 7.26 The applicant's flood/drainage consultant has confirmed the existing surface water run-off rate for the site is 1.8 l/s/ha (5.8 l/s/ha during a 1 in 100 event). They also confirm that this will rise to 2 l/s/ha as a result of the development, and after connection to the public sewer (a connection point sits within the access road immediately to the south-east of the site); an increase of 200ml s/ha. The site extends to approximately 0.08ha, meaning a real terms increase of 16ml per second. This is not a significant amount, is not likely to lead to significant on or off site impacts, and would in any case be addressed by conditions relating to flooding and drainage set out below.
- 7.27 Concern has also been raised in regards "bulb pressure," i.e. the weight of the development creating downforce that affects water levels. As set out within the report for 20/1212/FH the applicant engaged a geotechnical engineer to review the plans, and they comment as follows (officer's emphasis in **bold**):

*Based on online British Geological Survey records, the geology at Willop Close is indicated to be Tidal Flat Deposits (Sand) overlying Tunbridge Wells Sand Formation at depth, with storm beach deposits expected to the seaward side of the main road.*

*A 16m deep borehole log, with detailed descriptions of the expected soil profile, is available for the nearby Southern Water Pumping Station and it is reasonable to expect the ground conditions at Willop Close will be similar as the ground conditions are generally quite consistent in this area of the Romney Marsh.*

*A typical profile in this area, as demonstrated by the borehole at the pumping station, would be similar to the following sequence:*

- Ground Level - 0.55mbgl **MADE GROUND** consisting of re-worked silty fine to coarse SAND*
- 0.55m - 2.10m Stiff grading with depth to firm and becoming soft brownish grey silty sandy CLAY with some subrounded gravel of flint*
- 2.10m - 4.50m Soft or firm sandy silty CLAY with a little gravel of flint*
- Below 4.50m Loose, gradually improving with depth, to medium dense silty fine and medium SAND*

***A well-established approach to foundation construction for low-rise housing on the above profile, and in the overall Romney Marsh area in general, is to adopt either strip, pad or raft foundations with designs based on imposing low bearing pressures on the underlying strata.***

*Typically, the allowable bearing capacity assumed for such designs is assumed to be 50KN/m<sup>2</sup> and this agrees with commonly used geotechnical guidance for the design of foundations on soft or loose soils, including NHBC Chapter 4.4 Foundations: Strip & Trench Fill Foundations.*



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*The construction approach on Romney Marsh is often further enhanced by ensuring that the underside of the foundations is placed at relatively shallow depth within the naturally occurring stiff or firm 'crust' commonly present across the marsh. This 'crust' overlies soft layers which are typically encountered at around 1.2m to 1.5m below existing ground level.*

*Final design of these foundations should be subject to review based upon the findings of a geotechnical site investigation. Ideally, the investigations would be carried out under the supervision of a geotechnical engineer with experience of the local conditions.*

***We are unaware of any sites on Romney Marsh where the foundation design approach described above has led to detrimental changes in the groundwater conditions. Nor would we expect any significant problems to occur because the foundations are bearing onto strata which is above the water table. In addition, the assumed low bearing capacity also ensures that the imposed load on the underlying soils is minimised. Furthermore, the load is effectively spread out with increasing depth so that it is reduced to negligible at relatively shallow depth.***

*A final point to add is that the uppermost 3m to 4m is also generally quite cohesive with relatively low permeability and this further helps to minimise any changes to the groundwater flow as a result of the nominal changes in pressure caused by new low-rise buildings imposing low bearing pressures.*

- 7.28 It is noted that the geotechnical engineer refers to a need for final foundation design to be reviewed further to on-site investigations. This is secured by condition 4 below. Officers are satisfied, subject to the imposition of this condition, that the weight of the proposed buildings would not affect local groundwater levels. (It should also be noted that a number of objections refer to foundations being constructed by infilling of imported material to further raise site levels – this is not shown on any of the submitted drawings, or implied by any supporting information.)
- 7.29 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.
- 7.30 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. 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 would be acceptable. It is also notable 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.
- 7.31 The FRA notes that long-term maintenance and management of any drainage system is crucial. The conditions below include a requirement for a management scheme to be provided as part of the detailed drainage strategy.

7.32 Foul sewage can be connected to the existing foul sewer crossing Willop Close to the south of the application site.

7.33 Taking the above into account, it is considered that drainage can be adequately controlled and mitigated. The proposals are acceptable in this regard.

## **g) Archaeology**

7.34 The County archaeologist has no objection subject to the imposition of a standard condition (as set out below), will ensure that any remains found during construction are appropriately examined and recorded. Officers therefore have no concerns on this matter

## **h) Highways and parking**

7.35 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. The Parish Council has raised concern in regards the ability for two vehicles to pass on the access between 1 and 2 Willop Close, but this is not necessary in this instance as the short length of the access allows for good visibility in both directions and vehicles could wait for the route to be clear before progressing.

7.36 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.

7.37 There is sufficient space within the proposed gardens to provide cycle parking/ storage, which is secured by condition below.

7.38 In light of the above, it is considered that the proposed development would not give rise to harm to highway safety or convenience and is acceptable.

## **i) Other matters**

7.39 The development is liable for CIL at a rate of £58.86 per sqm. No other contributions are required.

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

## **Environmental Impact Assessment**

7.41 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**

7.42 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. There is no CIL requirement for this development.

7.43 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 the application area is charged at £58.86 per square metre for new residential floor space.

## **Human Rights**

7.44 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**

7.45 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**

7.46 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 seeks planning permission for the erection of two semi-detached houses. A previous application (ref. 20/1212/FH) was refused last year by the planning committee on the basis of the scale and position of the units causing harm to the amenity of neighbouring residents. This application has amended the design of the properties to overcome those concerns and the proposals are considered to be

acceptable in this regard. There are no reasons for refusal in respect of the principle of development, flood risk, highway safety and amenity, or ecology.

8.2 The application is therefore recommended for approval.

## 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) 01 rev. P, 03, 04, 05, 06, 07, 08, and 11, and the submitted Herrington's Flood Risk Assessment (February 2022) and Silva Arboricultural Impact Assessment (June 2021).

Reason: For the avoidance of doubt.

#### Pre-commencement

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 Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. 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 design and specification for the foundations of the dwellings hereby approved has been submitted to and approved in writing by the Local Planning Authority. The development shall proceed wholly in accordance with the approved details.

Reason: In the interests of preventing groundwater flooding.

5. 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.

6. (A) 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.

(B) 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:

A survey of the extent, scale and nature of contamination;

(ii) An assessment of the potential risks to:

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

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

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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).

(C) If investigation and risk assessment shows that remediation is necessary, no development shall take place until 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 has been submitted to and approved in writing by the Local Planning Authority. 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.

(D) No development shall take place until a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation has been 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.

(E) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with. 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.

7. 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 Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

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 Local 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 have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

Reason: In the interest of promoting energy efficiency and sustainable development.

### 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 0800 – 1900 hours, Saturdays 0800 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

## Flooding and drainage

12. No development beyond the construction of foundations shall take place until full details of the method of disposal of foul have been submitted to and approved by the Local 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 February 2022) and the mitigation measures it details:
- Finished floor levels shall be set no lower than 3.28m above Ordnance Datum (AOD);
  - All sleeping accommodation to be set on the first floor;
  - Flood risk resilience measures outlined in the FRA (para. 7.2) shall be incorporated into the dwellings wherever practicable.

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. No development beyond the construction of foundations shall take place until details of how the development will enhance biodiversity (including an implementation schedule) have been 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.

18. No development shall be carried out other than in complete accordance with the recommendations of the submitted Arboricultural Impact Assessment (Silva Arboriculture Ltd. June 2021).

Reason: To ensure the protected trees adjacent to the site boundaries are adequately protected.

### Highways and parking

19. 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.

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

21. Prior to the first occupation of the dwellings hereby permitted secure cycle parking shall be provided to serve each dwelling and thereafter retained.

Reason: In the interest of encouraging sustainable modes of transport.

## Amenity

22. Upon completion, no further development, whether permitted by Classes AA, B, or C 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 residential 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.

