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Application No: 20/1109/FH

Location of Site: Coxsole Farm, Bossingham Road, Stelling Minnis, Canterbury

Development: Proposed erection of a new dwelling

Applicant: Mr Head

Agent: Mr Head
RDA Consulting Architects

Officer Contact: Helena Payne

SUMMARY

This report considers whether planning permission for the erection of a new dwelling, with associated new access and landscaping should be granted. The report assesses the principle of development, and as Stelling Minnis is defined as a 'Secondary Village', it is considered capable of infill development such as the new dwelling proposed. The site also lies within the Kent Downs Area of Outstanding Natural Beauty (AONB), Special Landscape Area (SLA) and sits within the setting of a Grade II listed building (Coxsole Farmhouse). Despite its rural setting, the proposal is considered to represent acceptable residential development in accordance with Development Plan Policy. The impacts upon the significance of the heritage assets, the designated landscape of the Kent downs AONB and Special Landscape Area are considered to be acceptable, alongside those upon the ecological constraints at the site, subject to appropriate mitigation being secured via condition. All remaining issues pertaining to residential amenity, drainage and highway safety are considered acceptable also.

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 as the applicant is related to a member of Council staff.

2. SITE AND SURROUNDINGS

- 2.1. The application site comprises an undeveloped grass paddock between two dwellings (Coxsole Farm and High Gate). It has a heavily vegetated boundary to the roadside frontage, as well as to the rear and both sides of the plot. Its use is described in the application as amenity land serving Coxsole Farm, which comprises a Grade II listed farm dwelling. The site is located within Stelling Minnis, within an Area of Outstanding Natural Beauty (AONB) and Special Landscape Area (SLA) designation. Stelling Minnis is a scattered rural hamlet, and the site is towards the southeast periphery of the sporadic mix of dwellings and open common land which it comprises of.

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2.2. The site area, as outlined in red on the submitted site location plan, has an area of 3245sq.m.

2.3. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Full planning permission is sought for the proposed erection of a new dwelling, with associated new access and landscaping.



Figure 1: Site Location Plan

3.2 The dwellinghouse would comprise of 4-bedrooms with associated access, driveway and external works. The proposed dwelling would have a ridge height of 8.25m above ground level, with the roof having dropped eaves. External materials include vertical timber cladding, panels of red brick and a fibre cement profiles sheet, as illustrated in Figure 2.



Figure 2: Proposed SW (principle) Elevation



Figure 3: Proposed NW Elevations

- 3.3 Amended drawings have been received under this application in order to include details of visibility splays and address issues raised by KCC Highways. Further amended drawings were submitted to remove a detached garage and storage area from the proposal. The description of development was also amended to remove reference to a detached garage.
- 3.4 In addition to relevant plans and drawings, the following reports were submitted by the applicant in support of the proposal:
- Tree Survey, No. 190404 v2;
 - Preliminary Ecological Appraisal and GCN survey, Ref No 2016/10/06;
 - Design and Access Statement;
 - Planning Statement;
 - Appropriate Assessment including Nutrient Neutrality Calculations

Tree Survey

- 3.5 The Tree Survey confirms that the proposed access will involve crossing a wide verge, part of the lowland common of Stelling Minnis. The access will then pass through the woody vegetation at the frontage boundary (G2), approximating to a shaw and having high collective retention value. The survey explains that the impacts of the access will be minimised if it is located at the eastern end of the frontage. Here the verge is narrowest, G2 consists partly of a trimmed hedge of Berberis (G3), and the fragmentation of G2 is avoided. A 5m width needs to be cleared for the passage of the access, necessitating the loss of two trees of low individual value, T7 (C) Holly and T8 (C) Elder, and the reduction of a third (T6 (C) *Prunus*) to compensate for damage to its roots. Sequencing and tree protection measures during site works are discussed, as well as suggestions for tree planting including priority habitat enhancement, and a Schedule of tree works.

Ecological Appraisal

- 3.6 A Preliminary Ecological Appraisal and GCN survey was commissioned to provide a scoping assessment and to assist in demonstrating compliance with wildlife legislation and planning policy objectives. The survey reviewed the site and adjacent Coxsole Farm and concluded the following;
- Reptiles may be present along the boundary hedges and trees and therefore a precautionary mitigation strategy is proposed.
 - No further survey work or mitigation work is proposed for the great crested newt.

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- Although a breeding bird survey is not deemed to be necessary, on the basis that the site contains suitable habitat for breeding birds, new hedgerow/trees/scrub planted, and bird nesting boxes erected as part of the proposed development can replace the habitat lost.
- No further work is recommended with regards to badgers or bats.

Design & Access Statement

- 3.7 The design and access statement is submitted in accordance with the requirement of the Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

Planning Statement

- 3.8 A Planning Statement has been submitted in support of the application, and discusses the policy context for the proposal. Key paragraphs read as follows;

“Stelling Minnis is defined in the development plan as a Secondary Village, one of three in the North Downs Area of the District.” And “defines the role of Secondary Villages as being to continue to provide crucial rural facilities to visitors and their own residents and workforce, in line with local needs, their environment, and role as relatively small country settlements”.

“Settlement hierarchies are based on a number of empirical data sources as the Shepway LDF Core Strategy: Strategic Distribution Report (April 2011) makes clear. This is the report which informs the Hierarchy set out in Table 4.3. Settlements are ranked according to the number of sustainability indicator services and facilities they contain; the highest tiers contain secondary schools which serve a wider area than the lower tiers which have primary schools, which serve a local area, for example.”

“The Secondary Villages tier, in which Stelling Minnis sits, have the smallest level of social and community facilities and therefore their role is to “provide crucial rural facilities to visitors and their own residents and workforce, in line with local needs, their environment and role as relatively small country settlements”. It is therefore the level of “facilities” provided in Stelling Minnis that defines its strategic role, and that should be in line with local needs. The policy does not therefore preclude housing as a matter of principle.”

Nutrient Neutrality

- 3.9 During the lifetime of the application, the Appropriate Assessment includes the relevant Nutrient Neutrality calculations and supporting information, including reports from Ecologia and LEAP, which has concluded that the land classification for the application site is that of Urban Land under Natural England’s own guidelines. The submitted calculations have been carried out on this basis. In addition to the land classification, Package Treatment Plant Efficiency in the form of a phosphate dosing module is also proposed, as well as additional tree planting, which has been considered in undertaking the relevant calculations. By incorporating the above measures and along with the land classification, the calculations show that nutrient neutrality is achieved (**-0.28 Kg/year TN** and **0.00 Kg/year TP**).

4. RELEVANT PLANNING HISTORY

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

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Y16/0079/PREAPP	Erection of a detached dwelling	Unsupportive
Y08/0022/HH	Erection of an agricultural crop storage building	Approved
Y08/0945/SH Y08/0946/SH	Erection of a rear extension with accommodation in the roof to existing annexe	Approved
Y08/1141/SH	Erection of a front extension to an existing agricultural crop store	Approved
Y04/0882/SH	Erection of a side extension	Approved

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Stelling Minnis Parish Council: No objection, however planning officer to review the planned access. Members felt that this would be better sited using the existing entrance to Coxsole Farm rather than creating a new access.

KCC Ecology: No objection subject to a condition securing the implementation of ecological enhancement.

KCC Highways: No objection subject to conditions.

Southern Water: No objection subject to informatives.

Arboriculturist: No objection subject to condition securing recommendation within tree report submitted.

Land contamination: No objection subject to condition to report any unexpected contamination encountered during the works.

Heritage Consultant: No objection to proposed dwelling.

Natural England: No objection subject to LPA being satisfied that the land constitutes Urban Land. The lawful use of the land as a domestic garden should be demonstrated in order to properly be classified as urban land. This is a decision for the LPA.

AECOM: Advice given prior to land classification agreed as Urban. On the basis of land being greenfield, there are some concerns regarding the ability to demonstrate nutrient neutrality although AECOM concurs that there is a significant distance to Stodmarsh from the proposed development and a probable large time lag. Natural England requires neutrality to be proven through provision of mitigation that can be maintained throughout the lifetime of the proposed development. Further consultation with Natural England is recommended with regard to the mitigation methods proposed. Some concern regarding use of Package Treatment Plan (PTP) in consideration of development as greenfield land, suggested conditions to ensure maintenance and mitigation of PTP.

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Local Residents Comments

- 5.2 Four neighbours directly consulted. 1 letter of objection, 1 letter of support received and no letters neither supporting nor objecting to the application.
- 5.3 I have read all of the letters received. The key issues are summarised below:

Objections

- Area is within an AONB and outside confines of Stelling Minnis Village. Development is neither infill nor an annex and therefore against development plan.
- Similar application refused in the grounds of Anvil House (ref. Y09/0939/SH) because it was outside village settlement.
- Creeping development and erosion of open countryside.
- Precedent set for further development on land adjacent to other houses outside the village centre.

Support

- Glad to see plot use for living accommodation rather than left unused.

5.4 **Ward Member:**

No response.

- 5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

- 6.1 The Development Plan comprises the Core Strategy Review (2022) and the Places and Policies Local Plan (2020).
- 6.2 The relevant development plan policies are as follows:-

Core Strategy Review (2022)

DSD – Delivering Sustainable Development

SS1 – District Spatial Strategy

SS3 – Place-Shaping and Sustainable Settlements Strategy

CSD3 – Rural and tourism development

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

CSD5 - Water and Coastal Environmental Management

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Places and Policies Local Plan (2020) (PPLP)

The PPLP was adopted by the Council on 16.09.20 after a formal Inspection and review process. It is therefore a material consideration and carries full weight.

HB1 – Quality Places through Design

HB3 – Internal and External Space Standards

E8 – Provision of Fibre to the Premises

T2 - Parking Standards

T5 - Cycle Parking

NE1 – Enhancing and managing access to the natural environment

NE2 – Biodiversity

NE3 – Protecting the District’s Landscape and Countryside

NE5 – Light pollution/ external illumination

NE6 - Land Stability

NE7 - Contaminated Land

CC2 - Sustainable Design and Construction

CC3 - Sustainable Drainage Systems (SuDS)

HE1 – Heritage Assets

HE2 – Archaeology

Kent Downs AONB Management Plan

SD1 – Conserve and enhance the natural beauty of the Kent Downs AONB

SD2 – Design, scale, setting and materials will preserve local character, qualities and distinctiveness of the Kent Downs AONB

SD3 – New development or changes to land use will be opposed when contrary to need to conserve and enhance the natural beauty of the Kent Downs AONB SD7 – Retain and improve tranquillity, including dark skies at night.

SD8 – Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.

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

Government Advice

National Planning Policy Framework (NPPF) 2021

6.4 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 8 – Three main strands of sustainable development: economic, social, and environmental

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 – Giving weight to emerging plans

Paragraph 108 – Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or if residual cumulative impacts on the road network would be severe.

Paragraph 117 – Making effective use of land

Paragraph 127 -130 – Achieving well designed places

Paragraphs 170 to 177 – Conserving and enhancing the natural environment and habitats and biodiversity

Paragraph 175 – Habitats and biodiversity

Paragraph 178 – Ground contamination

Paragraph 179 – Contamination and land stability – responsibility for securing a safe development rests with the developer and/or landowner.

Paragraphs 189 to 192 – Proposals affecting heritage assets.

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive
Paragraph 53 *'Well designed places are visually attractive and aim to delight their occupants and passers-by'*.
- N3 - Support rich and varied biodiversity

7. APPRAISAL

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

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Setting of Listed Building
- d) Area of Outstanding Natural Beauty (AONB)
- e) Residential amenity
- f) Ecology and biodiversity
- g) Trees

h) Highway safety

a) Principle of development and sustainability

- 7.2 The site sits within the Secondary Village of Stelling Minnis, which, as set out within the Core Strategy Review 2022, is not considered to be within the open Countryside itself despite the Village having no defined boundary. The Village is identified (Policy SS3) as being capable of minor infill development such as the proposal development. A recent appeal decision at Stable Cottage, Stelling Minnis (Y19/0281/FH) relating to a similar infill development in the area has clarified the principal acceptance of new development such as this. This appeal decision clarifies and confirms the interpretation of the Core Strategy that residential infill in principle is acceptable in the village. The appeal decision concluded that given the nature of Stelling Minnis, the additional residential dwelling could not be considered to be isolated development in the countryside, its acceptability being subject to its impact on the character and appearance of the area and wider AONB.
- 7.3 The character of the Minnis is one of openness with a distinct rural feel. The application site is located between existing residential development, the proposed dwelling would amount to minor infill development that would not erode the site's open character. The site forms an undeveloped plot that would have historically formed part of the land associated with Coxsole Farm, with residential development to either side and opposite the site (Coxsole Farm and High Gate), within the very distinct environs of an established settlement that clearly stretches along Bossingham Road, with a distinct and separate character from that of the surrounding farmland. Stelling Minnis consists of ribbon development with a local shop and public house, and sporadic clusters of dwellings around this separated by the 'Minnis' Common land. The application plot is within one of these built-up clusters, and the immediate surrounds read as semi-rural as opposed to open countryside. Furthermore, the plot is big enough for an infill development, the plot size being slightly larger than others on this section of Bossingham Road (the exception being the adjacent site Coxsole Farm, which is more than double the plot size). It is considered that the proposal would not be out of character with this part of the Minnis as it would not result in a visual consolidation or terracing of the street scene harming the open appearance and character. Further as the development is not on the common land the common land would not be eroded and the intrinsic character of the village would be maintained.
- 7.4 The site is within walking and cycling distance from the local shop and public house, which provide services to meet the day to day needs of local residents. Further to this, a local bus service runs from the Rose and Crown providing a public transport link to Canterbury and Folkestone / Hythe. The site is therefore considered to be within a sustainable location.
- 7.5 The proposed development of one residential dwelling constitutes sustainable, minor infill development within the secondary village of Stelling Minnis and is therefore considered to be acceptable in principle, subject to material planning considerations, which will be considered below in this report.

b) Design/layout/visual amenity

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- 7.6 The immediate locality is characterised by individual dwellings in large plots. In this regard the proposal would fit in with the existing pattern of development, conforming to the existing 'loose' established building line. Further to this the proposed dwelling is an individual design that stands up on its own merits, the proportions being congruent with those in the surrounding area, and the plot size being consummate with others in the vicinity. However, as alluded to above, part of the character of Stelling Minnis is its sprawling and open character. It is considered therefore that the erosion of these green areas through infill has the potential to fundamentally change the character of the village of clusters of houses interspersed with Common Land and green field sites, as it would alter the pattern of the settlement to a denser form of development. Should future applications come forward, the Council would have to assess the impact on the character on a case-by-case basis.
- 7.7 Notwithstanding the above, in consideration of this proposal I am satisfied that the dwelling proposed is acceptable, representing a high standard of design, and one that respects the prevailing pattern of development, maintaining the open character of the immediate street scene and wider village. The development is considered to sit comfortably within the application site without amounting to adverse harm in this regard. Overall, there are no objections to the development on design and visual amenity grounds.

c) Setting of listed building

- 7.8 The Council's conservation consultant is satisfied that the proposal would not harm the setting of the listed building.
- 7.9 For development which affects a listed building or its setting, Section 16(2) of the Act requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses. These duties are reflected in Local Plan policy HE1 of the PPLP which states that planning permission will be refused if the proposals are considered to be detrimental to the character of the building. It should be noted that the Council's Conservation Consultant has provided comments and these have been considered in the assessment of the application.
- 7.10 A sensitive design approach has been adopted to ensure the setting of Coxsole farmhouse is preserved. It is considered that the existing, mature hedgerows between the Grade II listed building and application site help to define the setting of the house. The proposed dwelling would be positioned within the area of open land to the south east of the listed farmhouse and, whilst falling within the curtilage and ownership of Coxsole Farm, therefore is separated from the application site and has a distinct and separate character.
- 7.11 When considering applications affecting Listed Buildings, Paragraph 196 of the NPPF states that, "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".
- 7.12 In this case it is considered that the proposal would result in less than substantial harm to the setting of the Listed Building. There are public benefits to the proposal including supporting local business and services who may be involved in the construction process. As such, the less than substantial harm to the setting of the listed building and its fabric, would not have an unacceptable impact upon its significance and would be outweighed by the public benefits of the proposal, in accordance with paragraph 196 of the National Planning Policy Framework and policy HE1 of the Places and Polices Local Plan.

d) AONB

7.13 There are a number of rural settlements within the AONB that share similar characteristics as Stelling Minnis (such as Stowting for example) and form part of the character of the AONB which Local Plan policy NE3 and NPPF paragraph 172 seek to protect. As above, in consideration of the development's impact on visual amenity, the proposed dwelling is considered to be acceptable in terms of its impact on the open character of the Minnis itself, and through its high level of design, appropriate use of materials and sensitivity (through its proposed layout) to the sporadic nature of the existing built development surrounding the site it is considered that the development would not result a direct or adverse impact on the scenic beauty of the wider AONB landscape. The site is screened by mature hedgerows surrounding the site, and existing dwellings on the opposite side (south) of Bossingham Road. The additional proposed planting of trees to the north would further mitigate against visual intrusion into the AONB itself. Overall, there are no objections to the proposed development's impact on the AONB in this instance.

e) Residential amenity

7.14 There are no issues with residential amenity in relation to the two properties either side. There is sufficient space separation to avoid excessive overshadowing and overbearing impact, and the side elevation avoiding upper floor side windows towards the boundary with High Gate. Further to this there is significant mature vegetation along both side boundaries, which could be retained by condition if planning permission were granted.

7.15 The dwelling will provide a good standard of amenity for future occupants.

f) Ecology and biodiversity

7.16 As the site is vacant with scrub and contains trees and shrubs it currently contributes to the biodiversity and ecology of the area. The proposed scheme would enable the development of the site while still retaining a significant area as wildlife habitat. The hedgerows to the boundaries would be largely retained as an undeveloped area, apart from a small section removed for vehicular access, and it is important that it is properly managed and maintained. Its retention and proper maintenance can be secured by condition. The Preliminary Ecological Appraisal submitted with the application identified potential for breeding birds. No reptiles were found on the site, however the submitted ecology report notes the potential for reptiles in surrounding boundary hedges and trees. The KCC Ecologists is satisfied with the reports and the mitigation measures proposed.

7.17 In terms of ecology matters, the ecological information submitted in support of this planning application is sufficient. Any work to vegetation that may provide suitable nesting habitats for birds should be carried out outside of the bird breeding season and this is covered by separate legislation. In the event of an approval, a condition securing the implementation of ecological enhancements would be attached.

g) Trees & Landscaping

7.18 A small number of trees would be removed to allow for the development of the proposed residential dwelling to take place, however none of these trees are of particular aesthetic value and as such there are no objections to their loss.

7.19 Notwithstanding this, additional tree planting is proposed to the north of the application site as part of ensuring that the development remains acceptable in terms of Stodmarsh (discussed in more detail below). Submitted drawing 19.122.20 Rev. P identifies an area

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of approximately 1400 sq.m to be planted with 14 Silver Birch trees. The location of these additional trees is considered acceptable from a visual amenity perspective, further assisting in the screening of the built development within the AONB, however in the event that planning permission be granted, further information regarding the proposed tree planting, alongside other proposed landscaping within the site, as well as a maintenance programme will be required for submission via an appropriately worded condition.

h) Highways and parking

- 7.20 The new access crosses a wide section of verge and plans have been submitted demonstrating visibility splays of 2.4m x 43m in both directions. There is no obstruction over 1.05m within the splays, which is acceptable. The plans also state a bound surface will be used. This is considered acceptable subject to the imposition of a condition to ensure the discharge of water is direct away from the public highway.
- 7.21 Plans show 4 car parking spaces, which is acceptable in line Policy T2 of the PPLP. In line with the Governments policy to increase the use of Ultra Low Emission Vehicles, one Electric Vehicle charging point will be required, and could be secured via a condition.
- 7.22 I am satisfied that the proposal would not result in harm to highway safety.

i) Stodmarsh

- 7.23 The application site lies within the Stodmarsh catchment area where advice from Natural England applies to all types of development where a net additional population would result and where additional levels of nutrients above those of the existing land use would arise.
- 7.24 Under the Conservation of Habitats and Species Regulations 2017 (as amended), there are significant responsibilities conferred on the Council as a 'Competent Authority'. Essentially, it requires the Council to only approve planning applications if there is no likelihood of a significant effect on any European designated nature conservation site. In order to assess whether this current proposal would lead to a 'likely significant effect' a Habitats Regulations Assessment (HRA) was carried out. This included an Appropriate Assessment, which has been externally assessed.
- 7.25 The applicant, using Natural England's calculator, identified the existing nutrient loading from the site and the resulting loading from the proposed development. The new development *if unmitigated* would result in a nutrient surplus of 3.18 Kg/year TP Total Nitrate (TN) & 0.14 Kg/year TP Total Phosphate (TP).
- 7.26 To mitigate this impact on Stodmarsh, in accordance with Natural England's advice, and to achieve nutrient neutrality the Applicant is proposing the following mitigations:
- Package Treatment Plant efficiency (PTP) – water management system intended for individual hoes which are not connected to the mains sewer.
 - Addition of tree planting to approx. 46% of the site area - total 14 Silver Birch trees to the north of the proposed dwelling.
- 7.27 By incorporating the above measures the calculations show that nutrient neutrality would be achieved (-0.28 Kg/year TN and 0.00 Kg/year TP).

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- 7.28 Within the Applicant's Appropriate Assessment, reference has been made to a similar planning proposal for a new dwelling at Silks Farm, Wye (ref 20/01709/AS), which was granted planning permission in December 2021 by Ashford Borough Council. As with this application site, the Ashford site fell within the Stour catchment and was not connected to mains drainage.
- 7.29 Similarly, a PTP with a phosphate dosing module was used in the Nutrient Neutrality calculations in conjunction with a small area of woodland off-setting for the Ashford scheme. This was reviewed by AECOM who concluded that the nutrient neutrality assessment (was) suitably certain for an appropriate assessment.
- 7.30 It is also worth noting (as stated within the supporting information - in particular the report from Ecologia & LEAP) that there would be a significant time lag (30-90 years) before any wastewater from the application site may reach the nearest watercourse (the Nailbourne).
- 7.31 The time lag has been acknowledged by AECOM as a significant mitigating factor, however they concluded that it still meant that some nutrient could still end up in Stodmarsh.
- 7.32 The proposal has been externally and independently assessed by AECOM prior to land classification of land being agreed as Urban. They concluded that subject to the proposed mitigation measures (as stated above) being incorporated into the scheme, the development could achieve Nutrient Neutrality. They have suggested that further mitigation be incorporated into the scheme in addition to that already proposed in order to be 'sufficiently certain' of its neutral impact.
- 7.33 Since receipt of the above comments from AECOM, it has been accepted that the application site forms part of the residential/domestic curtilage of Coxsole Farm, meaning that it is urban land (and not greenfield), in accordance with the Guidelines provided by Natural England. As such it is not considered that additional mitigation is required above that which is already proposed and that given the status of the land, nutrient neutrality can be achieved with the embedded mitigation already proposed.
- 7.34 AECOM has advised that further information regarding how the PTP mitigation will be secured and maintained in perpetuity is required, however this can reasonably be covered by an appropriately worded condition in the event of an approval.
- 7.35 Subject to the imposition of the above-mentioned condition, and in reviewing the calculations and adopting an Appropriate Assessment (Appendix 2 below), it is considered that the development of one dwelling can achieve nutrient neutrality and more efficient PTP with a small amount of woodland offsetting, the proposed dwelling can be occupied without any significant adverse impact on the Stodmarsh designated sites.
- 7.36 Natural England has not provided formal comment on the Appropriate Assessment however through informal discussion with them it is concluded that the additional information has addressed their initial concerns and observations with regard to land classification. Notwithstanding this, as the Appropriate Authority, it is for Folkestone & Hythe District Council to determine the significance of the development's impacts on Stodmarsh and whether, if necessary, appropriate mitigation has been proposed.
- 7.37 Overall, there are no objections to the development on Stodmarsh grounds. It has been satisfactorily demonstrated through an Appropriate Assessment, that development can be achieved as proposed without causing adverse harm to Stodmarsh.

Environmental Impact Assessment

7.38 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1&2 of the Regulations. As the site falls within a sensitive area and within Schedule 2 (10)b urban development projects, the application requires screening before a decision is issued.

Local Finance Considerations

7.39 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.40 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 development is CIL liable at a rate of £147.16 per square metre.

Human Rights

7.41 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

7.42 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.

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

Working with the applicant

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7.44 In accordance with paragraph 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 The proposal would result in the erection of a new family sized dwellinghouse within an identified settlement and would not result in the sporadic encroachment into open countryside. This and for the reasons discussed above, the proposal is considered to be in accordance with countryside planning policies given its location between existing development, in a sustainable and non-isolated location. All other material considerations at the site are considered to be acceptable in terms of impacts upon neighbouring amenity, highway safety and ecology.

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 conditional requirements:

- 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.

- 2) The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

19122 01 – Site Location plan, received 4 August 2020

19122 08 – Context Image, received 4 August 2020

19.122.07 Rev A – Street Scene, received 16 February 2021

19.122.02 Rev A – Existing & Proposed Site Layout, received 16 February 2021

19.122.05 Rev A – NE & SW Elevations, received 16 February 2021

19.122.03 Rev P3 – Proposed Access & Parking, received 16 February 2021

19.122.03 Rev A – Floor Plans, received 16 February 2021

19.122.06 Rev A - NW & SE Elevations, received 16 February 2021

19.122.20 Rev P – Proposed Urban and Woodland areas, received 3 October 2022

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of the Places and Policies Local Plan.

- 3) No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings hereby permitted shall use no more than 110 litres of water per person per day have been submitted to and

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approved in writing by the Local Planning Authority. The details shall be implemented as agreed.

Reason:

In the interest of sustainable development and minimising water consumption.

- 4) Prior to the first occupation of the dwelling hereby permitted, one electric vehicle charging point shall be provided, in accordance with specifications and in a location that have been submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interest of sustainable development and reducing carbon emissions.

- 5) 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.

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

Reason:

In the interest of visual amenity.

- 7) 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 and proposed trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species only and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, boundary treatment, hard surfacing materials, and an implementation programme.

Upon approval, 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 Local Planning Authority.

Reason:

In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

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- 8) The dwelling hereby permitted shall not be occupied until the tree planting as identified on drawing no. 19.122.20 Rev P has been carried out as approved. Should any of the trees be removed, die or become severely damaged or become seriously diseased, they shall be replaced with a tree of the same species within the next available planting season.

Reason:

In the interests of Stodmarsh and visual amenity.

- 9) Upon completion of the approved landscaping scheme required under condition 7) above, any trees (excluding those subject to condition 8) above) 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 Local Planning Authority, and within whatever planting season is agreed.

Reason:

In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

- 10) No development beyond the construction of foundations shall take place until details of how the development will enhance biodiversity have been submitted to, and approved in writing by, the local planning authority. The approved details will be implemented and thereafter retained.

Reason:

In the interest of enhancing ecology and biodiversity.

- 11) The area to the front of the dwelling shall be kept available for the parking and turning of vehicles 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 or in such a position as to preclude vehicular access thereto.

Reason:

In the interests of highway safety and convenience.

- 12) The recommendations, relating to tree removal, retention and protections as detailed in the approved Tree Survey Report No. 190404 c2 of 8 July 2019 shall be put in place and adhered to ahead of works commencing on site and thereafter retained and maintained throughout the construction phase of the

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 13) Notwithstanding the detail contained within the approved Appropriate Assessment, a package treatment plant (PTP) shall be installed to process the foul waste arising from the dwelling hereby permitted (as detailed within the application particulars) prior to first occupation thereof. Prior to installation of the PTP full manufacturer's details of the PTP and details of long-term maintenance and management thereof shall be submitted to and approved in

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writing by the Local Planning Authority. The PTP shall thereafter be retained and maintained in good working order.

Reason: To prevent transmission of additional nutrients to the Stodmarsh SSSI in the interest of preserving and enhancing ecology and biodiversity.

Informatives:

1. Supporting Documents submitted as part of this application:

Tree Survey, dated 8th July 2020 / No. 190404 v2;
Design and Access Statement, dated June 2020;
Preliminary Ecological Appraisal and GCN survey, dated 9th December 2019 / Ref No 2016/10/06; and
Appropriate Assessment received 3 November 2020
Nutrient Neutrality Assessment, dated 23 November by Herrington Consulting Ltd (fifth Issue)
Nutrient Neutrality Additional Review & Assessment dated 12 November 2021 Ref: 21.097.2 by Ecologia
Nutrient Neutrality Review dated 12 November 2021 ref: LP2752 from LEAP Environmental
Nutrient Neutrality Calculations & Supporting Information from RDA Architects Version 1 Dated 23 May 2022
SM Sewer Records
Statutory Declarations dated 23 May 2022
Planning Statement received 4 August 2020

Appendix 1 – Site Location Plan



Appendix 2 – Appropriate Assessment

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

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

The application site lies within the Stour Operational Catchment, from which water drains to Stodmarsh. Stodmarsh lies east of Canterbury and is a Special Protection Area (SPA), Ramsar site (wetland site), Special area of Conservation (SAC), a Site of Special Scientific Interest (SSSI), and parts are a National Nature Reserve (NNR). It is a site of national and international importance for a range of water dependent habitats and wildlife that relies upon them, and therefore comprises a designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations).

During 2017/18 a review of the internationally designated lakes at Stodmarsh identified that some of the lakes there had raised nitrogen and phosphate levels, leading to eutrophication of the lakes which occurs when an excessive amount of nutrients within a water body are present, resulting in increased plant growth that reduces the oxygen content in the water. This process makes it difficult for aquatic insects, invertebrates or fish to survive, in turn removing a food source from the food cycle.

Natural England has advised the Council that high nutrient levels including nitrogen and in particular phosphorous, originating mainly from permitted wastewater discharges into the River Stour (River Stour catchment) across east Kent, may be affecting existing water quality (eutrophication) in the Stodmarsh European designated sites.

In July 2020, Natural England issued *Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites - For Local Planning Authorities* dated July 2020. The conclusion of this Advice is to avoid the potential for any further deterioration in the water quality of the Stodmarsh European designated site pending further investigations as to the cause of and solutions to eutrophication.

Natural England's Advice applies to all types of development where a net additional population would be served by a wastewater system. In practice, this means proposals for all new residential development where a net *increase* in homes is proposed, as well as new student accommodation, tourist accommodation, or tourist attractions. New commercial development that does not involve overnight accommodation will generally be exempt

The current application proposal – through the provision of additional overnight accommodation within the Stour catchment – has potential to affect said site's features of interest by way of wastewater discharge within the Stour Operational Catchment, and an Appropriate Assessment is required to establish the likely impacts of the development. This is because of Natural England's advice stating that 'a likely significant effect on designated Stodmarsh areas cannot be ruled out due to increases in wastewater from new developments coming forward in the Stodmarsh catchment'. To assist with the assessment, a Nutrient Neutrality Assessment together with the mitigation strategy has been prepared (H Herrington Consulting Ltd (fifth Issue), Ecologia and LEAP Environmental) and submitted as part of this application.

The proposed overnight accommodation will increase associated wastewater. Foul sewage from this site will go to the public sewerage (Sellindge) WWTW.

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The proposed development comprises one infill residential dwelling within Stelling Minnis. The development will affect urban land (being land in domestic use) as per Natural England's Guidelines. The embedded mitigation comprises the following:

1. Package Treatment Plant efficiency – the original calculations were based on a GRAF One2Clean in its 'standard' format which has a TP (total phosphate) efficiency of 80.2%. Upon further investigation including reference to another very similar application at Silks Farm in Wye and discussions with GRAF, it is possible to fit a phosphate (PAC) dosing module. This effectively increases the TP efficiency to 95.1%
2. Addition of tree planting to approx. 46% of the site area. Under NE's definition, land may be reclassified wholly as woodland if the minimum level of planting provides 20% canopy cover at maturity. This equates to 100 trees per hectare and amounts to a total of 14 trees for the area of land now designated as woodland. A new site plan is included with the revised calculations which shows the areas designated as urban and woodland.

By incorporating the above measures and along with the land classification as urban, the calculations show that nutrient neutrality is achieved (-0.28 Kg/year TN (total Nitrogen) and 0.00 Kg/year TP). The revised calculations are attached to this email. In the last letter from NE dated 16 February 2022, under the heading Package Treatment Plants (PTPs), NE advise that evidence supporting the efficiency of the PTP should be provided and which should include:

- Test results from the lab **and/or**
- Measured effluent concentrations from real world applications

To this end revised Nutrient Neutrality calculations have been carried out, with both lab test results supplied by GRAF which relate to the One2Clean PTP with phosphate dosing which records the treatment efficiency as 86.8% for nitrogen and 95.1% for phosphorous and, although not strictly necessary, real world test data for a GRAF PTP using phosphate dosing located in Scotland – Loch Levens Larder.

Reference has been made to a similar planning application for a new dwelling at Silks Farm, Wye (ref 20/01709/AS) which was granted planning permission in December 2021 by Ashford Borough Council. This site falls within the Stour catchment and is not connected to mains drainage. A GRAF One2Clean PTP with a phosphate dosing module was used in the NN calculations in conjunction with small area of woodland off-setting. AECOM has reviewed this application and updated their report a number of times as the application progressed with further information and some corrections to the original calculations being provided; the final version (V2) concluded that the nutrient neutrality assessment to be suitably certain for an appropriate assessment.

It is considered that nutrient neutrality can be achieved with the corrected land classification and using a more efficient PTP with a small amount of woodland offsetting. This approach, including the type of PTP and the principle of woodland offsetting, has been previously reviewed and accepted by AECOM on another similar application at Silks Farm, Wye.

It is also of note that the above-mentioned supporting information, which has been independently assessed, in particular the report from Ecologia & LEAP, concluded there would be a significant time lag (30-90 years) before any waste water from the application site may reach the nearest watercourse (the Nailbourne); and the very comprehensive report commissioned by Dover DC which analysed the impact of Danbridge WWTW and concluded it

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highly unlikely that any nutrients could reach the Stodmarsh lakes. The time lag has been acknowledged by AECOM as a significant mitigating factor, however they concluded that it still meant that some nutrient could still end up in Stodmarsh. The Dover DC report has not been accepted by NE – we do not know the reasons for this, however it should be still considered in context – Danbridge WWTW serves a large number of dwellings therefore the output is far, far greater. The report concluded there are physical constraints which prevent water entering Stodmarsh lakes – the fact that the lake level is generally much higher than the river (due to a sluice gate) and that any nutrients would enter the river system well downstream.

In conclusion, the mitigation measures discussed above to reduce the offset Total Phosphorus and total Nitrogen reaching Stodmarsh via the East Stour and Great Stour River will be fully implemented prior to occupation of the dwelling and can remain in place for the lifetime of the development. The proposed tree planting and use of PTP will offset any potential impact meaning that the proposed development would not result in an adverse effect on the integrity of Stodmarsh SPA, SAC and Ramsar.

There will be no adverse in combination effects associated with the other residential or overnight accommodation developments within the Stodmarsh Catchment as each of the cumulative developments that could affect Stodmarsh SPA, SAC and Ramsar will be nutrient neutral in accordance with Natural England's advice note and therefore no adverse effects on their own due to their locations and the mitigation and/or design being provided by each of the cumulative developments.

Natural England has not commented on the Appropriate Assessment, however as competent authority, it is considered that the proposed mitigation measures, including use of tree planting and PTP, and in consideration of the urban classification of the application site itself, accord with the Natural England guidance on Nutrient Neutrality and an Appropriate Assessment has been adopted on this basis. As such, given the mitigation measures proposed by the applicant, it is considered that the proposed development would not have a potentially significant effect on the integrity of Stodmarsh.

In accordance with the Natural England Guidance, and notwithstanding the Independent expert advice regarding the need for additional mitigation. As the proposed site is classified Urban land, the proposed embedded mitigation will have certain and appropriate phosphorus offsetting benefits and are therefore accepted as appropriate mitigation measures.