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Application No: 23/1144/FH/CON

Location of Site: Land Adjoining Church and Dwight, Caesars Way, Folkestone

Development: Approval of details pursuant to conditions:
14.4 (Contamination Verification Report) of planning permission 22/1719/FH

Applicant: Folkestone and Hythe District Council

Agent: Mr John Rogers, Sawyer & Fisher, Kings Hill Avenue, Maidstone, ME19 4AE

Officer Contact: Macey Douglas

SUMMARY

This report considers whether approval should be given for the submitted details in pursuance of the condition set out above. The submitted information details how the scheme is to comply with this condition, and this report sets out advice from the council's technical consultee who has confirmed that the submitted details are acceptable and as such the application can be approved in part.

RECOMMENDATION

That the condition submission be approved in part in accordance with the details and documents provided. That the informatives included at the end of the report be attached to the approval, and that delegated authority be given to the Chief Planning Officer to amend the wording of this/include additional informatives that he considers necessary.

1. INTRODUCTION

1.1. The application is reported to Committee because the Council is the applicant and has a substantial interest in the site.

2. SITE AND SURROUNDINGS

2.1. The application site is located within the settlement boundary of Folkestone/Cheriton, approximately 3km to the northwest of Folkestone Town Centre. The site which is approximately 4.35ha in size is located to the west of Caesars Way and Shearway Business Park and to the south of the M20.

2.2. The site is accessed to the east via an unmade access off Caesars Way. Located immediately to the south are the residential areas of Elventon Close, Charles Crescent and Stockham Court which are predominantly two storey in height and to the west is the Harcourt Primary School and its associated playing fields.

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- 2.3. The site is currently vacant scrub land with areas of hardstanding. Historically it was used for industrial purposes, including a clay pit, brick works and a former concrete batching plant.
- 2.4. The majority of the site is flat; however the land undulates and drops away towards the motorway in the north east corner. The site is also slightly elevated and rises above the residential area to the south by approximately 2m.
- 2.5. Forming part of the wider area of Shearway Business Park, this is the last area to be developed for employment land uses and is identified within the Local Plan as employment land.
- 2.6. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Approval is sought for details pursuant to condition 14.4 (Verification Report), of planning permission 22/1719/FH. Because the remediation works would be carried out in a phased manner, the applicant seeks a partial discharge of the condition for the first phase of these works.
- 3.2 The wording of the condition that the application seeks to discharge is as follows:

14.4 - Prior to the commencement of the development phase relating to the residential or commercial aspects of the development, a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

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

John F Hunt Regeneration, Interim Remediation Verification Report, Biggins Wood, Caesars Way, Folkestone, Kent, CT19 4AL, Dated July 2023.

Remedial Method Statement, Biggins Wood, Folkestone, Kent. IDOM Merebrook Reference RMS-17436-22-175, Rev E, Dated March 2023

4. RELEVANT PLANNING HISTORY

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

Y13/0024/SH	Outline application (matters relating to access only) for a mixed-use development of commercial/office units (660 sqm) and industrial/storage units (5,142 sqm) (class B1, B8) as well as 77 residential dwellings together with associated car parking, open space,	Permitted
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landscaping, pedestrian link and reconfiguration of vehicular access off Caesars Way.

Y16/0403/SH	Reserved Matters application for the erection of 77 dwellinghouses, construction of estate road and provision of open space, landscaping and parking being details pursuant to outline planning permission Y13/0024/SH (details relating to appearance, layout and scale).	Reserved matters approved
Y17/0888/SH	Reserved matters application for the erection of 49 industrial units (4562 sqm) and 2 office blocks (1240 sqm), together with the construction of the industrial estate road and parking and turning areas and landscaping throughout the site being details pursuant to outline planning permission Y13/0024/SH (details relating to appearance, layout, scale and landscaping).	Approved
21/0269/FH/CON	Extension of the implementation time until 1st May 2021 under section 93A of the Town & Country Planning Act 1990 (as amended) of outline planning permission Y13/0024/SH (Outline application (matters relating to access only) for a mixed use development of commercial/office units (660 sqm) and industrial/storage units (5,142 sqm) (class B1, B8) as well as 77 residential dwellings together with associated car parking, open space, landscaping, pedestrian link and reconfiguration of vehicular access off Caesars Way).	Approved
21/1110/FH/NMA	Non material minor amendment to the wording of conditions 5, 7, 14, 18, 19, 20, 22, 23 and 28	Approved
22/1767/FH/CON	Approval of details pursuant to condition 14.1, 14.2, 14.3 in part (Contamination Desk Top Study) of planning permission Y13/0024/SH	Approved
22/1719/FH	Section 73 application for the removal of condition 22 (retention of world war II Pillbox) for planning permission Y13/0024/SH. This application resulted in a new outline permission.	Permitted

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Geo-environmental Consultant: No objection. Comments are summarised below:

Recommend the approval of condition 14.4 in part. Whilst the interim remediation verification report is considered acceptable, part 14.4 cannot be discharged in full prior to the approval of a final verification report for the development phase itself.

Local Residents Comments

5.2 Local residents are not formally consulted on applications to discharge conditions pursuant to planning approvals because these types of applications relate to technical details only. No comments have been received.

Ward Member

5.3 No comments received from the Ward Members. At the time of writing this report, none of the ward members are members of the Planning and Licensing Committee

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

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

6. RELEVANT PLANNING POLICY

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

7. APPRAISAL

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

7.2 Unless there is evidence to demonstrate that the information submitted is incorrect or that the comments of consultees are incorrect, Members should be wary of reaching a different conclusion. Without sufficient evidence, any decision contrary to the expert

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advice provided by consultees is challengeable and could be the subject of an award of costs against the Council.

- 7.3 This is a standalone application and as such the details being considered here relate solely to the specific details and not to any part of the wider development.
- 7.4 Condition 14 is set out in 4 parts and relates to works required to deal with contamination at the site and ensures that the required remediation and verification of these works are carried out at various stages during the construction phases to ensure that all potential contaminants are considered to be safe prior to the occupation of the development.
- 7.5 Several stages have been completed to date with parts 14.1 and 14.2 of the condition being previously discharged which related to pre commencement (desk top study and investigation) works. Part 14.3 (remediation scheme) will be submitted by the applicant for consideration at a later date in accordance with the requirement of the condition.
- 7.6 Part 14.4 which is the subject of this application requires a verification report which demonstrates completion and effectiveness of works set out in the remediation scheme to be submitted for approval by the LPA.
- 7.7 Remediation of the site is to be completed in two phases –
1. Pre-development measures: An initial phase of earthworks and waste disposal to provide an initial development platform. This will be undertaken by Folkestone and Hythe District Council.
 2. Development Related Measures: Measures required to render the development suitable for use. This will include measures such as clean soil in areas of soft landscaping, upgraded water pipes and ground gas protection. These measures can only be installed as the development progresses and would be the responsibility of the Developer.
- 7.8 The remediation works carried out to date have been undertaken to satisfy the partial discharge of condition 14.4. As such the report submitted is an interim remediation verification report related to part 1. above (pre- development measures), and the development phase and full discharge of 14.4 would only be permitted to proceed upon the final verification report being issued by the construction contractor in addition to the interim report.
- 7.9 The LPA's Geo-technical consultant has commented on the information submitted pursuant to the partial discharge of part 14.4 of the condition and has concluded that the information submitted is acceptable.
- 7.10 In line with this advice, I recommend that condition 14.4 is discharged in part enabling the next phase of the development to proceed.

8. CONCLUSION

- 8.1 It is considered that the submitted details are acceptable and that the condition detail application should be approved in part.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

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

Informative:

1. The approval of this condition details application is given on the basis of the following information:

John F Hunt Regeneration, Interim Remediation Verification Report, Biggins Wood, Caesars Way, Folkestone, Kent, CT19 4AL, Dated July 2023.

Remedial Method Statement, Biggins Wood, Folkestone, Kent. IDOM Merebrook Reference RMS-17436-22-175, Rev E, Dated March 2023

2. Please note that this approval relates to the part discharge of condition 14.4 (interim verification report). A further submission of the final verification report for the development phase is required to be submitted and approved by the LPA prior to the commencement of the development phase in order for condition 14.4 to be discharged in full.