

**Application No:** 20/0684/FH

**Location of Site:** The Rectory, Rectory Lane, Lyminge, CT18 8EG.

**Development:** Erection of a detached dwelling and two garages.

**Applicant:** Canterbury Diocesan Enterprises Ltd.

**Agent:** John Bishop and Associates,  
Zealds House,  
39 Church St,  
Wye.

**Officer Contact:** Ross McCardle

## SUMMARY

This application proposes the erection of a detached dwelling on land currently forming part of the garden to The Rectory, and the erection of a detached garage for both existing and proposed dwellings. The site is within the built up area boundary and the development would not give rise to any serious issues of visual, residential, or highway amenity. The site is identified as having significant potential for archaeology but the KCC archaeologist raises no objection subject to imposition of a condition securing archaeological field works. The site lies within the Stour Operational Catchment but will not affect the integrity of the SSSI as the site drains to the Hythe pumping station, which is outside of the impact zone.

## RECOMMENDATION:

**That planning permission be approved subject to further information regarding on-site drainage, and the conditions set out at the end of the report.**

### 1. INTRODUCTION

1.1 This application is presented to committee due to an objection from Lyminge Parish Council.

### 2. SITE AND SURROUNDINGS

2.1 The Rectory is a detached house situated within generous grounds within the built up area of Lyminge. The property lies at the end of a narrow lane of similarly large detached houses, and is partially screened in views from the road by existing boundary planting. The plot is a notable projection to the south of the village, and is surrounded to the west, south, and east by agricultural fields.

2.2 The site is within the built up area boundary as defined by the adopted Local Plan; land stability zone A (the zone of least risk); the Area of Outstanding Natural Beauty; and an area of archaeological potential. It lies outside of any defined flood risk zone.

- 2.3 A public right of way (PRoW) runs southwards to the front of the site as the continuation of Rectory Lane.
- 2.4 There are no Tree Preservation Orders within the site.
- 2.5 A site plan is attached at **Appendix 1**.

### **3. PROPOSAL**

- 3.1 This application seeks planning permission for the erection of a detached house and two garages on part of the garden of the Rectory.
- 3.2 The existing garage to the front of the site and a small collection of outbuildings at the south west corner of the site will be removed to enable development.
- 3.3 Access to the site will be via the existing driveway at the head of the lane.
- 3.4 A single storey garage will be erected to the south of the existing house, approximately 3.7m from the southern flank wall, to serve the proposed new dwelling. The garage will measure approximately 4.2m wide x 7.2m deep x 3.9m high with a hipped roof. A driveway/parking area to the front of the garage will be approximately 9.3m deep.
- 3.5 To the north of the existing dwelling a single storey garage of a similar scale and design, to serve the existing dwelling, is proposed
- 3.6 The proposed dwelling will be set approximately 1.7m to the south of the garage (9.6m from the flank of the Rectory). It will measure approximately 10m wide x 8.3m deep x 8.3m tall with a gable ended pitched roof. External materials are proposed as brick at ground floor, horizontal timber cladding at first floor, and a tiled roof. A small porch canopy will project to the front. Internally the building will provide an open-plan living/kitchen area, study, and utility room at ground floor, with four bedrooms, bathroom, and two en-suites at first floor.
- 3.7 A 1.8m close-boarded fence will be erected between the existing and proposed houses, and other boundary fencing remains as existing. Each property will have a garden of approximately 20m wide x 18m deep.

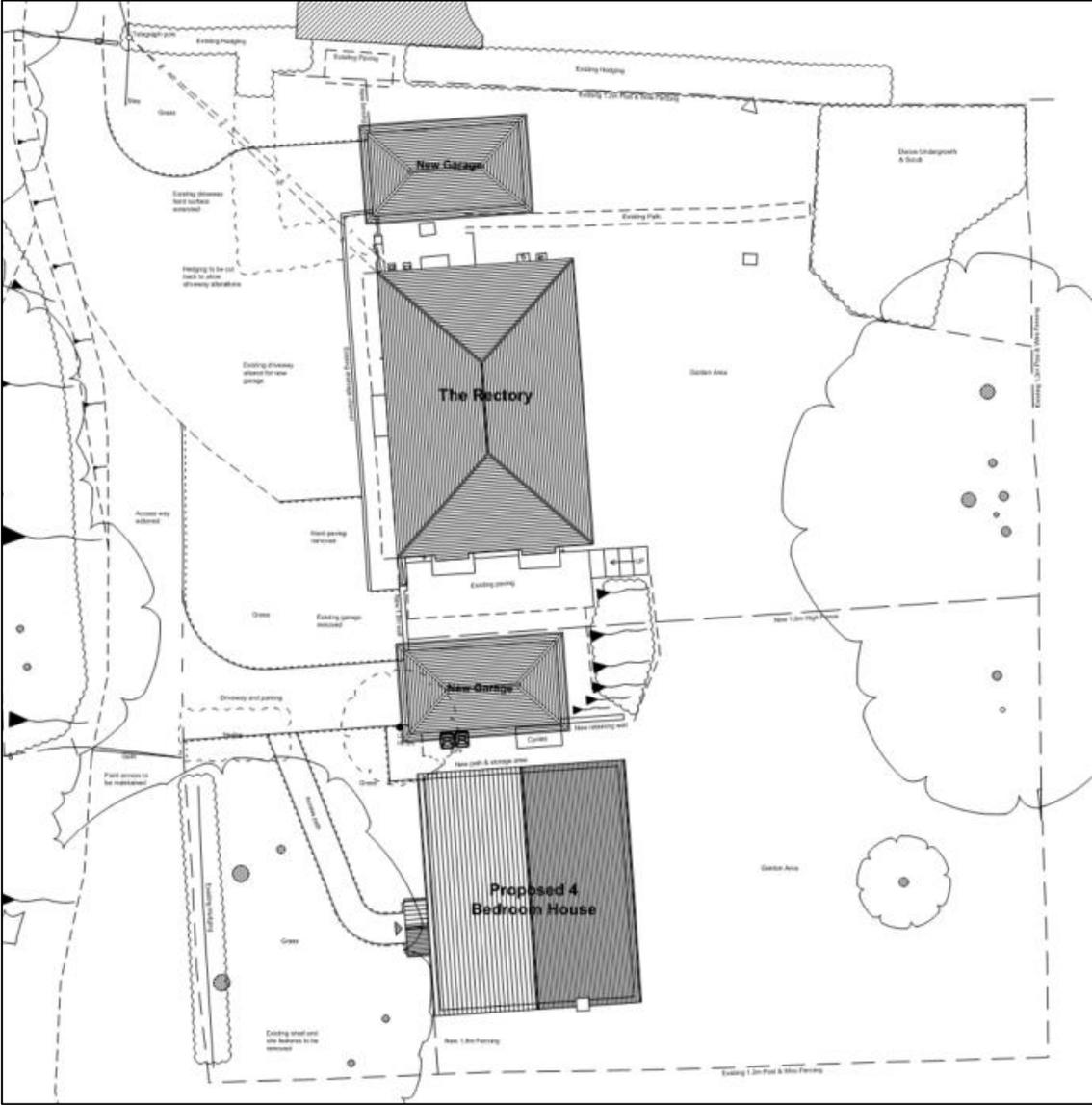


Fig. 1 Proposed site layout



Fig. 2 Proposed elevations

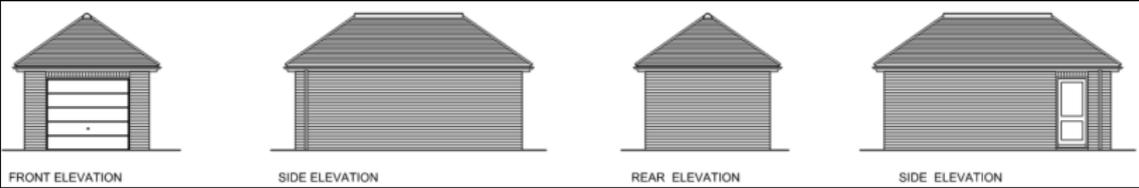


Fig. 3 Proposed garage

## 4. RELEVANT PLANNING HISTORY

4.1 None.

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### 5.2 Consultees

**Lyminge Parish Council:** object for the following reasons:

- The Rectory sits outside the settlement boundary [NB: it is within the defined built up area boundary];
- It is at the end of a narrow “no through road”;
- It is in a prominent position when approaching the village by road from Etchinghill and an additional dwelling will be prominent;
- Other housing developments in the area will meet the identified need, and there is no need for this dwelling;
- Potential for archaeological remains within the site;
- Impact on views when approaching the village on the adjacent public footpath;
- Loss of trees on the site; and
- The application doesn't contain any sustainability measures.

The Parish Council also approached the Council to request a TPO be placed on an Ash tree within the site. [**Chief Planning Officer comment:** this was assessed by the Council's Arboricultural Officer and found to be of insufficient quality to justify a TPO in this instance.]

**KCC Highways & Transportation:** Have made no comment.

**KCC Archaeology:** Raise no objection subject to condition in light of the significance of Lyminge as a pre-Christian settlement, and the potential for important remains to be found in the immediate local vicinity.

**F&HDC Contamination Consultant:** Raises no objection and considers the site to be low-risk given its historic residential use.

**Arboricultural and Grounds Manager:** Raises no objection subject to a pre-commencement condition to secure a survey of the nearby mature trees and a corresponding tree protection plan.

### 5.3 Local Residents Comments

Three neighbouring residents were consulted.

Twenty letters of objection have been submitted by a local residents. I have read all of the letters received. The key issues are summarised below:

- Overdevelopment of the site;
- Additional vehicles and increased traffic on the lane;
- Damage to the lane and PRow;
- Potential conflict of movement between vehicles and pedestrians on the lane;
- Inadequate parking and turning space;
- Access to the garage is too narrow;
- Signage (no turning, residents only) should be erected at the head of the road;
- There should be no access or parking on the lane for contractor / construction vehicles;
- Residents should be advised of construction periods;
- Noise and disturbance during construction;
- Health and safety during construction;
- The existing lane should be resurfaced by the developer;
- No turning allowed on neighbouring resident's property;
- Hours of work should commence after 08.00;
- Inaccuracies in the D&A Statement;
- Loss of Rectory garden as a community space for church functions [**Chief Planning Officer comment:** It is a private garden];
- Impact on curate pastoral services within the village;
- Few details in regards the sustainability of the development;
- Potential damage to TPO trees on the site [NB: there are no TPOs on the site];
- Archaeological potential of the site;
- Notification as required by the "Church Commissioners Parsonage and Glebe Diocesan Manual July 2012" has not been carried out [**Chief Planning Officer comment:** this is not a planning consideration];
- "Insufficient notice to allow for proper consultation of this planning application";
- No site notice posted [**Chief Planning Officer comment:** site notice erected 15.07.20, photo on file];
- Not in keeping with the AONB;
- Precedent for future development;
- Site is outside the built up area of the village [**Chief Planning Officer comment:** It is within the defined BUAB]; and
- Loss of light to the existing dwelling.

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 Local Plan 2013.
- 6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation and has been subject to an Examination in Public in January 2021. As such its policies should be afforded weight where there are not significant unresolved objections.
- 6.3 The relevant development plan policies are as follows:

Places and Policies Local Plan (2020)

Policy HB1 – Quality Places Through Design

Policy HB2 – Cohesive Design

Policy HB3 – Space Standards

Policy HB8 – Alterations and Extensions to Buildings

Policy T2 – Parking Standards

Policy NE2 – Biodiversity

Policy NE3 – Protecting the District’s Landscapes and Countryside

Policy CC2 – Sustainable Design and Construction

Local Plan Core Strategy (2013)

Policy DSD – Delivering Sustainable Development

Policy SS1 – District Spatial Strategy

Policy SS2 – Housing Strategy

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

SS3 directs new residential development to the defined built up area boundaries within the Borough.

Core Strategy Review Submission draft (2019)

Policy SS1 – District Spatial Strategy

Policy SS2 – Housing Strategy

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy.

As above: SS3 directs new residential development to the defined built up area boundaries within the District.

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

## **Government Advice**

### National Planning Policy Framework (NPPF) 2019

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF).

The NPPF generally supports residential development in appropriate locations, subject to amenity considerations.

Paragraph 11 states there is a presumption in favour of sustainable development and paragraph 47 states that applications for planning permission should be determined in accordance with the development plan. Chapter 15 in particular seeks to ensure the countryside, designated landscapes, and biodiversity are preserved or enhanced, and paragraph 172 sets out that the AONB should be afforded the “highest status of protection.”

## **Supplementary Planning Guidance/Documents**

KCC: Kent Design Guide

Kent Downs AONB Landscape Design Handbook – Key extracts as follows;

2.2 New Built Development- seeks to ensure development respects and complements rural settlement form, pattern, character and landscape setting, reinforcing local distinctiveness.

## **7. APPRAISAL**

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

- a) Principle of development and loss of a community space
- b) Scale, design, and visual amenity
- c) Residential amenity

- d) Archaeology
- e) Highways and parking
- f) Other matters

## **a) Principle of development and loss of a community space**

- 7.2 While I note that a number of local objections suggest the site is outside the built up area it does, in fact, entirely lie within the built up area boundary as defined by the adopted Local Plan, and the principle of residential development is therefore acceptable. As a result there is no requirement to justify the principle of infill development.
- 7.3 Local objections refer to loss of the garden as a space for church community functions – fetes, BBQs, etc. The Rectory garden is not a community facility in the same manner as (for example), church, public doctor's surgeries, villages halls, etc. This is a private residential garden attached to a private residential dwelling that has historically been used for events in association with the occupation of the resident of the Rectory (i.e. the local minister).
- 7.4 The land is not publicly accessible nor is it designated for wider community use. As a result adopted policy C2 which protects against the loss of community facilities is not engaged. Notwithstanding this, it should be noted that this application is brought forward by the church, and there are other sites at which these kind of events could be held, such as the church yard or the local park, both of which are nearby and publicly accessible.
- 7.5 I consider the principle of development to be acceptable.

## **b) Scale, design, and visual amenity**

- 7.6 The existing dwellings along the lane are of mixed scales, designs, and styles and as such there is no particularly identifiable unifying character. The proposed dwelling whilst of relatively simple design is of an appropriate scale and form that would not appear incongruous within the context of the lane or the wider AONB, in my view. The use of vernacular materials (as secured by condition below) reinforce this and would help ameliorate the proposals into its surrounds.
- 7.7 The proposed dwelling meets the Council's adopted space standards both in terms of internal floor space and garden size.
- 7.8 The new house would be viewed in context against the neighbouring properties, and a suitable native landscaping scheme (as secured by condition below) would help to screen views and soften the impact of the development. I note concerns regarding the prominence of the building when approaching the village either by road or on foot along the public footpath, but

do not consider that it would be so harmful to visual amenity, or be overbearing in the wider street scene such that a refusal would be justified.

- 7.9 The proposed garages would be relatively small structures tucked between existing and proposed houses, and would not be out of character or harmful to the character and appearance of the area.

## **c) Residential amenity**

- 7.10 Due to the scale and position of the proposed dwelling I do not consider that it would give rise to any serious amenity concerns for neighbouring residents in terms of overlooking, overshadowing, loss of privacy, or general disturbance.

- 7.11 In terms of noise, disturbance, etc. created during construction this would be a temporary impact during the construction period only and can be mitigated through the standard construction management plan condition set out below.

In light of the above, I am satisfied that the development would not harm the residential amenity of existing residents and would provide for the needs of the future occupiers.

## **d) Archaeology**

- 7.12 The site lies within an area of significant archaeological potential, and the KCC Archaeologist requested additional information prior to determination in recognition of this fact. An initial assessment has been carried out, submitted by the applicant, and is considered acceptable.

- 7.13 Further to this additional information and subject to a standard condition KCC Archaeology have no objections, and I therefore am satisfied that that archaeological remains would be protected. I have no serious concerns in this regard.

## **e) Highways and parking**

- 7.14 One additional dwelling on the lane is unlikely to generate additional vehicle movements to a degree that would seriously impact the functioning or integrity of the lane in my opinion, nor would it give rise to conflicts of movement significantly different to the current situation. Therefore while I note local objections in this regard I do not consider there to be justification for refusal on these grounds.

- 7.15 The development would not affect the use or functioning of the PRoW to the front of the site; the proposed buildings are clear of its route and there are unlikely to be any additional impacts upon use of the route from the extra traffic generated by a single additional dwelling.

- 7.16 Damage to the lane during construction would be a private matter between the developer and KCC Highways, and not an issue on which planning permission could justifiably be refused.

7.17 Parking for two vehicles is available for both existing and proposed dwellings in accordance with adopted Kent Vehicle Parking Standards.

**f) Other matters**

7.18 The development is liable for CIL at £144.65 per sqm, and the requisite form has been provided.

7.19 I note concern in regards the trees on site but, as set out by the Council's Arboricultural officer, they are not of a sufficient quality to warrant formal protection. The landscaping conditions below can secure additional planting on site to ensure no net loss of soft landscaping and an increase in biodiversity potential, and the tree survey condition will ensure the trees on site are adequately protected during construction.

7.20 The Council's standard conditions regarding sustainable development will ensure the scheme contributes positively to these objectives.

7.21 The site lies within the Stour Operational Catchment, where Natural England have recently identified that any new residential development has potential to impact the functioning and integrity of the Stodmarsh SSSI because of additional nitrates (nitrogen and phosphorous) entering the water from sewage / drainage at new developments.

7.22 The applicant has commissioned a drainage "nutrient neutrality" survey (carried out by Herrington's) which shows the site would be connected to existing local sewerage system that terminates at the Hythe Waste Water Treatment Works, which is outside of the Stour operational catchment and therefore has no impact upon it. The report therefore concludes that the development will be "nutrient neutral" in terms of nitrogen and phosphorous outputs to the Stodmarsh SSSI, and I have appended an Appropriate Assessment concluding that the development can proceed without harm to the SSSI.

**Environmental Impact Assessment**

7.23 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**

7.24 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. 7.18 The development is liable for CIL at £144.65 per sqm

## **Human Rights**

7.25 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**

7.26 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**

7.27 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 a single dwelling and two detached garages within the defined built up area of Lyminge. While local objections are noted and understood they are not considered to amount to a reason for refusal in this instance, and it is considered that the development would not give rise to any serious harm to local amenity or the character and appearance of the AONB.

## 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. RECOMMENDATION

**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.**

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. No development shall take place other than in accordance with drawings 20-003/02, 03, and 04.

Reason: For the avoidance of doubt.

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 District 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
  - ii. 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 applicant, or their agents or successors in title, has secured the implementation of:
  - i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
  - ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further

archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

5. No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings hereby permitted shall use no more than 100 litres of water per person per day have been submitted to and approved in writing by the District Planning Authority. The details shall be implemented as agreed.

Reason: In the interest of sustainable development and minimising water consumption.

6. No development beyond the construction of foundations shall take place until details of how the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, have been submitted to and approved in writing by the Local Planning Authority. Upon approval the measures shall be implemented as agreed and thereafter retained and maintained in perpetuity.

Reason: To support the transition to a low carbon future through the use of on-site renewable and low-carbon energy technologies.

7. Prior to the commencement of the development hereby permitted a tree survey report (to be carried out in accordance with BS5837:2012, and including the following components: tree survey schedule, tree constraints plan, arboricultural impact assessment, arboricultural method statement, and a tree protection plan) shall be submitted to and approved in writing by the Local Planning Authority. Upon approval the development shall be carried out in accordance with these agreed details.

Reason: In the interests of protecting existing trees which are worthy of retention in the interests of the amenities of the area.

8. 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 District Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

9. 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 District 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.

10. 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.

11. 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.

12. 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 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

13. The garages hereby approved and parking spaces to the front thereof (as shown on the approved drawings) shall be kept available for the parking 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: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

## INFORMATIVES

## DCL/20/56

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

## 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.

The application site lies within the Stour Operational Catchment, where waters drain into the river Stour and its tributaries and ultimately pass through the Stodmarsh SPA / SAC / SSSI / Ramsar site, which is a designated site afforded international protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

The water environment within the Stour catchment is important for water dependant wildlife. There are high levels of nitrogen and phosphorous input to this water environment with sound evidence that these nutrients are causing eutrophication at part of these designated sites. These nutrient inputs are currently thought to be caused mostly by wastewater from existing housing and agricultural sources. The resulting nutrient enrichment is impacting negatively upon the Stodmarsh site's protected habitats and species.

There is uncertainty as to whether new growth will further deteriorate the SPA / SAC / SSSI / Ramsar. Until an Environment Agency Water Industry National Environment Programme (WINEP) investigation is complete and a full report provided (due 2022), the uncertainty of new growth's impacts on the designated site remains, and there is consequently potential for any new residential developments across the wider Stodmarsh catchment to exacerbate the existing impacts and create a risk to the designated site's potential future conservation status through inputting additional wastewater into the system. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the site's interest, Natural England advises the Council that it should have regard to any potential impacts that a development may have, and specifically recommend that a nutrient budget is calculated for each development with the aim of ensuring nutrient neutrality (*Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites - For Local Planning Authorities July 2020*).

Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. The proposal is not necessary for the management of the site. However, further to the submitted Nutrient Neutrality Assessment (Herrington Consulting Ltd, 15.01.21), which demonstrates that the site drains to a wastewater processing site outside of the Stour Operational Catchment, it is considered that the proposal is not likely to have significant effects upon the integrity of the Stodmarsh SSSI or the species which it contains.

The April 2018 judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the*

## **DCL/20/56**

*harmful effects of the plan or project on that site.”* The development therefore cannot be screened out of the need to provide an Appropriate Assessment.

However, the proposed development, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA / SAC / SSSI / Ramsar, as demonstrated by the submitted Nutrient Neutrality Assessment (Herrington Consulting Ltd, 15.01.21).

I therefore consider that there will be no adverse effect on the integrity or functioning of the SPA / SAC / SSSI / Ramsar as a result of this development.