

Shepway District Council  
Development Control  
Civic Centre Castle Hill Avenue  
Folkestone  
Kent  
CT20 2QY

**Our ref:** KT/2017/123369/01-L02  
**Your ref:** Y17/1042/SH  
**Date:** 16 November 2017

Dear Sir/Madam

**Hybrid planning application for the development of land at Princes Parade. An application for outline planning permission (with all matters reserved) for up to 150 residential dwellings (use class c3), up to 1,270sqm of commercial uses including hotel use (use class c1), retail uses (use class a1) and / or restaurant/cafe uses (use class a3); hard and soft landscaped open spaces, including children's play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout within and around the site, site levelling and groundworks, and all necessary supporting infrastructure and services. Full application comprising a 2,961sqm leisure centre (use class d2), including associated parking, open spaces and children's play facility**

**Princes Parade Promenade, Princes Parade, Hythe, Kent**

Thank you for consulting us on the above. We have no objection to the proposal subject to the following conditions being included in any permission granted.

#### **Flood Risk**

The site is situated within an area which is considered to be at significant risk from flooding and is classified as lying within Flood Zone 3a by the Agency's flood risk maps.

When examining the detailed hazard mapping within the Shepway Strategic Flood Risk Assessment, it is clear the development site itself is located outside the hazard map extents. We therefore have no objection to the principle of development here providing the LPA is satisfied the Sequential Test has been passed.

In accordance with NPPF, the proposal should be subject to the Sequential Test (ST). This risk based test is applied at all stages of the planning process to steer new development to areas at the lowest probability of flooding. The ST needs to be applied by the LPA and your Authority should decide whether or not this site is acceptable.

National Planning Policy Framework (NPPF) requires the Exception Test to be applied in the circumstances shown in tables 1 and 3. Paragraph 102 makes clear that both elements of the Test must be passed for development to be permitted. Part 2 of the Test requires the applicant to demonstrate in a site specific flood risk assessment that the development will be safe, without increasing flood risk elsewhere, and, where possible will reduce flood risk overall.

The proposed development will only meet the National Planning Policy Framework (NPPF) policy if the following planning conditions are included:

**Condition:** The development hereby permitted shall not be commenced until such time as a scheme to ensure the following has been submitted to, and approved in writing by, the local planning authority,

Environment Agency  
Orchard House (Endeavour Park) London Road, Addington, West Malling, ME19 5SH.  
Customer services line: 03708 506 506  
[www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)

Cont/d..

1. Ground finished floor levels for all living accommodation is set a minimum of 7.45m aODN as specified in the submitted Flood Risk Assessment (6.3);
2. All development to be set back a minimum of 12m from the existing sea wall;
3. A 1m high secondary wall will be constructed 11m back from the existing sea wall to prevent any localised overland flow reaching the development; and
4. A full 8m byelaw margin from top of bank of the Royal Military Canal to the start of any development to be left clear for Environment Agency access

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Informative:**

Please be aware that the Royal Military Canal, is a designated 'main river' and under the jurisdiction of the Environment Agency for its land drainage functions. As of 6<sup>th</sup> April 2016, the Water Resources Act 1991 and associated land drainage byelaws have been amended and flood defence consents will now fall under the Environmental Permitting (England and Wales) Regulations 2010. Any activities in, over, under or within eight metres of the top of bank may require a permit with some activities excluded or exempt. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Please contact the Partnerships and Strategic Overview team at [ps.o.eastkent@environment-agency.gov.uk](mailto:ps.o.eastkent@environment-agency.gov.uk), or our National Customer Contact Centre on 03708 506 506 or [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk) for more information.

**Groundwater and Contaminated Land**

We consider that planning permission should only be granted to the proposed development as submitted if the following planning condition is imposed as set out below. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application.

**Condition:** Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
  - a) all previous uses
  - b) potential contaminants associated with those uses
  - c) a conceptual model of the site indicating sources, pathways and receptors
  - d) potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

**Reasons:** The site overlies a historic landfill containing putrescible waste and a secondary aquifer.

The Environment Agency have reviewed Geo-Environmental Assessment ref GEA-17436A1 dated May 2017 and associated reports and have the following comments to make.

Table 9 within section 8, Updated Conceptual model, identifies a moderate risk to controlled waters from contamination (all forms). The risk characterisation states that given soil contamination has been detected, groundwater contamination is possible. Although species detected are not considered to be highly mobile. To date groundwater has not been detected in any groundwater monitoring round.

Section 2.6.5 Hydrology, states that the Groundsure report identified the site as located within an area susceptible to groundwater flooding.

Section 6.1.9.2 refers to samples taken from natural strata immediately below the made ground. MWS2 recorded elevated concentrations suggesting contamination has possibly leached to underlying natural geology.

Therefore the Environment Agency agree with section 9.9 of the Geo Environmental report which states that further monitoring is recommended at the detailed design stage to assess the ground gas, groundwater and vapour risk from the site, as well as to ascertain precisely the underlying ground conditions.

Section 10.4, Conclusions, recommends further site investigation is undertaken across the site once vegetation has been cleared.

**Condition:** If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Any visibly contaminated or odorous material encountered on the site, during the development work, must be investigated. The Planning Authority must be informed immediately of the nature and degree of contamination present.

**Reasons:** The presence of contaminants associated with the historic landfill and previous uses of the site must be appropriately address to mitigate the risk to controlled waters.

**Condition:** The developer must ensure a watching brief is carried out by a suitable consultant during demolition and foundation works. Any measures to control any contamination identified during these activities shall be agreed with the LPA before further construction commences.

**Reasons:** The presence of contaminants associated with the historic landfill and previous uses of the site must be appropriately address to mitigate the risk to controlled waters.

**Condition:** Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

With respect to any proposals for piling through made ground, we would refer you to the EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected By Contamination: Guidance on Pollution Prevention". NGWCL Centre Project NC/99/73. We suggest that approval of piling methodology is further discussed with us when the guidance has been utilised to design appropriate piling regimes at the site. The guidance should be available

on our web site.

**Reasons:** No source, pathway, receptor pollutant linkage must be created or exacerbated by piling techniques through the contaminated underlying made ground and/or historic putrescible landfill.

**Condition:** Any planning conditions related to contamination should not be fully discharged until such time as all relevant works are completed and a verification report, detailing all works at the site, has been submitted. The verification report should include summaries of all materials removed, details of validation sampling/monitoring carried out in remediation areas, relevant certificates for imported materials and confirmation that the site is fit for the proposed use.

**Reasons:** The site overlies a historic landfill containing putrescible waste and a secondary aquifer.

**Foul water drainage:**

Foul water drainage should be directed to foul mains sewer. If this is the case then there is no objection, and we will not need to be consulted further. However, if the foul water is to drain by a different method then Groundwater Protection will require further information on this.

**Surface Water drainage**

Surface water drainage should be directed to mains sewerage. If this is to a surface water sewer then there is no objection, and we will not need to be consulted further. If the surface water is to drain by a different method then we will require further information on this.

There must be no discharge into land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. There must be no discharge to made ground.

**Informatives:**

Excavated material arising from site remediation or land development works can sometimes be classified as waste. For further guidance on how waste is classified, and best practice for it's handling, transport, treatment and disposal please see our waste pages at <http://www.environment-agency.gov.uk/business/topics/waste/default.aspx>

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standards BS EN 14899:2005 'Characterisation of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

Waste Management Paper No. 27 "Landfill Gas" recommends that no house, garden shed, greenhouse or any domestic extension should be constructed within 50 metres of any landfill site which: a) has landfill gas concentrations at or above 1% by volume flammable gas, and 1.5% by volume carbon dioxide, or b) still has the potential to produce large quantities of landfill gas.

Care should be taken during the construction of, and when entering, deep excavations or enclosed spaces due to the possible accumulation of landfill gas. You are advised to consult your Environmental Health Department as they may have additional information that may be of relevance to the determination of this application.

It is recommended that the requirements of the National Planning Policy Framework (NPPF) are followed. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Therefore, in completing any site investigations and risk assessments the applicant should assess the risk to groundwater and surface waters from contamination which may be present and where necessary propose appropriate remediation.

In making our response we have considered issues relating to controlled waters. The evaluation of any risks to human health arising from the site should be discussed with the Environmental Health Department.

We recommend that the applicant follows the guiding principles for land contamination, which can be found via the following link: [https://www.gov.uk/search?q=guiding\\_principles\\_for\\_land\\_contamination](https://www.gov.uk/search?q=guiding_principles_for_land_contamination)

### **Fisheries, Biodiversity and Geomorphology**

The proposed development will be acceptable if a planning condition is included requiring a scheme to be agreed to protect an at least 25 metre wide buffer zone along the Royal Military Canal.

**Condition:** No development shall take place until a scheme for the provision and management of a buffer zone, at least 25m wide, alongside the Royal Military Canal shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping; and could form a vital part of green infrastructure provision. The schemes shall include:

- plans showing the extent and layout of the buffer zone.
- details of any proposed planting scheme of native species.
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- details of any proposed footpaths, fencing, lighting etc.

**Reasons:** Development that encroaches on watercourses has a potentially severe impact on their ecological value. Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected.

This condition is supported by the National Planning Policy Framework (NPPF), paragraph 109 which recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The Natural Environment and Rural Communities Act which requires Local Authorities to have regard to nature conservation and article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.

The proposed development will be acceptable if a planning condition is included requiring the production of a construction environmental management plan demonstrating how sensitive areas will be protected during the construction of the development.

**Condition:** No development shall take place until a construction environmental management plan that is in accordance with the approach outlined in the Environmental Statement, has been submitted to and approved in writing by the local planning authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. Such a scheme shall include details of the following:

- The timing of the works
- The measures to be used during the development in order to minimise environmental impact of the works (considering both potential disturbance and pollution)
- The ecological enhancements as mitigation for the loss of habitat resulting from the development
- A map or plan showing habitat areas to be specifically protected (identified in the ecological report) during the works.
- Any necessary mitigation for protected species
- Construction methods
- Any necessary pollution protection methods
- Information on the persons/bodies responsible for particular activities associated with the method statement that demonstrate they are qualified for the activity they are undertaking. The works shall be carried out in accordance with the approved method statement.

**Reasons:** This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy.

The National Planning Policy Framework (NPPF) paragraph 109 recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 of the NPPF states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused and that opportunities to incorporate biodiversity in and around developments should be encouraged.

Article 10 of the Habitats Directive stresses the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats, and promote the expansion of biodiversity. River corridors are particularly effective in this way. Such networks and corridors may also help wildlife adapt to climate change.'

The proposed development will be acceptable if a planning condition is included requiring a scheme to be agreed to ensure that the landscape within the site is managed in such a way as to protect and enhance the ecological value of the site.

**Condition:** No development shall take place until a landscape management plan, including long- term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

- detail extent and type of new planting (NB planting to be of native species)
- details of maintenance regimes
- details of any new habitat created on site
- details of treatment of site boundaries and/or buffers around water bodies; and

- details of management responsibilities

**Reasons:** This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy.

This condition is supported by the National Planning Policy Framework (NPPF), paragraph 109 which recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.

The Natural Environment and Rural Communities Act which requires Local Authorities to have regard to nature conservation and article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

**Informative**

Details of ecological survey and mitigation, and method statements demonstrating environmental protection measures may be required to be submitted when applying for Environment Agency permits and licences.

**DECISION NOTICE: Please forward a copy of the full decision notice to this office, quoting our reference number.**

Yours faithfully

**Ms Jennifer Wilson**  
**Planning Specialist**

Direct dial 0208 474 6711

Direct e-mail [kslplanning@environment-agency.gov.uk](mailto:kslplanning@environment-agency.gov.uk)