

Tonbridge & Malling Borough Council
Development Control
Gibson Building Gibson Drive
Kings Hill
West Malling
ME19 4LZ

Our ref: KT/2021/129035/06-L01
Your ref: TM/21/02298/FL
Date: 30 June 2022

Dear Holly Pitcher

DEMOLITION OF EXISTING GASHOLDERS AND ASSOCIATED STRUCTURES. REDEVELOPMENT OF THE SITE TO PROVIDE 144 RESIDENTIAL UNITS AND UP TO 567 SQM OF FLEXIBLE CLASS E/ANCILLARY RESIDENTIAL FLOORSPACE. THE PROPOSALS INCLUDE THE DELIVERY OF LANDSCAPING AND PUBLIC REALM, PLAY SPACE, ACCESS, CAR PARKING AND OTHER ASSOCIATED AND ANCILLARY WORKS

TONBRIDGE P R S, MEDWAY WHARF ROAD, TONBRIDGE, KENT, TN9 1SU

Thank you for consulting us on the above application. We are now in a position to remove our objection to this planning application.

Based on the submitted information we consider that planning permission could be granted for the proposed development if the following planning **conditions** are included as set out below. Without these conditions, the proposed development poses an unacceptable risk to the environment, and we would object to the application.

Flood Risk

The proposed development will only meet the National Planning Policy Framework's (NPPF) requirements in relation to flood risk if the following planning condition is included.

Condition 1

The development shall be carried out in accordance with the submitted flood risk assessment (ref 18156-HYD-XX-XX-RP-FR-0001 P03 | 05/11/2021 | Hydrock), in addition to the latest design technical note (ref 18156-HYD-XX-XX-TN-FR-0007 P03 | dated 17 May 2022 | Hydrock) and the following mitigation measures they detail:

1. Finished floor levels shall be set no lower than 23.18 metres above Ordnance Datum (AOD) for residential accommodation. It is noted the lower ground floor level is to be 22.00mAOD.
2. There is to be no residential uses at the ground floor of the development.
3. The plant rooms for the development are to be located on the ground floor, however the Design Technical Note (REF 18156-HYD-XX-XX-TN-FR-0005 P02 | 02/03/22 | Hydrock) states that the plant rooms will be raised off the ground floor by 400mm to meet the 1 in 100 year plus climate change modelled level. As ground levels have been lowered to 22.00mAOD since this technical note was published, we would condition the following:
 - o Plant rooms to be set at a level no lower than 22.58mAOD which is the 1 in

100 year plus 35% Climate Change modelled level.

4. The external and finished floor levels will be as proposed in the DWG ref 15772-102 Rev D, by The Harris Partnership, dated 12.05.2022.
5. Future occupants/residents to sign up to our flood warning service.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

- To reduce the risk of flooding to the proposed development and future occupants
- To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided

Condition 2

The development shall be carried out in accordance with the Drawing Ref 15772 – SK15 | titled Proposed Site Dimensions' | dated 20/04/2022. The development shall include a minimum of horizontal offset, between the most landward parts of the river wall, including the buried elements, to the most riverward part of the built development including foundations, and excluding any balcony projections detailed in the drawing:

- Dimensions between waters edge & proposed retaining wall
- Dimensions between path outer edge & proposed retaining wall

Reasons

- To ensure adequate access is provided for inspection, maintenance, and repair of the flood defence assets

Condition 3

Prior to the construction of the development frontage to the River Medway (referred to as Block A on DWG No 15772-111 Rev C dated 09.06.22) full details regarding the structural integrity and condition of the flood defence river wall engineered high ground and a plan of works will be submitted and approved by the Local Planning Authority (LPA). This may include the below:

- A full structural investigation of integrity and assessment of condition of the flood defences. This includes all elements of the flood defence, such as the landward face, buried elements and any outfalls crossing it.
- Estimation of the residual life of the flood defence frontage at this site and how this interacts with the lifetime of the new development.
- Consideration to incorporate an enhanced frontage into the development, thereby securing its long-term structural integrity and maintenance, as well as improving its visual, ecological and amenity value.
- The findings of the above will inform options for a plan of flood defence replacement and maintenance.
- The plan as approved to be fully implemented.

Reason

To ensure a fit for purpose flood defence will keep the development safe from flooding for its lifetime of 100yrs in line with NPPF.

Groundwater and Contaminated Land

Land Contamination

Environment Agency
Orchard House Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH
Customer services line: 03708 506 506
Email: enquiries@environment-agency.gov.uk
www.gov.uk/environment-agency

Condition 4

Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy, including borehole decommissioning, and the effectiveness of the remediation shall be submitted to, and approved in writing, by the LPA. 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.

Reason

To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the NPPF.

Condition 5

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 LPA) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the LPA. The remediation strategy shall be implemented as approved.

Reason

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the NPPF.

Piling**Condition 6**

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

Reason

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the NPPF.

Informative:

Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater. If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with our guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".

Drainage

It is noted from the 'Flood Risk Assessment & Drainage Strategy' (Hydrock, ref 18156-HYD-XX-XX-RP-FR-0001, November 2021) that no infiltration to ground is proposed, and that

surface water will be discharged to the local watercourses. We have no objection to these proposals from a groundwater protection perspective.

Condition 7

No infiltration of surface water drainage into the ground is permitted other than with the written consent of the LPA. The development shall be carried out in accordance with the approved details.

Reason

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the NPPF.

Informative:

Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater, a controlled water.

Advice to LPA/applicant

Environmental permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Risks from floating vehicles during flood event

This development has been proposed within an area identified as being at risk of flooding, and includes the provision of car parking within buildings. The applicant should be aware that vehicles can start to float in flood depths of less than 60cm – less if it is fast-flowing. The applicant must satisfy themselves that any relevant building will be constructed in such a way that vehicles floating or displaced as a result of flooding, would not jeopardise its structural stability.

In addition, the applicant should ensure that any sensitive infrastructure such as gas and

Environment Agency

Orchard House Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH

Customer services line: 03708 506 506

Email: enquiries@environment-agency.gov.uk

www.gov.uk/environment-agency

water pipes or electrical cabling are located and designed to withstand the potential impacts of floating or displaced vehicles.

Flood Risk

The following issues are not within our direct remit or expertise, but nevertheless are important considerations for managing flood risk for this development. Prior to deciding this application we recommend that consideration is given to the issues below. Where necessary, the advice of relevant experts should be sought.

- Adequacy of rescue or evacuation arrangements
- Details and adequacy of an emergency plan
- Provision of and adequacy of a temporary refuge
- Details and adequacy of flood proofing and other building level resistance and resilience measures
- Details and calculations relating to the structural stability of buildings during a flood
- Whether insurance can be gained or not

Waste Materials

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project formally agreed with us
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, we should be contacted for advice at an early stage to avoid any delays.

We recommend that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
- The [Environmental regulations](#) page on GOV.UK

Missed opportunity for river restoration to support implementation of RBMPs

In line with the Thames River Basin Management Plan, we recommend that the proposed development is used as an opportunity to restore more natural processes to the watercourse. It is appreciated the proposed development could increase the public amenity value through creating an open space network within the urban area, however, the development will result in the loss of opportunity to enhance the river corridor of the River Medway. We recommend increasing the volume of planting within the riparian buffer zone through planting of native species. This would offer a significant environmental gain.

Risk of offence under Act/Regulations

The applicant could be liable to criminal prosecution under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and Conservation of Habitats and Species Regulations 2017 for European Protected Species.

All bats are protected under Schedule 5 of the Wildlife and Countryside Act 1981 and Schedule 2 of the Conservation of Habitats and Species Regulations 2017. It is an offence

Environment Agency

Orchard House Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH

Customer services line: 03708 506 506

Email: enquiries@environment-agency.gov.uk

www.gov.uk/environment-agency

to:

- Deliberately to kill, injure or take (capture) bats;
- Deliberately to disturb bats in such a way as to:-
 - (i) be likely to impair their ability to survive, to breed or rear or nurture their young; or to hibernate or migrate; or
 - (ii) affect significantly the local distribution or abundance of the species to which they belong;
- To damage or destroy any breeding or resting place used by bats;
- Intentionally or recklessly to obstruct access to any place used by bats for shelter or protection (even if bats are not in residence).

The ecological assessment for this development assessed the suitability of all buildings and structures for supporting roosting bats in October 2020. They furthermore noted 'the tree line adjacent to the site's boundary offers some limited foraging and commuting opportunities for bats, as does the river to the north and south'. We recommend to the applicant to conduct a further, more up to date, bat survey before any construction begins. We also recommend assessing the 13 trees being removed adjacent to the River Medway for their potential to support roosting bats, alongside the buildings and structures within the site.

Further information

Groundwater and Contaminated Land

We have reviewed the documents submitted as part of this planning application, including the 'Ground investigation Report' (Hydrock, ref 18156-HYD-XX-XX-RP-GE-1001, July 2021), 'DQRA for Controlled Waters' (Hydrock, 18156-HYD-XX-XX-RP-GE-2000, July 2021) and 'Remediation Strategy and Verification Plan' (Hydrock, ref 18156-HYD-XX-XX-RP-GE-3001, July 2021). The site investigation and DQRA have identified widespread contamination across the site.

The remediation strategy has outlined steps to be taken in order to bring the site up to the standard required for its final use. This includes demolition of existing structures, remediation of soils (either through treatment under an MMP/DoWCoP or disposal off-site), and in-situ treatment of groundwater (once a trial has been completed). It is noted that abstraction and disposal of groundwater may be required. It is assumed this will be discharged to the local foul sewer network (with the permission of the sewerage undertaker), however, if any disposal is proposed back to ground a permit may be required. We accept the proposals in the submitted remediation strategy, including proposed validation of works. Please note these comments are made in relation to the documents mentioned above. Should plans change we would ask to be re-consulted.

Decision notice

We require decision notice details for this application, in order to report on our effectiveness in influencing the planning process. Please email decision notice details to kslplanning@environment-agency.gov.uk

If you have any questions, please contact me via the email below.

Yours sincerely

Ms Aida Grabauskaite
Planning Advisor

Direct email KSLPLANNING@environment-agency.gov.uk