

OFFICERS REPORT

Application No: Y17/1042/SH

Location: Princes Parade Promenade Princes Parade Hythe Kent

Proposal Hybrid application accompanied by an Environmental Statement for the development of land at Princes Parade, comprising an outline application (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 childrens play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout, site levelling and groundworks, and all necessary supporting infrastructure and services. Full application for a 2,961sqm leisure centre (Use Class D2), including associated parking, open spaces and childrens play facility.

ASSESSMENT

DELEGATED REPORT TO DEVELOPMENT MANAGER

Application No: Y17/1042/SH

Location of Site: Princes Parade Promenade, Princes Parade, Hythe, Kent

Development: Hybrid application accompanied by an Environmental Statement for the development of land at Princes Parade, comprising an outline application (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 childrens' play facilities; surface parking for vehicles and bicycles; alterations to existing vehicular and pedestrian access and highway layout; site levelling and groundworks; and all necessary supporting infrastructure and services. Full application for a 2,961sqm leisure centre (Use Class D2), including associated parking; open spaces; and childrens' play facility.

Performance data:-

Date application valid: 19.09.17

Applicable 8/13/16 week target date: 19.12.17

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) Y

If Yes, revised 8/13/16 week target date: 18.07.19

Is the application being determined after 26 weeks without a PPA or a PEA? N

See also committee report.

1.0 BACKGROUND

1.1 The planning application was reported to the Council's Planning and Licensing Committee of 16th August 2018 where it was resolved:

i That the Planning and Licensing Committee authorise the Development Management Manager to grant planning permission for the proposed development subject to the Environment Agency withdrawing its objection to the application following further discussions and any necessary amendments to the application relating to surface water drainage.

ii That the Development Management Manager be authorised to grant planning permission subject to the conditions set out below with any additional conditions or amendments to conditions she considers to be necessary following the submission of revised plans and drainage details and subject to a S106 planning obligation relating to the affordable housing and public space management and that delegated authority be given to the Development Management Manager to agree and finalise the wording of the conditions and the legal obligation.

iii In the event that following discussions the Environment Agency does not withdraw its objection to the application that the application be reported back to the Planning and Licensing Committee to consider the Environment Agency's outstanding concerns.

1.2 The drainage strategy considered by the Committee included the option of discharging surface water into the Royal Military Canal via three outfalls and the management of this discharge through pollution control measures, attenuation tanks and a pond, in the event discharge into the sea is not a viable or achievable option. Following this meeting, discussion between the Environment Agency, the applicant and their advisors, and the Local Planning Authority took place regarding the feasibility of the option for the surface water system to discharge to the Royal Military Canal. Following that meeting further work was undertaken by the applicant's drainage consultants resulting in the production of a Technical Addendum (December 2018).

1.3 The contents of this document were reviewed by the Environment Agency and they withdrew their outstanding objection to the surface water drainage strategy in a letter dated 17th January 2019.

1.4 As a consequence of this outcome, it was considered pertinent to update the Environmental Statement (ES) that was submitted with the planning application through the preparation of an addendum to assess whether the drainage strategy would have any implications for the predicted environmental effects and proposed mitigation measures as set out in the original ES, with specific reference to Flood Risk & Drainage and Ecology.

1.5 This document was advertised by neighbour letter, site notice and press notice, and was notified to all consultees who were originally notified as part of the initial application, as well as the Secretary of State, giving the requisite 30 days to respond to the consultation.

1.6 Following the resolution of the Planning and Licensing Committee, this report has been prepared for the Development Manager setting out the responses to the consultation on the ES Addendum and recommending that planning permission can now be granted in accordance with the Planning and Licensing Committee resolution.

2.0 CONSULTATION RESPONSES

2.1 Where summarised, consultation responses are available in full on the planning file on the Council's website:

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

2.2 Environment Agency

12 June 2019

Thank you for consulting us on the addendum to the Environmental Statement, the purpose of which is to assess the potential environmental impact of the alternative surface water management scheme outlined within the applicant's revised Flood Risk Assessment and Drainage Strategy.

Whilst we understand that the Environmental Assessment addendum is a necessary part of the planning process to ensure that there will be no harm caused by the revised arrangement, we consider that any discharge of surface water to the Royal Military Canal should only be pursued as an option if it is demonstrably unfeasible to direct the runoff from the development site to the sea.

We appreciate that this will require additional planning and permitting, but these requirements should not be used to solely justify the adoption of the least favoured means of surface water disposal.

We would refer you to our previous correspondence for the reasoning behind the (caveated) withdrawal of our objection and for clarification on our position on the Environment Agency's preferred arrangement.

17 January 2019

Thank you for reconsulting us on this revised and very much 'alternative' drainage proposal for this development site.

We can confirm that we are now able to withdraw our outstanding objection to a surface water strategy that would be partially dependent on a discharge to the Royal Military Canal (a designated 'main river').

Reason:

Following lengthy discussions with the applicant's consultants, we are satisfied that the secondary scheme now presented represents a 'just-about-viable' alternative to a direct discharge to the sea. This is purely on the understanding that (and as stated within the revised Surface Water Drainage Strategy) any excess flows from surcharged attenuation features would be directed towards the beach/sea when the surface water storage features are at (or have exceeded) capacity.

We reiterate that we are content that there is already a greenfield contribution from the site to the Royal Military Canal (RMC) during prolonged or extreme rainfall events, and that with the controls proposed, the post-development runoff rate/volume should not be increased via 'option B'. However, whilst the revised Drainage Strategy states that there may be a slight overall reduction in the rate/volume of discharge from the site to the RMC, we consider that 'option A' (that of a direct and permanent discharge from the site to the sea via a formal outfall) would present a more significant benefit to the flood risk within the RMC; we would therefore be unable to consider this sufficient reason in itself for this secondary solution to be justified as the primary option.

We are still of the opinion that the overwhelmingly preferable option for surface water management from this site is for a direct and permanent discharge to the sea via a formal outfall (with interception and treatment provided for the 'first flush'), and we would need quite a degree of liaison and persuasion from any prospective developer if this alternative 'option B' is pursued.

The costs involved with this secondary, attenuated, solution with its associated maintenance and land regrading to achieve the overland flow routes for excess flows, would require extremely compelling arguments to be presented for 'option B' to be pursued.

We would consider that an 'outside of the existing redline boundary' argument is unlikely to carry sufficient weight when a second application to cover just the outfall to the sea could be submitted at a later date.

In summary, this secondary solution appears to be viable from a flood risk management and surface water runoff perspective, but it should be seen as an emergency fall-back option only, and only then if there are extremely good and universally agreed reasons why a direct discharge to the sea cannot be pursued.

We will work with KCC to ensure the most sustainable and viable surface water management scheme is pursued, and we will only be able to recommend the discharge of any surface water management related condition if we are in agreement that the option pursued is appropriate, sustainable, maintainable and does not exacerbate flood risk.

2.3 KCC Highways & Transportation

Thank you for your consultation in relation to the received ES addendum for the above planning application which relates a revised surface water strategy.

The detailed highway drainage in relation to the relocated Princes Parade will be considered at the detailed design stage via the S278 process, as such I do not have any comments to make on this document.

As this refers to the site's wider drainage strategy please ensure that you have consulted Kent County Council's Flood and Water Management Team directly.

2.4 Natural England

Natural England has previously commented on this proposal and made comments to the authority in our letters dated 06 October 2017 and 05 August 2018.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

2.5 KCC Ecological Advice Service

We advise that the below comments we provided in July 2018 are still valid:

We are not experts on Surface Water Drainage and therefore we defer to the statutory consultee on whether the proposed amendments are appropriate to ensure that the surface

water runoff will be clean and not negatively impact on either the Royal Military Canal or the habitats to the south of the site.

An updated ecological mitigation strategy has submitted as part of this application and it has provided additional information on the timing of the habitat creation works within the site. As detailed within the below comments we recommend that the open space areas are created as soon as possible once all the remedial works have been implemented to retain connectivity through the site.

However the submitted application details that the central open space will be created during phase 3 and the western open space will be created in phase 4. The submitted plans have provided dates of the anticipated works however there is a risk that those phases may not be implemented within the anticipated time frames.

The submitted information details that the promenade, realignment of the road and the western car park will be created during phase 2. It's our understanding that the SUDs for some / all of these features will be linked to the western open space and the central open space therefore we would presume these features would need to be created during the phase 2 works.

As detailed below the creation of the open space as early as possible will ensure that the habitats can be established as soon as possible and create connectivity through the site.

2.6 KCC Environment, Planning & Enforcement

We have already advised (letter of 31 October 2017) that the proposed development will result in substantial harm to the setting of the scheduled monument of the Royal Military Canal (RMC) and that this harm would provide sufficiently strong grounds for the application to be refused. This remains our position.

The ES Addendum sets out a revised surface-water drainage strategy. Original proposals (the preferred option) were for surface-water to be discharged to the inter-tidal zone of the beach. The revised proposals are for surface-water to discharge into the RMC. This revised strategy will result in a direct (physical) impact on the scheduled monument of the RMC as works will now be required within the scheduled area to construct the three proposed discharge points.

The ES Addendum has revisited the environmental effects in relation to Flood Risk & Drainage and Ecology. The ES Addendum has not considered any additional effects in respect of the historic environment. The original ES Cultural Heritage assessment (Chapter 6) was prepared on the basis that "the development will not directly affect the scheduled area of the RMC" (paragraph 6.3). This is no longer the case.

The addendum information provides very little detail on the three proposed outfalls – they are indicatively shown as dashed lines with splayed ends on the accompanying plans. The NPPF requires (para 189) that applicants provide sufficient information to understand the impact of proposed works on the significance of affected heritage assets. It notes that the level of detail should be proportionate to the assets importance. In this instance we are dealing with a scheduled monument, which in NPPF terms is an asset of the "highest significance".

We think that further information on the three proposed outfalls and any associated equipment (including detail of their appearance, method of construction, location and footprint) is required so that their impact on the scheduled monument and buried archaeological

remains can be properly understood. We think this information should be provided now, i.e. before the application is determined. If such information is not provided, then it could be argued that the application has not been determined in accordance with the NPPF. We think it is also necessary to understand how the works required to deliver these revised proposals, including creation of swales, catchment ponds and associated habitat creation works might affect the ability to deliver some of the heritage benefits set out within the main ES.

Finally, we note that any works to the scheduled monument would likely require scheduled monument consent (SMC). Planning consent and SMC are two separate processes and the granting of planning permission does not remove the need to obtain SMC. It would appear that issues of surface water drainage are of fundamental importance and therefore we advise that you should satisfy yourself that SMC is achievable before determining the planning application.

2.7 Historic England

Summary

The revised drainage proposal now introduces the need for Scheduled Monument Consent. Before this can be advised about by Historic England and before your council can decide about planning permission more information is needed. It is very disappointing that the need for consent and other additional heritage issues raised by the revised proposal are not covered by the addendum to the Environmental Statement.

We have objected to this planning application and we now sustain this objection. We think that based on the information now before us the revised proposal will cause some increased harm to the significance of the Royal Military Canal as a scheduled monument. We also think that one of the public benefits claimed for the project i.e. enhanced public open space will be reduced. In these circumstances we think that despite your Council's existing resolution to grant permission you need to first understand the full consequences of the proposed changes and then consider whether the harm to be caused to historic significance is clearly and convincingly justified by the revised public benefits.

We will need more detailed information before we can advise whether Scheduled Monument Consent can be recommended.

2.8 Southern Water

Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

2.9 Hythe Town Council

Object

a) Concern regarding classification of the land in question as to whether it is attributable as green land so described in the report as opposed to brown land which it would appear to be bearing in mind past use. The report relies upon the classification given to the land as to the way water run-off will be dealt with.

b) Concern over the question of whether there are sufficient engineering concepts ensuring that the land is free of flooding.

c) Concern as to the new roadway draining surface water into the RMC as opposed to the present roadway draining into the sea. The diverted highway will only discharge water via the attenuation pond into the RMC. Currently the present road drains onto the beach, so the road drainage represents an addition to the surface water volumes not draining onto the beach. Will the surface water be treated whilst retained within the pond as described before discharge into the RMC. The position should be reviewed.

d) Open green space proposed in this development will be reduced and lost because of the attenuation pond and cannot the development be engineered in a way that could retain the same amount of green space thereby protecting the environment.

2.10 Arboriculture Manager

No objections to the proposed development.

2.11 KCC Lead Local Flood Authority

We have previously provided a response for the proposed development which included the sea. Our response on 10 October 2017 (KCC reference SDC/2017/063018) indicated that we would recommend approval but with the inclusion of appropriate worded conditions.

A later submission included a Technical Addendum for discharge of surface water runoff prepared by Herrington Consulting Ltd (December 2018). This report considered the rates and volume of surface water to be managed from the proposed development, with assessment of an alternative discharge destination to the Royal Military Canal, aside from earlier considerations with discharge to the sea.

The applicant has demonstrated that surface water can be managed within the site boundary and the matter of key concern is the discharge destination. From Kent County Council's perspective the applicant has demonstrated two options which could receive surface water and deliver an operating drainage scheme. Both options are technically feasible but have different constraints.

In this instance we defer to the Environment Agency to make the final determination of the acceptability of discharge to the Royal Military Canal given they manage the asset.

We understand that they have concerns but they have provided a conditional response as re-stated in their response to Folkestone on 12 June 2019. If your authority is minded to approve this application we would recommend the inclusion of specific conditions.

Condition:

Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority.

The drainage scheme shall demonstrate (with reference to published guidance):

- * That the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site
- * That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

* Appropriate operational, maintenance and access requirements for each drainage feature or SUDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

This detailed drainage scheme shall include technical details, approvals and operating requirements for the final discharge destination. The drainage scheme shall be implemented in accordance with the approved details.

Reason:

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

Condition:

No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason:

To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant.

3.0 REPRESENTATIONS

3.1 Representation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below.

3.2 Representation received from Save Princes Parade residents group objecting on the following grounds:

- * Risk of flooding from wave overtopping
- * Flooding in West Hythe in 2002 as Seabrook sluice was tide-locked
- * Prior to sea defences, sea flooding in Hythe in 1990 & 1999 and in Sandgate in 1992 & 1999. Flooding in 2008 in Albert Street in Hythe
- * Original proposal was to drain site to sea with outfalls on land outside of the Council's ownership, which would require a further planning application and other approvals
- * The proposal does not account for the surface water from the new highway discharging into the canal

- * Not all runoff drains to the canal as currently suggested
- * Addendum doesn't mention that lower levels of the landfill have hydraulic connectivity to the beach and is influenced by the tide, however no evidence exists that any hydraulic connectivity exists with the canal that would be necessary for drainage to take place to it
- * The drainage system proposes to slow the rate of flow to the canal via attenuation measures, but the attenuation pond cannot discharge surplus water uphill to the beach so has no ability to avoid overflow to the canal or the site resulting in more water being discharged to the canal than currently, with parts of the site susceptible to flooding following back to back storms
- * The addendum does not consider climate change, including the increase in tide and wave heights and is therefore flawed
- * The widened promenade will increase the developed area, with the drainage system capturing additional wave overtopping and routing it to the canal, negating its effectiveness and having adverse ecological issues
- * Princes Parade protected by LR9 and TM8 in an area with an identified shortfall of open space, with insufficient additional capacity generated to cover the additional 150 houses and the proposed drainage pond and swale further reducing the area available
- * Proposed outfalls will require planning permission, Scheduled Monument Consent and the consent of the Environment Agency, any of which could not be forthcoming, leading to an unimplementable scheme.

3.3 Representation received from the Sandgate Society objecting on the following grounds:

- * Environment Agency's buffer zone requirements have been greatly reduced
- * New drainage scheme reduces the green space at the western end
- * The drainage scheme proposes discharge to the Royal Military Canal through three outfalls contrary to the EA objection
- * The EA would be unlikely to grant permission for a permit if there is likely to be a flood risk to the RMC or surrounding area
- * EA consider the drainage proposal cannot be justified as a primary option

3.4 Representation received from the Hythe Civic Society objecting on the following grounds:

- * It is assumed that the attenuation pond will be fenced off and unavailable for public use due to be being under water or boggy, reducing the area of open space available
- * The buffer strip is narrower than the 25m required by the Environment Agency (between 14.5m and 20m) and the quality is likely to be impacted by the proximity to the road
- * The drainage strategy is seen as a fall-back position by the Environment Agency
- * Flood risk in the context of successive days of rain and rising sea levels
- * The scheme is complex and will require a high level of maintenance, with risk of flooding if this is not done
- * No need to add to flood risk at the canal as there is an alternative site

3.5 83 representations were received objecting on the following grounds:

- * Environment Agency comments cannot be accepted as the withdrawal of their objection
- * Currently a high flood risk in the area that will be exacerbated through additional water entering the canal
- * The way that Princes Parade currently drains is unknown
- * Proposed drainage system is complex and if not properly maintained will risk flooding with health hazards especially if there is seepage of toxic substances from the former waste tip
- * Who will maintain the drainage system and pay for the maintenance

- * Part of proposed open space will be taken up by an attenuation pond which was not properly discussed by Planning Committee
- * The attenuation pond has not been discussed in public
- * Pond will need to be fenced and therefore will not be open to all
- * Central open space will also form an above ground detention basin in times of extreme rainfall further eroding open space
- * Plans in the addendum show the buffer strip is significantly narrower than the 25m requested by the Environment Agency
- * Loss of existing open space will result in a loss of biodiversity
- * Royal Military Canal is an important part of flood defences for Romney Marsh and with climate change, for Hythe
- * Houses would not be affordable
- * The plan for the houses to pay for the new pool may not be viable
- * Princes Parade could be left wild, but managed to show-case the Royal Military Canal and to protect wildlife
- * Future pool should be at Nickoll's Quarry where it can better serve Hythe and Romney Marsh
- * Addendum includes an encroachment onto the canal path outside of the red line area
- * Princes Parade is a much-loved asset that provides a vista, the re-routing and downgrading of the public highway will create risks, costs and drainage issues
- * Contamination of the Royal Military Canal from airborne particulates as a consequence of the re-routed road
- * Contamination build up in proposed pond that will be unattractive and may overflow into the canal
- * There is an alternative site
- * Disturbance of Cetti's Warblers and toads
- * Position of road will impact negatively upon the tranquillity of the Royal Military Canal and the amenity of users
- * Lighting will be required for the road but this will be contrary to the statements in the Lloyd Bore report
- * Council's own application will not comply with adopted policy CSD4 or LR9
- * Proximity to the canal will diminish the historical significance of the Royal Military Canal, with potential harm from the three proposed outfalls
- * How can scheme generating traffic, with more people, more pollution and less green space benefit Hythe
- * Enjoyment and appreciation of canal at Seabrook end will be dramatically reduced
- * Planning Inspector did not support the development of Princes Parade in 2003
- * High aesthetic impact upon sea front and natural environment around RMC
- * This alternative is a material variation to the scheme
- * Details of the reptile and amphibian receptor site are inadequate and the environment unsuitable
- * Migrant birds stop and feed at the site, as well as bats
- * The revised road position has not been drawn to the attention of Historic England
- * The approval at Nickoll's Quarry was in part due to the provision of a leisure centre on site
- * The increased width of the promenade will be negated through its enclosure by buildings
- * The alternative site at Nickoll's Quarry means that the site fails the provisions of the NPPF
- * No pollution controls on the water entering the canal
- * Japanese Knotweed is present at the site
- * Official wildlife surveys are deficient and there are more species than listed
- * Housing targets are exceeded by FHDC so there is no need for the site
- * Currently a site free from light pollution
- * The addendum must be universally agreed and it is not
- * Road overshadows Royal Military Canal

- * Insufficient hospitals and doctor surgeries

3.6 Representation received supporting the development on the following grounds:

- * The site is an eyesore
- * Proposal is impressive
- * Gardens would link to the golf course
- * Swimming pool users welcome the proposal

4.0 DRAINAGE STRATEGY

4.1 Within the application as initially submitted it was proposed that the surface water would be disposed of via outfall to the sea. However, due to the need to cross third party land in order to discharge surface water into the sea, an amended surface water drainage strategy was submitted during the processing of the application to include an alternative option for an indicative scheme using a combination of permeable paving, cellular storage, storage tanks and a series of permanent/occasional ponds and swales that would discharge surface water to the RMC at a controlled rate. This was to demonstrate that an alternative strategy for draining the site is achievable in the event that the preferred option of discharging into the sea is not viable or achievable. This amended surface water drainage strategy was consulted on in July 2018, together with other additional information, and it formed part of the proposed scheme that was considered by the Planning & Licensing Committee on the 16th August 2018.

4.2 The Environment Agency had raised an objection to the alternative drainage option due to concerns about the lack of capacity within the receiving watercourse of the RMC, whilst accepting that “the surface water management system could largely be dealt with through a detailed design submission at the discharge of conditions stage”, they wished to have sight of the applicant’s consultants further assessment of the drainage requirements before they could withdraw their objection.

4.3 The ES Addendum and accompanying Technical Addendum set out that should discharge to the inter-tidal zone be unachievable, the drainage strategy option where the RMC would become the primary point of surface water discharge, following attenuation and pollution controls, other than where overflows would be directed to the upper (shingle) beach as at present, would perform satisfactorily so that there would be no change to the flood and pollution risks identified within the originally submitted Flood Risk Assessment (FRA) and the predicted effects remain as reported in the original ES.

4.4 As part of the discussions concerning their objection, the Environment Agency had sight of the further Technical Addendum assessment of the drainage requirements prior to the submission of the ES Addendum. Following consideration of this the EA withdrew its outstanding objection in their letter to the Local Planning Authority of the 17 January 2019 (see 2.2 above). Following formal re-consultation on the ES Addendum on the 23 May 2019, they re-iterated in their letter to the LPA of 12 June 2019 (see 2.2 above) that the “discharge of surface water to the RMC should only be pursued as an option if it is demonstrably unfeasible to direct the runoff from the development site to the sea” and maintained no objection to the revised drainage strategy, subject to this caveat. This can be covered by conditions that require a fully detailed drainage strategy to be submitted for approval and means that the requirements of the Planning and Licensing Committee’s resolution have been met such that the planning permission can now be issued.

5.0 ENVIRONMENTAL ASSESSMENT ADDENDUM

5.1 As stated in paragraph 1.4, the purpose of the ES Addendum was to assess whether the drainage strategy would have any implications for the predicted environmental effects and proposed mitigation measures as set out in the original ES, with specific reference to Flood Risk & Drainage and Ecology, as they are the only material considerations that could be affected by the conclusions of the further technical work that was undertaken by the applicant's drainage consultants.

5.2 The ES Addendum identifies that the alternative drainage strategy where the RMC would become the primary point of surface water discharge in the event that discharge to the inter-tidal zone is unachievable, would make no change to the flood and pollution risks identified within the FRA accompanying the application and the predicted effects remain as reported in the original ES and as set out in the report to Planning & Licensing Committee (paragraphs 8.173 – 8.183).

5.3 In respect of the ecological implications, the ecological baseline conditions were re-checked, with no material changes observed, and the operational drainage system, with incorporated mitigation, was found to give rise to no additional effects on habitats or protected species.

5.4 As with the original ES, the Local Planning Authority has had the ES Addendum assessed by an external consultant to ensure that it is robust and has provided an acceptable assessment of the environmental implications of the alternative drainage strategy as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (The EIA Regulations). The 2011 Regulations are still the relevant regulations as although the 2017 Regulations are now in place, in line with the transitional arrangements set out when the new Regulations came into force in May 2017, as the scoping report for the site has previously been considered and approved under the 2011 EIA Regulations, the application and ES Addendum are still to be considered under these 2011 Regulations.

5.5 The Consultants used by the Local Planning Authority, WYG, have confirmed that the ES, as a whole, including the addendum, for the Princes Parade site satisfactorily sets out the likely environmental effects of the proposed development. In reviewing against the Institute of Environmental Management and Assessment (IEMA) Quality Mark guidelines and in accordance with the EIA Regulations 2011, their conclusion is that the report and supporting additional addendum meet this criteria.

6.0 OTHER ISSUES

6.1 As part of the consultation exercise, the parties consulted on the original planning application and ES were re-consulted on the ES Addendum, as well as all contributors to the original scheme, as required under the EIA Regulations. Site and press notices were also displayed in order to fulfil statutory requirements for publicity.

6.2 The responses received from formal bodies (section 2.0 above) identify objections to the ES Addendum from Historic England and KCC Environment, Planning & Enforcement summarised as follows:

- * The addendum does not include a section covering the impact upon the heritage asset;
- * There is insufficient detail of the outfalls to determine the planning application;
- * Further erosion of the setting and significance of the RMC from the provision of the drainage pond;

- * The drainage pond would reduce the public benefits of the proposal through eroding the available open space;
- * The harm caused remains less than substantial, but has been increased.

6.3 The revised drainage strategy, inclusive of the attenuation pond and outfalls to the Royal Military Canal, formed part of the amended application that was consulted on in July 2018 and that was considered by the Planning & Licensing Committee. Historic England and KCC Environment Planning and Enforcement were among the bodies who were consulted on that information at the time.

6.3 The ES Addendum concluded that no topics other than flood risk and drainage, and ecology would be affected to any significant degree by the alternative drainage strategy. The application as reported to the Planning and Licensing Committee was cognisant of the potential need for three outfalls to the RMC, outside the application site, as a potential option within the wider strategy, should discharge to the inter-tidal zone be unachievable. If required, the three outfalls would form part of a future conditions application if this alternative strategy is pursued and would also be reliant on the applicant first obtaining the necessary planning permission, as well as scheduled monument consent, for the outfalls as they are not covered by the current planning application. It is recommended that a Grampian style condition be attached to this planning permission to this effect and this has been agreed by the applicant as the affected party and landowner.

6.4 In respect of the concerns raised by KCC and Historic England with regard to the setting of the RMC and the erosion of the public benefits from the drainage pond, nothing in the proposed scheme has changed since their previous comments following the consultation in July 2018 and the consideration of the application by the Planning and Licensing Committee in August 2018. Impacts on the setting of the RMC, including from the potential alternative drainage scheme to discharge into the RMC were considered at that time. Therefore, given the committee resolution, there are no reasonable grounds to request further information prior to issuing a decision on the planning application.

6.5 A number of comments have been received from residents and local interest groups (section 3.0 above) that are unrelated to the ES Addendum that has been consulted on, for example road re-routing, conflict with adopted policies LR9 and TM8, width of buffer strip, ecological impacts, viability of scheme, affordability of units, alternative site availability, lighting, previous Inspector decision, presence of Japanese Knotweed, pollution of the RMC, infrastructure deficiencies, flooding etc) These are matters that have already been considered by the Planning and Licensing Committee and it is beyond the remit of the Committee Resolution to consider these afresh now.

6.6 In relation to further relevant issues arising from the ES Addendum consultation, these are addressed below.

* Red line area:

Several comments state that the red line area has been altered as a consequence of the ES Addendum. This is incorrect. The land immediately adjacent to the northern boundary of the application site is within the ownership of Folkestone & Hythe District Council, but falls outside of the planning application red line boundary.

* Consent regimes:

It has been identified that the proposed outfalls to the RMC will require Scheduled Monument Consent (SMC), planning permission and also consent from the Environment Agency. Historic England had previously commented in their response to the July 2018 consultation of the likely

need for SMC and that it would not be able to be sought at the reserved matters stage. These are separate consenting regimes and are not relevant to the determination of the planning application.

* Flooding issues:

As the ES Addendum relates to the alternative drainage strategy should discharge to the inter-tidal zone be unachievable, several concerns relating to potential flooding have been raised. However, the issue of flooding was addressed within the ES (chapter 8 and technical annex 4) and as the Environment Agency have reviewed the ES Addendum and removed their objection in respect of flooding concerns, it is considered that this has been satisfactorily addressed.

* Attenuation pond:

Several parties have raised concerns that the proposed attenuation pond within the western open space would erode the area available for the open space and therefore diminish the public benefit of this, thus altering the previous assessment of the planning balance. However, the attenuation pond was identified on plans that had already been out to public consultation (July 2018) and that formed part of the planning application at the time of preparation of the report to Planning & Licensing Committee and formed part of the scheme considered by the Committee. Consequently, the assessment and conclusions on the planning balance drawn by the Development Management Manager in her recommendation to the committee, and as accepted by Planning & Licensing Committee, was based upon the consideration of this as part of the drainage options.

* Maintenance of drainage systems:

This can be satisfactorily dealt with through a suitably worded condition applied to the planning permission, as identified in paragraph 8.182 of the report to Planning & Licensing Committee.

7.0 POLICY UPDATE

7.1 In accordance with section 70(2) of the Town and Country Planning Act 1990 (as amended) a planning authority, in dealing with an application shall have regard to:

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

In this respect, any changes to local and national policy were reviewed.

NPPF

7.2 The officer's report to the Planning & Licencing Committee was assessed against the NPPF 2012 and subsequently the revised NPPF 2018, following its publication in July 2018.

7.3 The NPPF has subsequently been revised again, in February 2019. The changes to the document have been reviewed and the policy aims of the sections applicable to the application are not considered to have altered significantly so as to impact on the decision reached by the Planning and Licensing Committee.

7.4 The Submission Draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Therefore it was not a material consideration when the application was considered by the Planning and Licensing Committee but it is now a material consideration in the assessment of planning applications, in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded some weight where there has not been significant objection. However, the weight afforded the policies is considered to be limited as the document has not yet been submitted to the Secretary of State for Examination.

7.5 The Core Strategy policies referred to in the committee report have not been subject to significant amendments as part of the Core Strategy Review process such as to affect the consideration and conclusions reached in the committee report. The relevant changes are addressed below.

7.6 Emerging policy CSD1 requires that:

“For development proposing 15 or more dwellings, as a starting point approximately 30 per cent of the affordable housing provision shall be shared equity and 70 per cent affordable rent/social rent.”

The scheme considered by Committee proposed a mix of 60% affordable rent and 40% shared ownership and this is set out in the legal agreement and memorandum of understanding. This mix was considered acceptable by the Housing Strategy Manager and Committee and given this and that the policy refers to the 30/70 split being a starting point and that the policy carries limited weight, this minor difference from the emerging policy stance is not considered to be a material factor.

7.7 Within emerging policy CSD4, part (a) now includes the text (underlined);

a. Development must avoid a net loss of biodiversity, achieve net gain over and above residual loss.

The ecological impacts on the site as a result of the proposal have been assessed and found to be acceptable, including the likely impacts of the proposed drainage strategy options. Full details of mitigation and compensation will be required by condition and these can be assessed to ensure there is no net loss. The minor difference in wording from the adopted policy and the limited weight afforded to the emerging policy mean that the difference in wording is not considered to be a material factor. Furthermore neither Natural England nor KCC Ecology raise any objection on this ground.

7.6 Within emerging policy CSD5, part b. has now been added:

b. For non-residential development, the development achieves BREEAM 'outstanding' standard addressing maximum water efficiencies under the mandatory water credits, where technically feasible and viable.

It is considered that this requirement can reasonably be addressed through the imposition of a suitably worded condition, which part ii) of the Committee resolution allows for.

Places & Policies Local Plan Submission Draft

7.7 The Submission Draft of the PPLP (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018 with series of public hearings held in May 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies Local Plan (2018) may be afforded weight where there has not been significant objection. There has been no relevant change in the relevant policies since the application was considered by Committee

7.8 These policies were assessed as part of the report to Planning & Licensing Committee and it is considered that the proposal remains compliant in this respect.

8.0 CONCLUSION

8.1 It is concluded that part i) of the Planning and Licensing Committee resolution has been met as the Environment Agency has withdrawn its objection to the proposed surface water drainage scheme. The consultation process for the ES Addendum has not resulted in any material considerations being raised that were not considered by the Planning and Licensing Committee and there have been no relevant changes to planning policy that would affect the material considerations covered in the officer's report. As such the Development Management Manager can now grant planning permission in accordance with the Committee resolution.

Name: Robert Allan Position: Team Leader Date: 12.07.19

Report and decision notice agreed.

Name: Lisette Patching
Position: Development Management Manager
Date: 17.07.19