

**MC/22/2479**

**Date Received:** 17 October 2022

**Location:** Land South of Abbots Court Road Hoo St Werburgh  
Rochester Medway

**Proposal:** Change of use from arable farmland to a managed wetland reserve; creation of new wetland habitats; improvements to existing site hydrology; introduction of new footpaths, bridges/boardwalks; a ranger's facility, bird hide, landscaping, tree/scrub planting, boundary treatments, site interpretation boards and associated works.

**Applicant** Medway Council

Clare Lanes

**Agent** BPTW

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**Ward:** Peninsula Ward

**Case Officer:** Wendy Simpson

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 8th March 2023.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received on 17 October 2022:

2A-LD-PLN-101\_P01      General Arrangement Plan 1 of 4

2A-LD-PLN-102\_P01      General Arrangement Plan 2 of 4

2A-LD-PLN-103\_P01      General Arrangement Plan 3 of 4

2A-LD-PLN-104\_P01      General Arrangement Plan 4 of 4

2A-LD-PLN-300\_P01      Detailed Plan Rangers Hut

2A-LD-SEC-200\_P01 Existing and Proposed Site Sections (1 of 2)

2A-LD-SEC-201\_P01 Existing and Proposed Site Sections (2 of 2)

LD-PLN-008\_P01 Illustrative Masterplan

Elevation drawings within supporting document 'Rangers Facility' (LUC. Ref 11511-2A-LD-REP-002 rev P01, dated October 2022)

Received on 25 October 2022:

2A-LD-PLN-301\_P01 Wider Site Signage

2A-LD-PLN-100\_P01 General Arrangements Plan Layouts

Received on 14 November 2022:

2A-LD-PLN-011\_P02 Location Plan Wider Site Context

2A-LD-PLN-010\_P03 Site Location Plan

2A-LD-PLN-302\_P01 Viewing and seating areas.

2A-LD-DET-313\_P01 Bird Hide

2A-LD-DET-312\_P01 Bridges and Boardwalks

2A-LD-DET-311\_P01 Benches and Interpretation Boards

2A-LD-DET-310 Gates and Fences

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development (including excavation for utilities/SUDS, hardsurfacing and bases for shipping container buildings) or landscaping shall commence until the implementation of a programme of archaeological works for the various areas of the site has been secured, in accordance with a written specification and timetable for each area which has first been submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken in accordance with the agreed details.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with Policy BNE21 of the Medway Local Plan 2003.

- 4 No development shall commence (including site clearance), other than archaeological works, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority in consultation with KCC Biodiversity. The Construction Environmental Management Plan shall include amongst other matters: measures detailed within the Habitats Regulations Appraisal document (Ricardo Energy and Environment, ref ED13710100 Issue 1, dated 27 September 2022); hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust

control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan.

Reason: To ensure protection of residential amenity for the area and in respect to the close relationship to the SSSI/SPA/RAMSAR sites in the vicinity in accordance with Policies BNE2, BNE35, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraphs 130 and 180 of the National Planning Policy Framework 2021.

- 5 No development shall commence until a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) has been submitted to and approved in writing by the Local Planning Authority.

The CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or offsite flood risk associated with the works.

The works shall take place in accordance with the approved CSWMP for the duration of construction.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 165 of National Planning Policy Framework 2021.

- 6 No development shall commence until a scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- i. The design of the scheme (in conjunction with the landscaping plan where applicable).
- ii. A timetable for its implementation (including phased implementation).
- iii. Operational maintenance and management plan including access requirements for each sustainable drainage component.
- iv. Proposed arrangements for future adoption by any public body, statutory undertaker or management company.

The development shall be undertaken in accordance with the approved scheme and timetable.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 165 of National Planning Policy Framework 2021.

- 7 Prior to the first use of the ranger's facilities herein approved (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved in writing by the Local Planning Authority to confirm that the approved surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with paragraph 165 of the National Planning Policy Framework 2021 to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

- 8 The drainage excavations herein approved shall not take place until, full planting scheme details have been submitted to and approved in writing with the Local Planning Authority. The details shall include:
- i. Plans and information providing details of planting plans, tree positions, planting build ups, written specifications (including cultivation and other operations associated with grass, tree and planting establishment, aftercare, and maintenance); schedules of plants, noting species, plant sizes, root treatments and proposed numbers/densities where appropriate.
  - ii. Details for the design and specification of tree planting to enable healthy establishment at maturity, including details for the planting, calculated soil volume, tree support and tie specification, aeration and irrigation systems, and soil build-up information (avoiding the use of tree sand).
  - iii. Detailed information for the design and specification of the green roof to the ranger's facility, including drainage and soil build up, and planting plans & plant schedules.
  - iv. A timetable for implementation.

The development shall be implemented in accordance with the approved details and timetable and any trees or plants which within 5 years of planting are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

9 Notwithstanding the submitted Mitigation Strategy (Ricardo Energy and Environment, January 2023), no works shall commence (including site clearance), other than archaeological works, until a detailed Ecological Mitigation Strategy (EMS), based on the information within the Ricardo document, has been submitted to and agreed in writing with the Local Planning Authority. The EMS must include the following:

- Details of the development
- Details of the species and habitats constraints
- Overview of the mitigation to be implemented
- Detailed methodology to carry out mitigation
- Timings of works
- Plans clearly showing the retained habitats and the areas to be impacted by the works
- Details of who will be carrying out the works.
- Interim management plan of mitigation areas

The works must take place in accordance with the approved EMS and management timetable unless the timescales under Condition 10 are reached whereafter the provisions of condition 11 shall take precedence.

Reason: To ensure that the development is suitable for its location and in respect to the close relationship to the SSSI/SPA/RAMSAR sites in the vicinity in accordance with Policies BNE35, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2021.

10 If commencement of development has not occurred prior to either:

i) September 2024

A further site visit shall be undertaken by the applicant's ecologist to establish if there is the need for resurvey of wintering birds. Within two weeks of that site visit the ecologist's recommendation and justification for that recommendation shall be submitted to and agreed in writing by the Local Planning Authority; or.

ii) January 2025

A further site visit shall be undertaken by the applicant's ecologist to establish if there is the need for additional species surveys, including but not limited to reptiles, breeding bird and water voles. Within two weeks of that site visit the

Ecologist's recommendation and justification for that recommendation shall be submitted to and agreed in writing with the Local Planning Authority.

If resurveying has been undertaken following the ecologists' recommendation under i) or ii) those species surveys must be carried out within the relevant survey for that species as identified by Natural England, and shall (if required) inform a revision to EMS approved under condition 10. The revised EMS must take account of the resurveying results, which should be appended to the revised EMS. The Revised EMS must include the following:

- Details of the species and habitats constraints
- Overview of the mitigation to be implemented
- Detailed methodology to carry out mitigation
- Timings of works
- Plans clearly showing the retained habitats and the areas to be impacted by the works
- Details of who will be carrying out the works.
- Interim management plan of mitigation areas

The works shall thereafter be undertaken in accordance with the approved Revised EMS and approved management timetable.

Reason: To ensure that the development is suitable for its location and in respect to the close relationship to the SSSI/SPA/RAMSAR sites in the vicinity in accordance with Policies BNE35, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2021.

- 11 No development shall commence (including site clearance), other than archaeological works, until a Habitat Establishment and Management Plan has been submitted to and agreed in writing with the Local Planning Authority. The plan must include the following:

- i) Details of habitats to be created/enhanced on the site
- ii) Methodology to create, establish and enhance the habitats on site.
- iii) Details of management required when habitats are establishing within the site
- iv) Timings of works
- v) Details of who will carry out the works.

The works must be implemented in accordance with the agreed details and timetable.

Reason: To ensure that the development is suitable for its location and in respect to the close relationship to the SSSI/SPA/RAMSAR sites in the vicinity

in accordance with Policies BNE35, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2021.

- 12 Within 1 year of the commencement of the development a detailed Site Wide Management and Monitoring Plan (SWMMP) must be submitted to and agreed in writing with the Local Planning Authority. The plan must include:
- i) Detail of habitats on site
  - ii) Overview of the proposed management
  - iii) Details of the management methodology
  - iv) Management timetable
  - v) Details of who will carry out the management
  - vi) Details of on-going habitat and species monitoring
  - vii) Details of updated Biodiversity Net Gain assessments
  - viii) Details of management plan review
  - ix) Details of how it will be funded
  - x) Details of who will have responsibility for implementing the management.

The SWMMP shall thereafter be implemented in accordance with the approved management timetable and details.

Reason: To ensure that the development is suitable for its location and in respect to the close relationship to the SSSI/SPA/RAMSAR sites in the vicinity in accordance with Policies BNE35, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2021.

- 13 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement and obtained written approval from the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with. The works shall be carried out in accordance with the agreed details before the development is recommenced.

Reason: To ensure no risk to health, living conditions and the natural environment from pollution in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 14 All works shall take place in accordance with the recommended mitigation works within the Detailed Unexploded Ordnance (UXO) Risk Assessment (DTS Raeburn, ref: 9418 RA v2.0, dated 28 September 2022).

Reason: To ensure safety of the works/workers and in accordance with Policies BNE2 and BNE23 of the Medway Local Plan 2003.

- 15 The use of the ranger's facility herein approved shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking, loading and off-loading and turning space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on that area of land or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: Development without provision of adequate accommodation for the parking, loading, off-loading and turning of vehicles is likely to lead to hazardous conditions in the public highway and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 16 The access herein approved shall not be used until vision splays 43 metres x 2.4 metres have been provided on both sides of the vehicular access point and no obstruction of sight, including any boundary treatment, more than 0.6m above carriageway level shall be permitted within the splays thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy T1 of the Medway Local Plan 2003.

- 17 Prior to the first use of the rangers' facilities herein approved a fast-charging electric vehicle charging unit shall be installed and made operational. The electric vehicle charging unit shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 112e of National Planning Policy Framework 2021.

- 18 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use] together with a report to demonstrate its effect on ecology and the rural landscape and of how this effect has been minimised. Any external lighting shall be implemented in accordance with the approved details.

Reason: In order to limit the impact of the lighting on the surrounding landscape and wildlife and with regard to Policies BNE1, BNE5, BNE25, BNE34 and BNE39 of the Medway Local Plan 2003.



19 No development shall commence and no equipment, machinery or materials shall be brought on to the site for the purposes of the development until the tree protection measures detailed in the 'Arboricultural Impact Assessment' (SJ Stephens Associates, ref Version P01, dated September 2022) have been implemented. No alterations or variations to the approved tree protection scheme or methods of working shall be made without prior written consent of the Local Planning Authority. The tree protection measures shall be maintained until all equipment, machinery and surplus waste or materials have been removed from the site.

Reason: To ensure no irreversible detrimental harm to the existing trees and to protect and enhance the appearance and character of the site and locality and ecological benefits of this habitat and green network, in accordance with Policies BNE35, BNE37 and BNE43 of the Medway Local Plan 2003.

## **Proposal**

The application is for full planning permission involving:

- change of use from arable farmland to a managed wetland reserve
- creation of new wetland habitats including engineering works (excavations for pond system and strategic mounding)
- a ranger's facility (including EV charging garage)
- bird hides.
- new footpaths, bridges/boardwalks, boundary treatments,
- landscaping, tree/scrub planting
- interpretation boards (heritage and ecological)
- connection to/diversion of existing site land drainage system in the localised area

The principal works will result in new wetland habitat with controlled public access through a series of routes looping through the ponds. A bird hide will be located en-route. The southern third of the site would have more restricted access owing to the proximity to ecologically sensitive areas and to promote further habitat for protected species.

Water from the Hoo Stream and the Medway Internal Drainage Board (IDB) water course LM99 will be redirected to the new wetland features. The red site line extends to the north of Abbots Court Road to include connection to the Hoo Stream.

There are three small areas of red site line separate to the main area, which are the locations of proposed interpretation boards related to the site's heritage.

The proposed ranger's facility (for rangers for all of the SEMS sites) would be located in the north-western part of the site and accessed via Abbots Court Road. The ranger's facility would also provide facilities for staff and volunteers. The facility buildings would be based on converted and timber-clad shipping containers with windows, glazed doors and green roofs. Using the same treatment, a garage would also be provided as an EV charging station.

## Site Area/Density

Site Area: 15.98 hectares (39.49 acres)

## Relevant Planning History

MC/20/3264 Land Bound by Main Road, Saxon Shore Way and Vicarage Lane, Main Road, Rochester, Hoo St Werburgh ME3 9HF.

Change of use from agricultural land to community park, comprising the installation of a toilet facility, formation of two car and cycle parking areas, two vehicle accesses (Main Road and Vicarage Lane), landscaping, tree planting, boundary treatments and associated works.

(Approved 27 July 2021)

## Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

KCC Archaeology, KCC Biodiversity, RSPB, Kent Wildlife Trust, Natural England, Environment Agency, Marine Management Organisation, Lead Local Flood Authority, Southern Water, EDF Energy, Southern Gas Network, Peel Ports, National Grid, Historic England, Medway Internal Drainage Board, Hoo Parish Council have also been consulted.

**Two** (2) letters have been received raising the following objections:

- the proposal will lead to further development in the area.
- it will destroy the natural habitat.

**Hoo Parish Council** raise the following concerns:

- the diversion of the Hoo Stream as this may lead to environmental harm by this drying up at some times during the year.
- No car parking is provided which will lead to on-street parking from visitors arriving by car.
- No cycle parking is proposed.
- No assessment has been made with regard to sustainable modes of travel.

**Dickens Protection Society** state that whilst they are concerned in respect to the loss of productive agricultural land this site is mostly within the flood plain and in this case, they support the application.

**KCC Biodiversity** advise that they are in principle supportive of the application and are satisfied that no further surveys are required to inform the decision. Bats, water voles, breeding birds, reptiles, Great Crested Newts and wintering birds are present within the site. The mitigation overview is acceptable, but a detailed mitigation strategy is required to be agreed by planning condition. If works do not commence within a year, then the surveys may need updating following a further ecology site visit. A 'Habitat Establishment and Management Plan' and 'Ecology Management and Monitoring Plan' are also required by planning condition.

**Natural England** refer to their Standing Advice.

**Environment Agency** advise that they have no objection to the proposal subject to a condition related to the agreement of a scheme to deal with a safeguarded area for potential flood defence set back.

**Marine Management Organisation (MMO)** have sent a generic response and advise that if works fall below the Mean High-Water Springs than a license will be required from the MMO. Under the Marine and Coastal Access Act 2009 ch.4, 58, public authorities must make decisions in accordance with marine policy documents and if it takes a decision that is against these policies it must state its reasons.

**Lead Local Flood Authority** advise that the site lies largely within Flood Zone 3 (High Risk) and is significantly affected by surface water flooding according to the Environment Agency Mapping. It is understood that this proposal will seek to reduce the existing pressure on the Hoo Stream and during the detailed design phase, subject to agreement from the Internal Drainage Board (IDB), further evidence of flood risk improvements should be explored. The SuDs components proposed offer appropriate water quality mitigation and these measures would also maximise other benefits associated with the use of SuDs and fulfil other planning objectives such as increased biodiversity, landscaping and enhanced amenity. Conditions are suggested related to the agreement of the detailed design of the surface water drainage, verification of its installation, agreement of a Construction Surface Water Management Plan.

**Southern Water** supply a copy of their infrastructure maps and their standard requirements for development in relation to their infrastructure.

**Southern Gas Networks** provided maps of their utilities within the area and standard advice.

**UK Power Networks** have provided a map of their utilities within the area and standard advice.

**National Grid** advised that the area is within the High-risk zone for their infrastructure and an assessment by their Asset Protection department is required.

**Historic England** advise that they do not wish to comment but refer to in house conservation advice and KCC Archaeology.

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021 and are considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

### **Site Description**

The site is about 16 hectares with the majority of the site being arable farmland of an open character, with tree/scrub along part of the eastern and western boundaries.

The agricultural land classification is partly Grade 1 (very good) and partly Grade 4 (poor quality) agricultural land. The site is relatively flat with a slow decline from north to south. The site is located within the Hoo Flats area as identified with the Medway Council Landscape Character Assessment 2011 (SPD) and Flood Zone 3 as identified on the Environment agency maps and an 'area benefitting from flood defences'.

To the south of the site is the Saxon Shore Way and the north shore of the River Medway. The Saxon Shore Way at this part runs along the top of the river embankment flood defence as well as a parallel branch running adjacent to the flood defence. This part of the coast is designated as 'Undeveloped Coast' within the Local Plan.

To the north of the site is the village of Hoo St Werburgh and Abbots Court Road is a private road with some houses and a forms part of the PROW footpath network (part of Saxon Shore Way). To the west is arable farmland, including a branch of the Saxon Shore Way. Beyond the fields are some marina and business use to the southwest. To the east is open countryside with some paddock uses, a mobile mast station, a small sewerage works and a small number of rural dwellings.

There are various heritage assets within the immediate area adjacent to the site – World War II pill boxes and the 'Hoo Stop Line' and the site is also in an area designated as having archaeological potential.

Adjacent to the south/south-eastern boundary of the site are the riverside salt marshes and mudflats within the Medway estuary. These are designated as nationally and internationally important ecology habitat. The Medway Estuary and Marshes Special Protection Area (SPA)/RAMSAR are designated as such for their international importance for wintering bird populations. The Medway Estuary and Marshes SSSI also has nationally rare flora. 30m<sup>2</sup> of the site falls within the SSSI. The River Medway is also designated as a Marine Conservation Zone.

There are a number of buried utilities running through the site from east to west.

## **Planning Appraisal**

### *Background*

The Design and Access Statement advises that:

"The site is being brought forward as part of a Future Hoo Strategic Environmental Management Scheme (SEMS), which is funded by the government Housing Infrastructure Fund (HIF). £14.35million of HIF money has been set aside to establish SEMS, just under £2.5 million of which will fund the creation of Hoo Wetland Reserve.

Key objectives of SEMS include:

- providing a network of open spaces designed to protect wildlife and ecology; and
- creating new public open spaces to attract residents, which may otherwise be inclined to access more sensitive habitats (Sites of Special Scientific Interest, coastal habitat etc).

All projects funded through HIF, must be delivered and in use by 2024....”

### *Principle of the development*

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan).

The proposal is for the development of a publicly accessible, managed wetland reserve. Its primary function is not as a leisure destination but is in part habitat creation and in part performing a drainage mitigation function, facilitated by the redirection of existing land drainage systems within the area. As such the proposal is considered to fall outside of a standard use class and be sui generis in nature.

Whilst it is acknowledged that the funding of the works is through the Housing Infrastructure Fund (HIF) and there may be an aspect of the application proposal that it is anticipated to mitigate some of the impact of a future housing proposal, no such housing application is with the Local Planning Authority and as such this current application must be considered on its own merits against policy and guidance.

The site mainly comprises agricultural land. ‘Agricultural land’ is excluded from the definition of ‘previously developed land’ in the Annex 2 of the National Planning Policy Framework and as such the site is a greenfield site. The site is located within the countryside.

Policy S1 of the Local Plan is entitled ‘Development Strategy’ and in part states:

*“In recognition of their particular quality and character, long-term protection will be afforded to: (i) areas of international, national or other strategic importance for nature conservation and landscape;”*

Policy BNE25 of the Local Plan states that development in the countryside will only be permitted if it is in accordance with two of seven criteria (part (i) and one of the other six parts). The first three points relate to this proposal:

*“Development in the countryside will only be permitted if:*

*(i) it maintains, and wherever possible enhances, the character, amenity and functioning of the countryside, including the river environment of the Medway and Thames, it offers a realistic chance of access by a range of transport modes; and is either;*

*(ii) on a site allocated for that use; or*

*(iii) development essentially demanding a countryside location (such as agriculture, forestry, outdoor or informal recreation); or...”*

In this case whilst the site is not allocated for use as a managed wetland habitat it is recognised in Policy BNE25 part (iii) that the location of such a use would most commonly be located within the countryside. Although there will be public access the

primary purpose of the proposal is not as a tourist/leisure destination. The site is not expected to be a significant destination in its own right – the site is not of such a size to be so and, whilst allowing for public access, would not provide any public facilities (toilets, cafes, parking). The proposal is acceptable in principle under Policy BNE25 of the Local Plan.

In respect to the loss of agricultural land as a result of this proposal, whilst there is no Local Plan policy in respect to the loss of agricultural land paragraph 174(b) of the NPPF 2021 states that planning decisions should recognise *‘the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land...’*

Natural England’s ‘Agricultural Land Classification’ map as identifies part of the site as Grade 1 - ‘Excellent’ agricultural land. In terms of interpreting the NPPF, ensuring that any decision contributes to an enhanced natural and local environment is relevant.

Overall, the primary aim of the proposed development is to contribute to and enhance the natural environment of the site, including benefits to natural capital and ecosystem services that would facilitate biodiversity net gain.

A further significant aim of the proposal is, in the words of the NPPF, *“establishing coherent ecological networks that are more resilient to current and future pressures.”* This aspect further contributes to the proposal enhancing the natural environment in the area and as part of a green network.

Furthermore, the NPPF states at paragraph 174(d) that *“development whose primary objective is to conserve or enhance biodiversity should be supported.”* As the proposed development meets these aims it is considered that the loss of agricultural land in this instance would not conflict with the objectives of the NPPF and is therefore not objectionable.

Therefore, on balance, the proposal is considered to be acceptable in principle and in relation to the policies and paragraphs above, but the details of the proposal remain to be considered.

### *Impact on the Countryside*

Whilst the proposal is acceptable in principle under Policy BNE25 (development in the countryside) the details of the proposal fall to be assessed in respect to part i) which requires development must maintain, and wherever possible enhance, the character, amenity and functioning of the countryside, including the river environment of the Medway and Thames.

The first of these criteria reflects directly paragraph 174(b) NPPF 2021 concern for the *“intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services...”*

NPPF 2021 paragraph 175 states that Local Planning Authorities should *‘take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure...’*

The Medway Landscape Character Assessment 2011 shows the site within the 'Hoo Flats' character area. This assessment has various guidelines for any development within this character area.

In this case the proposals provide a positive response to the guidelines for the Hoo Flats area, including supporting change from arable to grazing land; maintaining and improvement of reed beds; strengthening of biodiversity value; creation of woodland blocks; reinforcement of the landscape's tranquillity; maintaining openness; and the promotion of native species.

Referring to policy and guidance, the proposal is not considered to materially harm the character of the area but enhance it, in accordance with Policy BNE25 of the Local Plan and is sympathetic to the open nature of the countryside at this location and would enhance the wider benefits from natural capital and ecosystem services in accordance with paragraphs 174 and 175 of the NPPF.

#### *Design/Landscaping/Ecology*

Policy BNE1 of the Local Plan 'General Principles for Built Development' requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment. Policy BNE6 directs that in relation to major development important existing landscape features, including trees and hedgerows, should be retained. Policy BNE43 seek to retain trees, woodlands, hedgerows and other landscape features that provide a valuable contribution to local character. Paragraph 130 is key to the achieving well designed places.

Due to the nature of the proposed development matters of design, landscaping and ecology are all closely related and will be discussed together.

Policy BNE37 of the Local Plan relates to Nature Conservation outside of Designated Sites. Policy BNE35 relates to International and National Nature Conservation Sites and the long-term protection afforded to these sites. Policy BNE38 of the Local Plan is concerned with the provision of wildlife habitats in new developments that link into wider wildlife networks. Consistent with the statutory duties Policy BNE39 of the Local Plan relates to protected species and states that "development will not be permitted if statutorily protected species and/or their habitats will be harmed" and requires conditions or obligations to be attached to permissions to "ensure that protected species and/or their habitats are safely guarded and maintained."

Paragraph 180 of the NPPF 2021 states that '*d) development whose primary objective is to enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*'

In support of the application there has been submitted general arrangement plans and building plans, Biodiversity Net Gain Plan, Breeding Bird Survey Report, Reptile Survey Report, Preliminary Ecological Appraisal, Great Crested Newts Technical Report, Habitats Regulations Appraisal (including further information provided), Transect Bat Survey Report, Water Vole report, Wintering Bird Survey Report,

Landscape and Ecological Management Plan (LEMP), Ecology Mitigation Strategy, design and access statement with supporting Landscape Visual Impact information and a landscape strategy, Arboricultural Impact Assessment containing Tree Survey, Tree Protection Plan and Arboricultural Method Statement.

The proposal involves the creation of a network of open spaces that protect wildlife and ecology, through the creation of a variety of habitats. This includes a mix of wetland, channels, scrapes, ponds, grazed grassland, in addition to further hydrological enhancements. A Landscape Strategy has been provided with the Design and Access statement, but no detailed planting plans or planting schedules have been submitted at this stage.

It is accepted that the proposals represent a biodiversity net gain of 44.62%. This will be achieved through the creation of floodplain wetland mosaic, retention of hedgerows and river habitats, and a change in land management. A pedestrian loop has been created through a mix of pathways and boardwalks to the western portion of the site and will allow for low key passive recreation and visual amenity within the location, whilst also securing much of the site to be free from human interference to habitat areas. The pedestrian loop does not connect to the southern route of the Saxon Shore Way, following the sea wall, which will prevent increased activity in proximity to the RAMSAR site.

A change in landform from arable to coastal and floodplain grazing marsh would increase habitat connectivity with the eastern section of the Medway Estuary and Marshes (SSSI). The proposed retention of and creation of wooded/scrub areas between the linear boundary features would aid habitat and nesting opportunities on site for bird species. The proposals would also increase foraging opportunities for bats.

The securing of the conditions suggested by the KCC Ecologist will ensure that the long-term success of the reserve can be achieved over time.

The rangers' facilities proposed are based on the use of converted shipping containers which are insulated, and timber clad. In this use the resultant building would have windows and glazed sliding doors, green roof, solar panels, roof overhangs and retractable awning over the decked courtyard area. A garage for EV charging of corporate vehicles will be finished with a similar external treatment. These are considered acceptable in their design and appearance as facilities on this site.

Further conditions are required in relation to finalising hard & soft landscaping, planting plans, securing tree protection measures, and lighting for the rangers' facilities.

Notwithstanding that a small area of the site falls within the SSSI and the site is adjacent to SSSI, SPA and RAMSAR sites Natural England have redirected the LPA to their Standing Advice. The KCC Ecologist has been consulted and is satisfied that no further surveys are required to inform the decision. Bats, water voles, breeding birds, reptiles, Great Crested Newts and wintering birds are present within the site. The mitigation overview provided by the applicant is acceptable, but a detailed Ecological Mitigation Strategy (EMS) is required to be agreed by planning condition. If works do not commence within a year, then the surveys may need updating following



a further ecology site visit. A 'Habitat Establishment and Management Plan' and 'Ecology Management and Monitoring Plan' are also required by planning condition.

The applicant has provided a Habitat Regulation Assessment (HRA) to allow the LPA to screen this application under the Habitats Regulations and must be agreed by Natural England. This agreement from Natural England is awaited at time of writing.

Subject to the agreement of the HRA by Natural England and suitably worded conditions the proposal is considered to comply with Policies BNE1, BNE6, BNE43, BNE35, BNE37, BNE38 and BNE39 of the Local Plan and the relevant parts of paragraph 180 of the NPPF 2021.

### *Amenity*

Policy BNE2 relates to the protection of the amenities of future occupiers of the development and of neighbours in terms of privacy, daylight, sunlight, noise, vibration, heat, smell, airborne emissions. Paragraph 130 of the NPPF 2021 requires that a development functions well over its lifetime and provides a high standard of amenity for neighbours.

This site is remote from the urban area and whilst there are a few rural dwellings close to the boundaries of the site the nature of the works are such that no on-going negative impacts to their residential amenity would occur.

In respect to the construction phase of the development, given the proximity of some of the site to some residential dwellings, a Construction Environmental Management Plan will be required to ensure that there is suitable control of noise, hours of work, dust suppression and the prevention of the escape of pollutants. This can be secured by planning condition.

With respect to the various utilities that run through the site there is known to be an Extra High Voltage line. National Grid advised in consultation to the planning application that work must not proceed without the agreement of National Grid. However, the applicant has been in discussion with the National Grid's Asset Protection Team at design stage and provided details of the depths of the excavations. National Grid advised at that time that the cable on the site is decommissioned and that they do not have live assets in this location. As such there is no reasonable concern that any required application directly to National Grid to undertake these works would be deemed unacceptable.

Therefore, subject to suitably worded conditions, no objection is raised with respect to amenity impacts under Policy BNE2 of the Local Plan.

### *Impact on Heritage Assets*

Policy BNE18 of the Local Plan relates to listed buildings. Policy BNE21 relates to archaeology and requires that development take account of and protect from harm/mitigate/record findings at archaeological sites. Heritage matters are the subject of paragraphs 194, 195 and 197 of the NPPF and section 66 of the Planning (Listed Buildings and Conservation Area) 1990 where special regard has to be had to the

desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

In support of the application a Historic Environment Assessment has been submitted.

This report records that whilst there are no designated assets within the site there are 13 listed buildings within the wider vicinity of the site. Immediately adjacent to the site are three listed buildings: Anti-tank cubes on the sea wall and Type 24 pillbox and Type 28 pillbox, all related to WWII. The church of Hoo St Werburgh is Grade I listed.

The KCC's Historic Environment Record (KHER) also records 2 elements either falling wholly or partially within the site: the WWII 'Hoo Stop Line' (defence area in which component elements of the Stop Line – e.g., anti-tank ditches, gun positions, roadblocks – were constructed and operated) and an undated cropmark. These are non-designated heritage assets.

The site also falls within an area considered to have a high potential for palaeolithic remains as well as other archaeological potential, notwithstanding that it is known that this site has previously been used for quarrying before being used for agriculture.

Overall, it is considered that the existing historic views across the site to the Hoo Estuary, Hoo Fort and Hoo St Werburgh church are to be maintained. The site would remain of an open and rural nature and as such would still appropriately contribute positively to the setting of the Grade I Listed Church of St Werburgh. The views of the church to the west remains largely the same and would still be perceived as a rural parish church lying on the edge of the village which it serves. Therefore, it is considered that the proposal would have a negligible impact to the setting of the Grade I Listed church.

The Listed pillboxes and anti-tank cubes fall outside of the site itself but are part of the Hoo Stop Line defence area. Again site would remain open and of a rural nature and as such the setting of these listed structures remains largely the same. In addition, as part of the proposed development are a series of heritage interpretation panels to provide the public with means of better understanding the significance of components of the Hoo Stop Line.

Overall, it is considered that the proposal would result in a negligibly impact on the setting of these listed structures discussed and the Hoo Stop line non-designated heritage asset.

With respect to archaeological interest the KCC Archaeologist has not asked for any conditions further to the suggested condition in the archaeological section of the heritage report that a programme of archaeological field work would be required. As such an appropriately worded condition will be used.

Therefore, subject to a suitably worded planning condition the proposal is considered to comply with Policies BNE20 and BNE21 of the Local Plan and paragraphs 194, 195 and 197 of the NPPF.

## *Contamination*

Policy BNE23 of the Local Plan requires that proposals for development of land likely to be contaminated be accompanied by the findings of a site examination, which identifies contaminants. Policy BNE23 of the Local Plan and paragraphs 183 and 185 of the NPPF require that decisions should ensure that new development is appropriate for its location and takes account of the likely effects of pollution on health, living conditions and the natural environment.

No Preliminary risk Assessment and Ground Investigation Report has been submitted in support of the application. Based on the results of intrusive investigations and soil analysis outlined in the reports it is accepted that soil contamination is not an issue at the site.

The report also details that some ground gas monitoring took place with results on the monitoring and proposed further monitoring to follow as an addendum. To date this has not been received and therefore a condition requiring remediation is required to protect the buildings proposed for the site. (If received prior to determination this condition may be removed.)

An Unexploded Ordnances Risk Assessment has been submitted in support of the application. The UXO Risk Rating for the site is medium risk for WWII German bombs, anti-aircraft projectiles and land service ammunition. Mitigation measures for the medium risk scenario, for shallow intrusive works, are: UXO safety and awareness briefing, site specific training, non-intrusive magnetometer survey and target investigation, explosive disposal engineer to support site investigation. These mitigation measures can be secured by planning condition.

Therefore, subject to a suitably worded conditions, no objection is raised in terms of neighbour amenity under Policy BNE2 of the Local Plan.

## *Flood Risk & Drainage*

Paragraphs 159 to 169 of the NPPF 2021 relate to flood risk and that new development should be both directed away from the areas at highest risk of flooding and should not increase flood risk elsewhere.

A Hydrology, Feasibility and Flood Risk Assessment application has been submitted in support of the application.

The site is situated within flood zone 3, currently with river defences in place. There are flooding issues within the wider area and as such it must be ensured that this development would not increase any flooding within the site or area.

The Lead Local Flood Authority, Environment Agency and the Medway Internal Drainage Board have been consulted on this application.

The LLFA advise that, subject to agreement with the IDB, this proposal would seek to reduce the existing pressure on the Hoo Stream. The SuDs components proposed offer appropriate water quality mitigation in accordance with the most up to date guidance contained within the CIRIA SuDs Manual C753. These measures would also maximise other benefits associated with the use of SuDs and fulfil other planning

objectives such as increased biodiversity, landscaping and enhanced amenity. Planning conditions are required in respect to the full details of the surface water drainage scheme and that verification of the installed scheme is then required. A condition is also required for the agreement of a Construction Surface Water Management Plan (CSWMP).

The Environment Agency have raised a more strategic level matter regarding their medium/long-term intention for a 'managed realignment' of the flood defence and the withdrawal of maintenance of the flood defence. They advise that the current river wall will be managed only for another 20 years. After this time, they expect flood defences to deteriorate gradually, and this may have an impact on the proposed freshwater habitat (i.e., become combined with saline river water). Their comments are couched in discussion with respect to the proposal being part of a mitigation package for future housing development but as explained in the '*Principle of the development*' section of this report this application can only be determined on its own merits now. If any application for housing is submitted in the future that seeks to utilise this site as mitigation, then it will be for that application to justify that linkage at that time and consider any strategic level matters as the EA have raised.

In respect to the potential future situation that the deterioration of the flood defence might lead to fresh water and saline water integration it is a matter to be kept abreast of if and when it occurs but again is not determinant for this application. The applicant is fully aware of the EA intentions re the future of the flood defences. There are also ongoing conversations with the EA taking place between the Council and EA in regard to these matters and these are set to continue with the Council fully aware that there may need to be change undertaken in future time (more than 20 years away as the EA will continue maintenance for 20 years still).

As such, subject to suitably worded planning conditions the proposal is considered to comply with paragraphs 159 to 169 of the NPPF, but this is contrary to the EA advice as their suggested condition is not being taken forward.

### *Highways*

Policy T1 of the Local Plan relates to the highways impact of new development. Paragraph 130 of the National Planning Policy Framework requires that new development functions well within the area in which it is situated. Paragraph 111 of the NPPF 2021 clarifies that development should only be prevented or refused on highways grounds if: there would be an unacceptable impact on highway safety; or the residual cumulative impacts on the road network would be severe. Paragraph 112E relates to the provision of electric vehicle charging.

The site is accessed from the private road Abbots Court Road. No public parking (including cycles) is proposed at the site, but parking will be available within the public car park at Hoo Community Park. Currently there are no parking restrictions on much of Vicarage Lane. There is staff parking available on site which would accommodate 2 plus staff vehicles and includes a garage with electric vehicle charging.

The submitted plans does not show vision splays for the access but these can be secured by condition which also requires low vegetation to ensure adequate visibility

to the access.

Subject to conditions, the proposal is considered to comply with Policies T1 of the Local Plan and paragraphs 111 and 112e of NPPF.

### *Marine Plans*

Paragraph 170 of the NPPF 2021 requires that *“In coastal areas, planning policies and decisions should take account of the UK Marine Policy Statement and marine plans. Integrated Coastal Zone Management should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes.”*

The site is adjacent to the River Medway and subject to the Southeast Inshore Marine Plan which is regulated by the Marine Management Organisation (MMO). In consultation on this application the MMO advise that *“Under the Marine and Coastal Access Act 2009 ch.4, 58, public authorities must make decisions in accordance with marine policy documents and if it takes a decision that is against these policies it must state its reasons. MMO as such are responsible for implementing the relevant Marine Plans for their area, through existing regulatory and decision-making processes.”*

The MMO on-line tool only identifies the ‘Land’ policies as being relevant to the application site. These are deemed to be policies SE-INF-1 seeking to safeguard existing landing facilities; SE-CO-1 safeguard and optimise/co-operate with existing marine activities; SE-HER-1 will conserve and enhance elements contributing to the significance of heritage assets; SE-SCP-1 compatibility with their surroundings and not having an adverse impact on...the landscape of the area; SE-CC-2 resilience to the impacts of climate change and coastal change; SE-WQ-1 supports for proposals that protect, enhance or restore water quality; SE-ACC-1 supports appropriate enhanced public access; SE-TR-1 – support for sustainable recreation activities; SE-BIO-2 support for proposals that enhance or facilitate native species or habitat adaption or connectivity or native species migration; SE-BIO-3 support for proposals that conserve, enhance or restore coastal habitats.

On balance of planning matters, the proposal is considered to be an acceptable proposal that complies with the relevant Marine Plan policies and paragraph 170 of the NPPF.

### **Conclusions and Reasons for Approval**

The proposal is acceptable in principle and would enhance the ecological and biodiversity interests of this area and allow controlled public access to a potentially high-value ecology site. There will be benefit to the land drainage within the area and reduce the existing pressure on the Hoo Stream. It would also provide low key ranger/volunteer facilities for the site and the adjacent Cookham Community Park (planning permission extant).

Subject to conditions the proposal is considered acceptable in relation to matters of design, landscape and impact on the countryside, ecology, amenity, heritage assets, contamination, flood risk and drainage, highways and marine plans.

It should be noted that this compliance is considered to be achieved by the proposal notwithstanding the suggested condition by the Environment Agency, in regard to future withdrawal of maintenance of the flood defence, not being applied.

The proposal is acceptable in accordance with Policies S1, BNE1, BNE2, BNE5, BNE6, BNE18, BNE21, BNE23, BNE25, BNE35, BNE37, BNE38, BNE39, BNE43 and T1 of the Medway Local Plan 2003 and particularly paragraphs 111, 112, 130, 159 to 169, 170, 174, 175, 180, 183, 185, 194, 195 and 197 of the NPPF 2021.

The application is being referred for Committee determination as the applicant is Medway Council.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>