

Application Number	21/00306/AS
Location	Former Goods Yard, Bramble Lane, Wye, Kent
Grid Reference	604725 147086
Parish Council	Wye with HinxHill
Ward	Wye with HinxHill
Application Description	Erection of 9 houses
Applicant	Pathway Project 1 Ltd
Agent	Bhox Ltd
Site Area	0.48 ha

Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member.

Site and Surroundings

2. The application site is located adjacent to the Havillands housing development to the west with a number of residential properties backing directly onto the site. Wye Railway Station is located to the east of the site and Briar Close office/light industrial units are located to the south of the site.
3. Access to the site is off Bramble Lane with a right of easement across the land currently utilised as a car park serving the adjacent railway station. The car park is currently not formally laid out. To the north of the car park adjacent to the rear of number 43 Havillands, is a Southern Water sewage pumping station.
4. There are a number of site constraints, including the site falling within the North Downs Area of Outstanding Natural Beauty (AONB), being within an area of Archaeological Potential and given its previous uses, potential contamination. The site is adjacent to, but not within Flood zones 2 and 3, which are located to the east of the site beyond the railway line. The site also lies within the Stodmarsh catchment area.



Figure 1: Site Location Plan

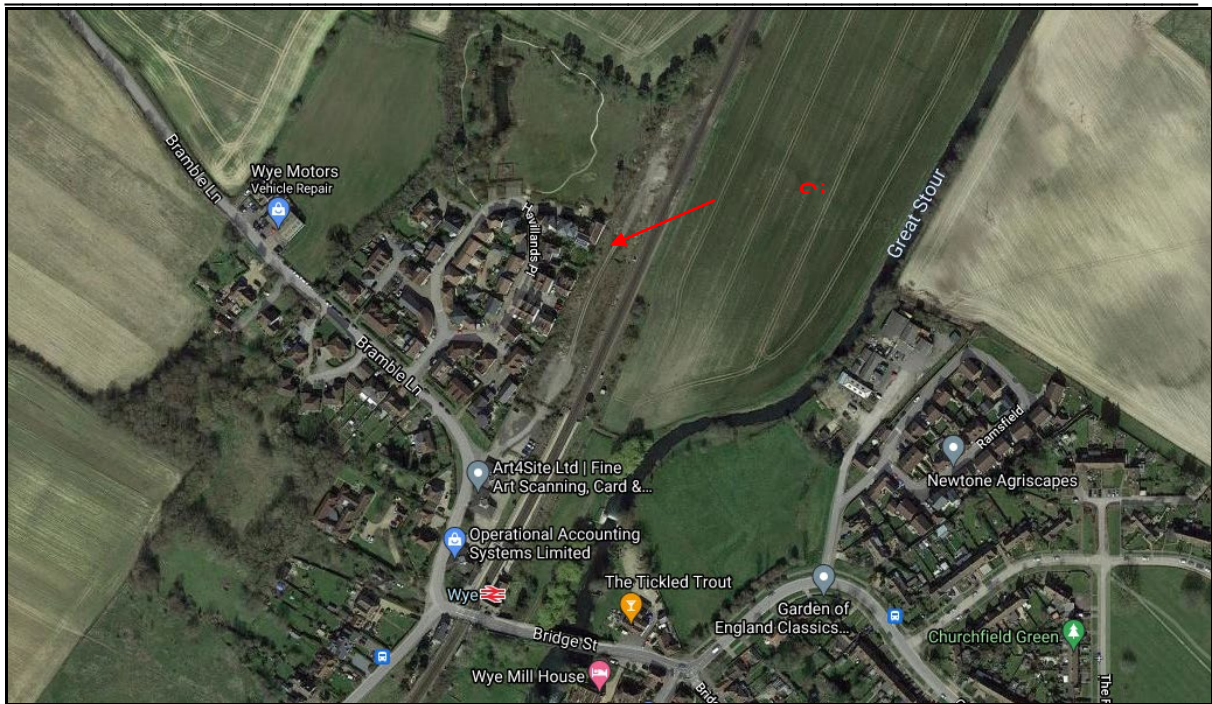


Figure 2: Google image of site

The Proposal

5. The application is a detailed application for the erection of 9 houses.
6. Amended plans have been submitted during the course of the application altering the main parking court layout to include more landscaping, adding tandem parking at Plot 1, reducing the central parking court to include planting and relocating the visitor parking from meadow area to the main parking court. Additional landscaping has been introduced, including hedgerow planting along the carriageway and planting / trellis planting on the boundary walls and house elevations along the footway within the site.



Figure 3: Proposed Site Plan



Figure 4 – Visual of site



Figure 5 – Central square visual



Figure 6 – Plot 1. View from main parking court into the site

Planning History

DC	FA	17/01646/AS	Development of 14no. dwellings with associated access and parking	Dismissed at appeal	18/06/2019
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Consultations

7. **Wye Parish Council:** Holding objection. As summarised below:

- Consider the site to be over 0.5 hectare and contributions should be sought (*NB the site area has not changed since the last application and is below 0.5 hectares. The vehicle access through the station car park does not count towards the site/development area*)
- Lack of landscaping.
- Stodmarsh.
- Buildings would be overpowering to Havillands
- Loss of privacy.
- Habitat surveys are out of date.
- Archaeology report recommends an archaeological survey
- Impact on AONB.
- Flood risk and drainage issues
- Fire and refuse access.

8. **Network Rail** – Comments summarised below:

- NR welcomes the developer's proposals to improve the station car park and will help the car park from getting blocked.
- NR would welcome a contribution from the applicant towards station improvements (NB not a planning contribution as not major development)
- Provides advice regarding construction works to safeguard NR land/access

9. **Environment Agency** – No objections. Recommend conditions relating to ground water contamination, surface water drainage and foundation design.

10. **KCC Heritage** – Site lies within an area of high potential associated with Romano-British industrial activity. Recommends archaeology field evaluations condition.

11. **KCC Biodiversity and Ecology:** - No further ecological surveys are required prior to determination of the planning application. The ecology reports recorded a medium population of GCNs and slow worm and a low population of grass snake and common lizard. There will be a need for updated surveys to inform the detailed mitigation strategies secured by condition. An offsite receptor site will be used for the reptile population and we are satisfied that this approach is acceptable. Recommend conditions for ecological enhancement, mitigation and lighting conditions.

12. **KCC Highways:** - No objection. Recommends conditions.

Formalised station car parking with 28 spaces is acceptable in principle and a parking survey demonstrated that a maximum of 28 cars parked within the car park at present. Adequate access is being proposed for the internal access road in the form of a 4.1 metre wide carriageway and 1.8 metre wide footway. Vehicle tracking has been submitted to demonstrate that an 11.4 metre long refuse vehicle can enter the site, turn around and then exit in forward gear. Parking provision is acceptable.

Some of the car parking spaces (for plots 4, 6 and 8) in the parking court are not well located to the dwellings they serve but this is a residential amenity issue rather than a highway safety issue as the internal road will remain in private ownership (*NB the parking court arrangement has been amended and parking is at least one parking space is now located adjacent to each house*)

Recommends a condition for submission of a Construction Management Plan.

13. **KCC Drainage** – 9 dwellings therefore outside remit to comment. However, have reviewed the FRA. Would seek to reduce the discharge rate 2l/s minimum which can likely be met by using permeable paving with tanked subbase.

14. **ABC Environmental Health** – Recommend conditions as per noise assessment, contamination and electric charging points.
15. **ABC Refuse** – There is sufficient space for RCV to enter and turn within the site.
16. **Neighbours:** 46 objections and one general comment received covering the following issues as summarised below:
 - Vehicle access through the station car park.
 - Density.
 - Out of keeping.
 - Unsympathetic design.
 - Increase traffic.
 - Increased parking pressure.
 - Landscape harm.
 - Loss of privacy.
 - Loss of outlook.
 - Overbearing impact.
 - Increased flood risk.
 - Too close to the railway leading to impact on future occupiers of the units.
 - Impact on local infrastructure.
 - Detrimental to the character of Wye.
 - Network Rail maintenance access.
 - Impact on AONB and views of the Crown.
 - Not part of the neighbourhood plan.
 - Ecological impact.
 - Contrary to Local Plan policies.
 - Outside Wye village envelope.
 - Scale of the proposed houses.

Planning Policy Context

17. The Development Plan

Section 38(6) of the Planning & Compensation Act 2004 replaces section 54A of the Town & Country Planning Act 1990 and states that if regard is to be had to the development plan for the purpose of any determination (including the assessment of any planning proposal) to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise

18. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden

Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).

19. The relevant policies in the Local Plan relating to the consideration and assessment of this application are as follows:-

20. SP1 – Strategic Objectives

SP2 – The Strategic Approach to Housing Delivery

SP6 – Promoting High Quality Design

HOU5 – Residential Windfall Development in the Countryside

HOU12- Residential Space Standards Internal

HOU15 - Private External Open Space

TRA3a - Parking Standards for Residential Development

TRA6 - Provision for Cycling

ENV3b – Landscape Character and Design in the AONB

ENV4 – Light Pollution and Promoting Dark Skies

ENV8 – Water Quality, Supply and Treatment

ENV9 – Sustainable Drainage

21. **Supplementary Planning Guidance/Documents**

Sustainable Design SPD

Sustainable Drainage SPD

Residential Parking

Residential Space & Layout (External space standards)

Dark Skies

Kent Downs AONB Management Plan

22. **Wye Neighbourhood Plan**

Policies WYE05, WNP1a, WNP1c, WNP2, WNP3, WNP5, WNP6, WNP8,
WNP9, WNP10

23. **National Planning Policy / Government Advice**

National Planning Policy Framework (NPPF)

The NPPF was published on 27 March 2012 but has been amended on several occasions, with the most recent in July 2021. Paragraph 11 of the National Planning Policy Framework sets out a presumption in favour of sustainable development. Paragraph 47 states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.

The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

National Planning Practice Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Design
- Determining a planning application

Assessment

24. The main issues for consideration are:

- a) Principle of Development
- b) Layout, Design, Character and Appearance
- c) Residential Amenity and Standards
- d) Access Arrangement, Parking Provision and Highway Safety

- e) Foul Water Disposal, Biodiversity & Habitat Regulations
- f) Five year housing land supply
- g) Other Matters

Principle of Development

- 25. The site is located adjacent to Wye train station and adjoins the housing development known as Havillands. The site is located outside but adjacent the village boundary in the Wye Neighbourhood Plan. Development proposals for the site were previously assessed under policy HOU5 and therefore should be again.
- 26. Previously, a scheme for 14 dwellings (ref: 17/1646/AS) was dismissed on appeal as recently as June 2019 and aspects of the Inspector's decision letter remain pertinent to the consideration of this application. It is important to recognise that, notwithstanding the dismissal of the appeal, the Inspector took the view that this site was suitable in principle for housing development when assessing the previous scheme - as set out in paragraph 6 of the Appeal Decision:
- 27. *'The Council acknowledges that the site comprises 'previously developed land', and is sustainably located close to public transport and day-to-day shops and services. Therefore, I see no reason why, in principle, residential development could not take place on the site, subject to various criteria being met'.*
- 28. The Inspector's Decision is a material consideration in the determination of the current application and provides a useful benchmark for assessing the proposed development under policy HOU5 and will be examined in greater detail below.
- 29. Policy HOU5 of the Local Plan relates to a residential windfall development outside the recognised built up confines of existing settlements. The policy states that proposals for residential development adjoining or close to the existing built up confines of the urban area of Ashford and sustainable villages will be acceptable providing the following criteria are met:
 - a) *The scale of development proposed is proportionate to the size of the settlement and the level, type and quality of day to day service provision currently available and commensurate with the ability of those services to absorb the level of development in combination with any planned allocations in this Local Plan and committed development in liaison with service providers;*

The Wye Neighbourhood Plan allocates land at the former Wye College for residential development, however, I consider that the proposal for an additional 9 dwellings in combination with the planned developments and recently approved scheme at the former College would not create

unacceptable additional pressure and would be proportionate to the size of the settlement and the services available in Wye, which include a train station, shops, a primary and secondary school, several pubs and restaurants, a doctor's surgery and small businesses.

b) The site is within easy walking distance of basic day to day services in the nearest settlement, and/or has access to sustainable methods of transport to access a range of services;

Although on the western side of the railway line, the site is located in proximity to the village services and facilities and is connected by dedicated walking routes.

A pedestrian route through the station car park would not be a dedicated pedestrian route which does weigh against the scheme in some respects in my opinion and would not provide the most welcoming entrance into the application site from a pedestrian's perspective. However, the Inspector found this arrangement to be acceptable during the appeal for 14 houses (as set out below) therefore I do not consider that it would not be reasonable to raise objection to this scheme on this basis now. Paragraph 17 of the Appeal Decision states:

'The Council has raised concerns regarding site accessibility for pedestrians, noting the absence of a pedestrian footpath, both across the car park and within the development itself. However, I do not consider it inherently problematic for pedestrians to walk through the car park to the site. Furthermore, the limited number of dwellings proposed means that, within the development, a 'shared surface' rather than separate pedestrian route should be adequate'.

c) The development is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider road network without adversely affecting the character of the surrounding area;

A majority of the objections received from local residents relate to the routing of the vehicle access through the station car park that adjoins the southern boundary of the site and an anticipated increase in traffic and parking pressures. An inability to demonstrate safe access to and from the site was cited by the Inspector as one of the reasons why the appeal on the previous scheme was dismissed.

To overcome this, as part of the current proposals, the developer is proposing to provide a dedicated parking layout within the station car park for 28 cars (Page 11 of the Transport Statement). The parking arrangement would enable a clear access route through the car park into the application site from the public highway and KCC Highways have advised that there are no objections to the proposed route and internal access / turning arrangements in terms of highway safety. In addition, ABC refuse services have confirmed that the route would be suitable for refuse collection vehicles. Network Rail welcome the proposed layout changes to the car park. No objections are therefore

raised to the vehicle access to the site through the car park subject to conditions.

There have been extensive discussions between the developer and Network Rail in respect of the new station car park layout, Network Rail have agreed in principle to a new access right over the station car park into the proposed development area for both construction traffic and for the permanent right of the future occupiers of the residential units. The 2 parties have also agreed Heads of Terms for the establishment of a permanent and defined vehicular link from the public highway to the site boundary. However, in order for the Council to ensure that such Agreement is secured, it is recommended that a 'Grampian style' pre-commencement condition be imposed to restrict commencement pending the submission of evidence of that Agreement (signed, sealed and engrossed) to the Council. This would obviate the need for a S106 Agreement involving the Council and leave it to the 2 parties to sort out the details between themselves whilst giving the Council sufficient control over the situation. It is understood that the Agreement between the developer and Network Rail would be subject to the following:

- Internal approval from Network Rail's asset protection team and engineers.
- LC17 approval for Network Rail's regulator the ORR.
- Agreement of the consideration for the right which currently includes: Resurfacing and relining the station car park, a storage/welfare area for Network Rail operatives at back of the development segregated from the residential units.
- Planning approval for the development.

Taken together with the proposed condition, I consider that this overcomes the Inspector's concerns about this matter from the previous appeal.

The additional nine residential units would not result in a significant increase in traffic generation on the local road network and there are not considered to be any objections in terms of highways safety or parking provision from the proposed development. Given KCC Highways views on this matter, and having regard to paragraph 111 of the NPPF which states 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, I am content that the proposal, subject to the imposition of appropriate conditions, satisfies this element of policy HOU5.

d) The development is located where it is possible to maximise the use of public transport, cycling and walking to access services;

The site has particularly good access to public transport (being adjacent to the railway station), cycling and walking to access services in Wye village and further afield.

e) The development must conserve and enhance the natural environment and preserve or enhance any heritage assets in the locality; and,

As set out above, the appeal Inspector accepted the principle of development on this brownfield site and the previous Appeal Decision sets out a number of useful parameters to assess the current application against.

The application site comprises a narrow brownfield site sandwiched between an existing housing development and the railway line, therefore there are no in principle objections to the redevelopment of the site for housing subject to an acceptable layout, scale and design which are assessed in further detail below.

Unlike the appeal proposal, the built development proposed in this application would not protrude beyond the existing building line of the adjoining Havilands development and would be seen much more in the context and backdrop of existing residential development. Given this, I consider there is a marked difference from the appeal proposal in terms of visual impact and potential impact on the rural setting of Wye and the wider character of the AONB. Consequently, I am content that the scheme is now acceptable in the context of this element of policy HOU5 and the criteria of policy ENV3b.

Similarly, given the location of the site, backdrop of the adjacent development and separation distances involved, including the railway line buffer it is considered that a suitably designed scheme would preserve the setting of the nearby conservation area providing the previous reasons for refusal can be overcome, as assessed below.

f) The development (and any associated infrastructure) is of a high quality design and meets the following requirements:-

- i) it sits sympathetically within the wider landscape,*
- ii) it preserves or enhances the setting of the nearest settlement,*
- iii) it includes an appropriately sized and designed landscape buffer to the open countryside,*
- iv) it is consistent with local character and built form, including scale, bulk and the materials used,*
- v) it does not adversely impact on the neighbouring uses or a good standard of amenity for nearby residents,*
- vi) it would conserve biodiversity interests on the site and / or adjoining area and not adversely affect the integrity of international and national protected sites in line with Policy ENV1.*

The Inspector did not raise any significant objections to the proposed layout of the previous 14 unit scheme stating at paragraph 7:

'The new dwellings would be of varying designs, with some constructed parallel to the railway line and others at right angles to it. The layout makes efficient use of an awkwardly shaped site, and takes its cue from the Havillands development: for example, the dwellings around the central square

replicate the orientation of the adjacent Havillands properties, with others reflecting the respective positions of existing adjacent dwellings. In these respects, I do not find the scheme objectionable’.

The principal reasons for the refusal of the previous application were the density, the lack in the variation of building height (only three-storey dwellings were proposed previously) and the encroachment into the meadow area beyond the established building line within Havillands.

The proposed development area would now be wholly within the existing brownfield site and there would be no intrusion into the countryside, therefore this reason for refusal has been successfully overcome.

In this respect the number of houses have been reduced and the northern development boundary would now respect the northern development boundary of the adjacent site at Havillands.

The northern part of the site would comprise a meadow area and would link into the existing meadow at Havillands. The northern boundary of the meadow benefits from established tree / hedgerow planting which would provide an appropriate landscape buffer to the wider countryside, in a similar fashion to the existing arrangement at the adjoining Havillands site. In addition, further tree planting / landscaping could be secured in this area by condition.

The current application follows a similar layout, albeit at a reduced density, to the appeal scheme, therefore no objections area raised in terms of the layout which would be sympathetic to the neighbouring development at Havillands. In addition, the proposals would infill a brownfield site located between the railway line and Havillands and would therefore preserve the setting of Wye village.

In terms of the scale, a variation in height is now proposed with a mix of two-storey and three-storey houses which would respect the variety of building heights found within the Havillands development.

Amendments have been submitted to increase the amount of landscaping within the site. Given the narrow and awkwardly shaped site there is limited space for any structural landscaping within the public areas. However, the revised scheme proposes a hedgerow along the eastern boundary of the site, planting at the entrance, the parking courts have been broken up with pockets of landscaping and the eastern elevation of some of the houses and garden boundary walls would be planted with climbing plants.

In terms of the design and built form, cues have been taken from the adjoining development at Havillands and the proposals would appear sympathetic to this neighbouring development. The design would comprise a more modern

approach than the neighbouring development which is considered to be acceptable and the layout would face the railway line creating an attractive and active frontage into the village by train. The palette of materials comprises facing brick and coloured cladding with recessed windows which are considered to be acceptable subject to a condition for material samples to ensure good quality materials are utilised.

As a result the proposed development of this brownfield site would not result in any significantly adverse harm to the character of the rural landscape or setting of Wye village and Wye Conservation Area. The Inspector noted that the development of this site would have limited impact on the AONB and I consider that the reduced density and layout and the variation in building heights would conserve the setting of the AONB and the site would be viewed in the context of the adjoining Havillands development.

Policy ENV1 states proposals should safeguard features of nature conservation interest and should include measures to retain, conserve and enhance habitats.

A Preliminary Ecological Assessment (PEA) and Reptile Presence survey was submitted in support of the application. The PEA was undertaken to classify the habitats present, determine the potential for protected species to occur within the site, identify key ecological constraints to minimise ecological effects through the design of the scheme, and suggest any further surveys or suggest ways to maintain, enhance or mitigating measures for biodiversity.

The submitted reports confirmed that a medium population of GCN and slow worm were found on the site and a low population of grass snake and common lizard.

The applicant proposes to use an offsite receptor site for the reptile population which is considered acceptable in principle and has been agreed by KCC Ecology subject to conditions requiring a detailed ecology mitigation strategy to safeguard protected species. There are opportunities for ecology enhancements to be incorporated into the housing development and the meadow area and these could also be secured by condition.

Living conditions

30. In accordance with policy HOU12 and the provisions in the national guidance, the internal layouts meet the set standards. The external amenity spaces are also satisfactory and in accordance with policy HOU15.
31. During the previous application, objections were raised by the Council regarding the proximity of the proposed development to Havillands and a loss of privacy and overbearing impact. However, it is noted that the Inspector did

not raise any concerns on this point as set out at paragraph 11 of the Appeal Decision:

32. *'In my judgement, the proposed relationship between all the dwellings would be acceptable. Some degree of mutual overlooking is not unusual in residential areas. Indeed, I note that the distances and relationships between the dwellings do not appear to be significantly different from that found at the adjacent Havillands scheme. Overall, I do not find that the appeal should fail on this ground'.*
33. The current scheme proposes a similar layout to the refused application in terms of the relationship with Havillands, therefore no neighbour amenity objections are raised.
34. The proposals are supported by a noise assessment to determine the impact of noise from the adjacent railway and pumping station on the future occupants. The Inspector concluded that there would be no issue from noise subject to various mitigation measures to safeguard future occupants. This view has been echoed by the Council's Environmental Health department and conditions are recommended to safeguard future occupants from the nearby railway line/station and pumping station.

Parking

35. The proposals would provide policy compliant parking for the proposed development, including visitor parking in accordance with policy TRA3a. Some secondary parking spaces for the housing are proposed in the parking courts, however each house would have at least one parking space adjacent / on plot for easy access.
36. Policy compliant cycle parking is proposed in individual cycle sheds at each property.

Foul Water Disposal, Biodiversity & Habitat Regulations

37. The site falls within the 'Stour Lower' Operational Catchment Area. The Council has received Standing advice from Natural England (NE) regarding the water quality at the nationally and internationally designated wildlife habitat at Stodmarsh Lakes, east of Canterbury, which in particular includes a Special Area of Conservation (SAC), a Special Protection Area for Birds (SPA) and a Ramsar Site.
38. The effect of the advice implies that this proposal must prima facie now be considered to have a potentially significant adverse impact on the integrity of the Stodmarsh Lakes, and therefore an Appropriate Assessment (AA) under the Habitats Regulations would need to be undertaken and suitable mitigation identified to achieve 'nutrient neutrality' as explained in NE's advice, in order for the Council to be able lawfully to grant planning permission.

39. Under the Council's Constitution, the Head of Planning and Development already has delegated authority to exercise all functions of the Council under the Habitats Regulations. This includes preparing or considering a draft AA, consulting NE upon it, and amending and/or adopting it after taking into account NE's views.
40. As such, the applicant is required to carry out a Habitats Regulations Assessment (HRA), which generally includes an Appropriate Assessment (AA) carried out by the competent authority, in this case the LPA (NB: the second, more detailed stage of an HRA). The findings of the HRA need to be referred to Natural England and there is a duty to consider their response.
41. As matters stand, it is likely that an off-site package of mitigation measures could be required in order for this proposal to achieve 'nutrient neutral' status and in the absence of such measures (or any others) having been identified and demonstrated to be deliverable, it is not possible to conclude that the scheme would be acceptable in respect of this issue now.
42. However, work commissioned by the Council has commenced on identifying a package of strategic mitigation measures that it is hoped would enable relevant developments within the Borough's River Stour catchment (where the NE advice applies) to come forward on a 'nutrient neutral' basis, subject to appropriate obligations and conditions to secure the funding and delivery of the mitigation before occupancy of the development.
43. Therefore, aside from the issue highlighted above, this proposal is considered to be otherwise acceptable (subject to conditions), it is recommended that a resolution to grant planning permission should be subject to the adoption by the Head of Planning and Development, having consulted NE, of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in order to reach that assessment.

The application proposals in relation to the Borough's 5 year housing land supply

44. The Council can currently demonstrate just over 4.54 years supply of land for housing, which includes a 5% buffer.
45. Given that a five year supply of housing land cannot be demonstrated and is therefore a material consideration, ordinarily the tilted balance in paragraph 11(d) of the NPPF applies.

46. This states that for decision taking,
..where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer), granting permission unless:
- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
47. However, in the circumstances of this particular case at the current time in fact the ‘tilted balance’ does not apply due to the effect of Reg. 63(5) in that NPPF footnote 7 and para. 181 provide, collectively, that the tilted balance only applies if and when an appropriate assessment has concluded that the proposal will not adversely affect the integrity of the protected site in question – in this case, Stodmarsh lakes. At present, this is not the case – and thus, under Reg. 63(5), it would not currently be lawful to grant permission in any event.
48. In this case, it is pertinent however to pay regard to the Council’s housing land supply position and the guidance contained in para. 11 of the NPPF which reinforces the need to permit proposals which are in accordance with the Development Plan. I consider this lends added weight to the recommendation below.

Other Matters

49. It is noted that the site is allocated in the Wye Neighbourhood Plan as a car park. However, the Inspector made an important comment on this point in his Decision letter on the appeal scheme by concluding that states that NP policies carry diminished weight in light of the (then) newly adopted Local Plan. The Neighbourhood Plan has not been revised or updated since 2019 and whilst it remains part of the Development Plan and its policies are material but should not outweigh the relevant Local Plan policies referred to in this report.
50. The previous application on this site was for 14 dwellings and was therefore a major development and subject to policies requiring affordable housing and other planning contributions. The current application is for 9 houses and is therefore not classed as a major development and the requirements for these contributions are no longer triggered. The Parish Council has indicated that

they believe the site area is greater than 0.5 hectares and is therefore a major development site. On this point, the site area has been checked by the Council and has not increased from the previous application and the Council are of the view that the development site area is below 0.5 hectares as stipulated on the application form. The access through the station car parking does not constitute part of the development site and is third party land and has therefore not been included in the measurement of the site area.

Human Rights Issues

45. Human rights issues relevant to this application were taken into account in the assessment of this proposal. The “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Conclusion

46. In conclusion, the Development Plan supports the principle of residential development close to the sustainable villages such as Wye, subject to compliance with policy HOU5 criteria, other relevant policies and adopted standards. This previously developed site lies on the edge of Wye, and is well located in terms of access to local services and facilities as well as public transport. In contrast to the previous scheme for the site dismissed on appeal in 2019, it is considered that the proposed development would not harm the rural character of the area, setting of the AONB or conservation area, by virtue of its scale, design and layout which would be in keeping with the character and the spatial pattern of the adjoining development at Havillands.
47. No harm to residential amenity is envisaged and the proposed development is acceptable in terms of its visual impact and impact upon the highway.
48. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh Special Area of Conservation (SAC) Special Protection Area (SPA), and Ramsar Site under the Habitats Regulations. Therefore, the recommendation to grant planning permission is subject to the adoption, under delegated powers, of an Appropriate Assessment to the effect that the development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in this respect.

Recommendation

Permit

- (A) Subject to the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations to be adopted by the Head of Planning and Development which identifies suitable mitigation proposals such that, in their view, having consulted the Solicitor to the Council & Monitoring Officer and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation and the following conditions**
- (B) Resolve to Permit subject to planning conditions and notes, including those dealing with the subject matters identified below (but not limited to that list) and those necessary to take forward stakeholder representations, with wordings and triggers revised as appropriate and with any ‘pre-commencement’ based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018**

Conditions

1. Standard Time Condition
2. Compliance with The Approved Plans
3. Landscaping Scheme to include additional tree planting
4. Materials to be Approved
5. Retention of Vehicle Parking spaces
6. Code of Construction Practice
7. Submission of evidence concerning the execution of a bilateral between the applicant / developer and Network Rail concerning establishment of a permanent and defined vehicular link from the public highway to the site boundary and right of passage
8. Electric Vehicles Charging Points
9. Biodiversity Enhancement
10. Ecology Mitigation
11. Removal of permitted development.
12. Drainage
13. Noise condition – protection for future occupiers.

1. Working with the Applicant

In accordance with paragraph 38 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,

- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,

- In this instance, the applicant/agent was updated of any issues after the initial site visit, was provided with pre-application advice, The applicant was provided the opportunity to submit amendments to the scheme/ address issues.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 21/00306/AS)

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