

<b>Application Number</b>	PA/2023/0715
<b>Location</b>	Chilmington Green, Land to west of Chilmington Green Road, Ashford, Kent
<b>Grid Reference</b>	E: 598374 N: 139263
<b>Parish Council</b>	Great Chart with Singleton
<b>Ward</b>	Weald Central
<b>Application Description</b>	Proposed construction of a Wastewater Treatment Plant, associated landscaping, and proposed vehicular access from Chilmington Green Road
<b>Applicant</b>	Hodson Developments Ltd
<b>Agent</b>	n/a
<b>Site Area</b>	1.14 hectares

Additional representations received post deferral at the December Meeting

(a) 21 'R' (b) CMO (c) none  
'comment'

## Introduction

1. This application was deferred by Members at the Planning Committee meeting on 13 December 2023 for the following reasons:
  - i. A site visit to be arranged to allow the Planning Committee to further consider the proximity of the proposed development to existing and planned homes and the retail facility at Stubbs Cross;
  - ii. Further justification to be sought from the applicant in terms of the proposed design approach in terms of its suitability related to the context of the site and the need to ensure that the proposed works could be operated in a manner that would not give rise to matters of odour and noise impacts that would harm the amenities of existing and future occupiers in the locality;

- iii. Concern as to the acceptability of the proposed landscaping scheme to fully screen the proposed development in the landscaping with the applicant invited to review the proposals and consider the provision of additional woodland planting;
  - iv. The matter of whether Environmental Impact Assessment applies to the proposed development to be further reviewed by Officers.
2. The report and update report presented to Planning Committee on 13 December 2023 are provided in **Annex A** and **Annex B** of this report.
  3. In response to items (ii) – (iv) above, the applicant has submitted the following new supporting information and amended and additional drawings:

#### Supporting Information

- Advice Note from Richard Harwood OBE KC dated 19th January 2024;
- Letter from Severn Trent Connect, 21 February 2024;
- Letter from Te-Tech, 11 March 2024;
- Corylus Ecology Addendum Letter, 13th March 2024;
- WwTW Discharge Assessment Technical Note from Water Environment, 19 March 2024;
- River Beult Monitoring Technical Notes for October, November, December 2023, January & February 2024, from Water Environment;
- Chilmington Green Foul Drainage Strategy Update Statement, March 2024;
- The Environmental Effects of Proposed Foul Drainage Strategy Update Statement, March 2024.

#### Amended and additional Drawings

- Te-Cyc Plant Elevations ref: CHIL-TET-XX-XX-DR-C-0005 P01.1A
- Te-Cyc Plant Plan ref: CHIL-TET-XX\_XX-DR-C-0002 P01.5B
- Proposed Location for Monitoring Points Plan
- D0500\_001\_D\_Landscape proposals

- D0500\_002\_D\_Planting Schedule
  - D0500\_004\_D\_Proposed Sections
  - D0500\_005\_B\_Stubbcross Wood Extension
  - Sketch Visualisations
4. I set out below how the applicant has, via the submission of the above information, addressed the reasons for deferral (ii), (iii) & (iv).

**Design approach in relation to the context of the site and in respect of odour and noise Impacts**

5. The homes closest to the WwTP site are located approx. 250m to the south east, on the southern side of Tally Ho Road and the eastern side of Magpie Hall Road. The closest existing homes within the Chilmington Green development are located within The Hamlet, approx. 750m to the north. The nearest homes proposed within the Chilmington Green development would be located approx. 400m to the north and north-west. Homes are also proposed approx. 300 metres to the east as part of the Court Lodge development, currently the subject of a live planning application. These proximities are illustrated in **Figure 1** below.

Comparison to Ashford Waste Water Treatment Works

6. Members' highlighted that odour impacts have previously been experienced by residents living in proximity to the Ashford WwTP and that this issue had taken some time to resolve, with the treatment tanks now being enclosed with lids. Members raised concerns that the same odour impacts could be experienced by residents living in close proximity to the proposed Chilmington Green WwTP, given that the treatment tanks are intended to be open.
7. In response to Members' concerns, the applicant has advised that the existing Ashford WwTP is very different in terms of its age, scale, technology and the activities that take place on that site when compared to the proposed Chilmington Green WwTP. The processes at the Ashford WwTP remain largely unchanged since its original construction in 1966. Each stage of the treatment process is separated out and takes place on a different area of the site due to the scale and nature of the waste that enters the works. Ashford WwTP currently serves a population equivalent of circa 120,000. It deals with waste received from the Ashford sewer network, plus waste tankered in and industrial and trade waste.



**Figure 1:** Proximity of existing and proposed homes to WwTP site

8. In contrast, the proposed Chilmington Green WwTP would only receive domestic sewerage from a defined sewerage network – from houses at the Chilmington Green development and potentially, the neighbouring Hodson development proposal known as ‘The Gables’ on Mock Lane which has received a resolution to grant planning permission. This would entail servicing the needs generated from a population of circa 15,000. This defined network reduces the risk of the wastewater entering the proposed WwTP being of variable make up or becoming septic by the time it arrives, which the applicant identifies are both issues that can be a major cause of odour ‘spikes’.
9. The design of the proposed Chilmington Green WwTP is based on the latest technology. The entire treatment process would be contained within a single tank and the proposed WwTP would have three tanks in total. In the event that operational problems occur within any tank, it could be shut down whilst the other tanks remain in operation. The applicant contends that this would reduce the likelihood of odour arising even in the event that there was a temporary operational failure on site.
10. The Council’s Environment Protection team has reviewed the submissions and advises that the explanation provided by the applicant is considered to be reasonable and accurate.

### Enclosing the Treatment Tanks

11. Members' requested that further consideration be given by the applicant to enclosing the three treatment tanks. In response, the applicant has contacted the manufacturer, Te-Tech, who advise that enclosing the tanks "*would compromise routine operation and maintenance*". Te-Tech state that "*operators are required to visually inspect the process, monitor instrumentation and access equipment. The inclusion of covers on the tank would restrict access and be problematic to the routine operation and maintenance activities*".
12. The applicant also maintains that if such operation and maintenance becomes more complicated and challenging due to covers then this could potentially affect the operation of the WwTP. The key to ensuring that minimal odour levels are generated is continued efficient operation. Measures that could complicate this could be counterproductive.
13. Te-Tech also explain that "*the process design is based on a successful and well established biological treatment process with over 1000 reference plants worldwide. It is standard practice that the process tanks are not covered*". Te-Tech state that they are "*unaware of any occasions where this has given rise to concerns or complaints in relation to odour*". Te-Tech refer to the Southern Water facility at Hawkhurst South and advise that "*there are no odour concerns on this plant which is comparable to Chilmington Green in terms of the process solution and scale*".
14. In addition, the applicant has advised that enclosing the tanks would increase their height by at least an extra metre, with any access gantries that would be required further increasing the height of the Plant.
15. It is, however, agreed by the applicant that the proposed sludge holding tank can be enclosed with a lid, as this would not cause any complications to the operation of the Plant. The proposed Plant Plan has therefore been updated accordingly, this is shown in **Figure 3** below.

### Sludge Disposal

16. An additional query was raised at the December Planning Committee meeting about sludge disposal. The applicant has confirmed that sludge from the site would be taken to a wastewater treatment plant with a dedicated sludge treatment centre. This would be located outside the Stodmarsh catchment area. I recommend a planning condition to ensure the sludge is disposed of outside the Stodmarsh catchment.
17. The applicant has also provided further details of the regularity of anticipated sludge tanker movements. To deal with sewerage from the first circa 400

dwellings at Chilmington Green being treated by the Plant, it is anticipated that there would be one vehicle collection approximately every month. To deal with circa 800 dwellings this would require a collection twice a month.

### Noise

18. As set out in paragraphs 249-255 of the December report to Planning Committee, the applicant's noise assessment confirms that, with the noise mitigation measures proposed (comprising of acoustic shrouds around the air blowers and the bund around the perimeter of the site), noise from the WwTP is not expected to result in noise disturbance to existing or future residents (based on the proximities described at paragraph 5 above). As I previously recommended in my report to December's Committee meeting, a planning condition could be attached to any grant of permission to require the submission of a post-completion acoustic assessment so that actual noise levels can be assessed and any additional mitigation, if necessary, installed to protect the amenity of existing and future nearby residents.

### **Landscape Scheme**

#### The Bund

19. The applicant has revised their landscape proposals to provide an outer row of coniferous trees at the foot of the proposed bund on its northern and southern sides. The trees would be fast growing Leylandii Cypress. The height upon planting would be circa 5.0 metres to provide an instant screen.
20. Structural planting is still proposed on the bund behind the coniferous trees. Once the structural planting has reached sufficient maturity to provide an effective screen by itself, then the Leylandii Cypress would be removed. The removal of the Leylandii Cypress can be secured via condition.
21. The applicant has also revised the planting mix of the structural planting to include evergreen varieties and fast growing shrubs and trees, to address concerns raised by Members that the previously proposed structural planting mix would only provide screening for part of the year. The revised landscape details are shown in **Annex C** below.
22. The coniferous trees are not native and, given the planting would be within close proximity to ancient woodland (Stubbcross Wood) the species is especially important. The applicant's landscape architect has advised that there are no suitable native varieties of evergreen trees and shrubs that would grow quickly enough to provide the instant landscape screening that is requested by Members. The Council's arboricultural officer has reviewed the revised landscape plan and advised that as the non-native evergreens are

proposed as a temporary landscaping measure they would not have a long-term effect as they would not self-seed and they would provide good nesting opportunities for birds.

23. The height of the bund would remain as previously proposed (1.8m). The applicant has advised that the proposed 5.0m high evergreen screen would provide a larger screen than could be achieved through increasing the height of the bund. In addition, a more steeply sloped bund would make the growing environment for the landscaping more challenging and, in my view, would be likely to need an increased area for the bund to maintain a safe and appropriate gradient.

#### Stubbcross Wood Extension

24. The applicant now proposes to bring forward an early part of the Stubbcross Wood extension. This would provide woodland in-between Stubbs Cross and the Southern Water pumping station site / proposed WwTP site. This planting is not currently required to be provided until Phase 3 of the Chilmington Green development, currently envisaged to be delivered between 2031 and 2042. This planting extension to the Wood would include a mix of evergreen species and faster growing varieties. Specimen trees would be planted along the edge of Tally Ho Road and Chilmington Green Road. In addition, planting to the south would include poplars, which are fast growing trees. As part of the wider planting matures the applicant envisages that the poplars would be removed as part of the on-going management of the area. The implementation of this planting can be secured via condition as it would be located on land owned by the applicant within the blue line shown on the submitted site plan. The proposed woodland extension is shown in **Annex C** below.

#### **Environmental Impact Assessment (EIA)**

25. I have undertaken a further review of the information submitted with the application and requested the following additional information from the applicant in order to establish whether the project would (or would not) have 'significant environmental effects:
- i. Documentary evidence to demonstrate that the proposed development would have no significant environmental effects on the river Beult;
  - ii. Further details about the proposed outfall pipe and inlet pipe.
26. I also asked the applicant to provide a report setting out to what extent the environmental effects of the revised foul drainage strategy for the Chilmington Green development (to include a WwTP) differ from the environmental effects assessed in the Environment Statement (ES) and Addenda submitted with the

outline planning application for Chilmington Green. This is in order to establish whether an update to the Chilmington Green ES is required in accordance with Condition 15 of the outline planning permission for the Chilmington Green development, which states:

*“Except where a variation does not have significantly different environmental effects from the effects of the proposals assessed in the Environmental Statement dated July 2012 (as updated in the Environmental Statement Addendum dated February 2013, the Environmental Statement Addendum dated September 2014, and the Environmental Statement Addendum dated February 2015) and such variation is first authorised in writing by the Local Planning Authority, the development shall conform to the proposals so assessed, and shall be carried out in accordance with the Reserved Matters approved by the local planning authority.”*

#### Effects on the River Beult

27. To ensure that the WwTP would have no significant environmental effects on water quality in the river Beult, the discharge from the WwTP would need to meet water quality standards and targets set by the Environment Agency (EA). The applicant has previously submitted information from Te-Tech, the manufacturer of the Plant, which sets out the standards and parameters of discharge that the proposed WwTP can achieve. In addition, the applicant's consultants (Water Environment) has described how the WwTP has been designed to operate within the parameters acceptable to the EA. However, no evidence had been submitted to demonstrate that the EA standards and targets could be met in reality. This would depend on the results of the water flow and water quality monitoring that is required as part of an EA Permit application.
28. The applicant's consultants (Water Environment) are undertaking water flow and quality monitoring at five locations along the watercourse of the river Beult along which the WwTP is proposed to discharge. To date, five months of monitoring has been undertaken. The locations of the monitoring sites are shown in **Figure 2** below.



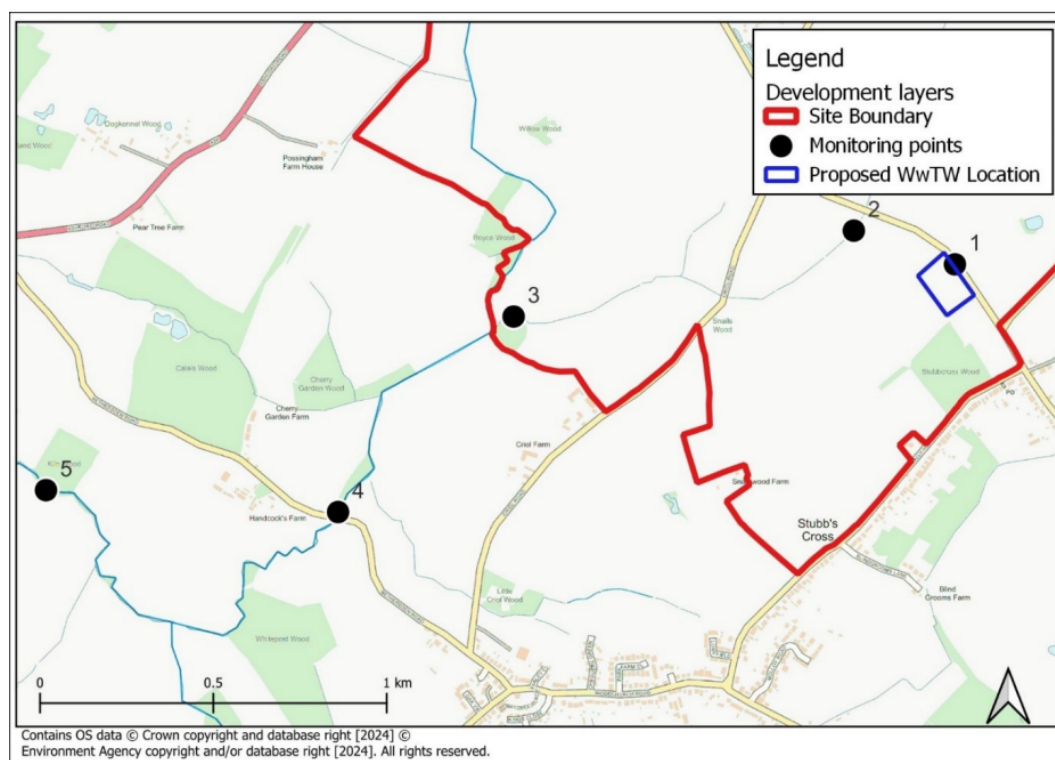


Figure 2: Water Quality & Flow Monitoring Locations

29. The monitoring will identify the existing water quality and flow within the watercourse and whether there are any notable abnormalities. If there is not enough water flowing within the watercourse then this could mean that the treated effluent would not be sufficiently diluted at its proposed point of discharge. In this scenario, the EA may require an alternative point of discharge further downstream. Additionally, if the water quality of the watercourse is already poor this could mean that the standards and parameters the proposed WwTP is currently designed to achieve would not be sufficient to ensure water quality is not effected. In this scenario, the EA may set more stringent permit levels.
30. The applicant has advised that the monitoring is testing for Biochemical Oxygen Demand (BOD); Total Suspended Solids (TSS); Alkalinity; Total Nitrogen; and Total Phosphorus (dissolved). The applicant has provided the following description of these compounds:
  31. *“BOD is an indicator of organic pollution in freshwater bodies correlated to microbiological contamination. High BOD concentrations reduce oxygen availability, degrade aquatic habitats and biodiversity.*
  32. *High levels of TSS can increase water temperatures and decrease dissolved oxygen levels leading to ecological degradation of aquatic environments.*

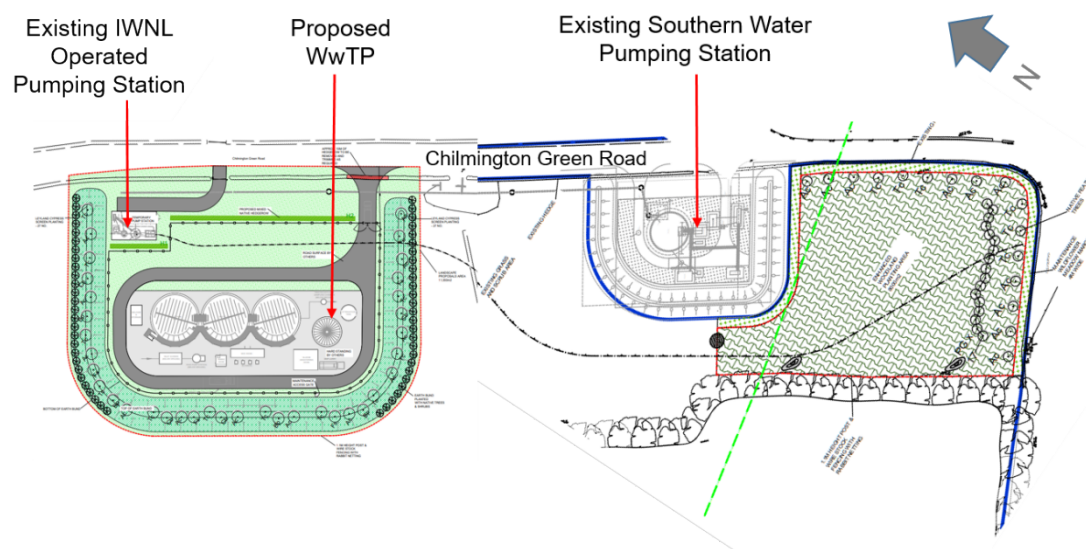
33. *An increase in excess nutrients such as phosphorus and nitrogen entering into water courses can cause algae to bloom to high levels in water. This can prevent oxygen entering the water, suffocating life beneath the surface.*
34. *The pH of a watercourse (i.e Alkalinity) is controlled by a combination of the geology, the plants in the river and human activity. Pollution can change the water's pH, which in turn, can harm the ecological make-up of the water course."*
35. With regard to water flow, the monitoring undertaken to date demonstrates that the proposed point of discharge (Identified at Site 2 in **Figure 2** above) experiences varied flow. The applicant's consultants' state that *"Site 2 has not been dry during any of the 8 monitoring visits. The minimum depth recorded (centre of channel) was approximately 10cm at site 2 with no measurable flow due to excess vegetation within the channel. The maximum depth and discharge at Site 2 recorded over the five-month period was 60 cm and 0.06 m<sup>3</sup>/s respectively"*.
36. The applicant's consultant also advises that the monitoring data produced to date has not identified any abnormal or unusual findings in respect of water quality. *"BOD across all four sites was found to be generally under the limit of detection (1 mg/l). Alkalinity was found to be highest at Site 2 and gradually decreased through sites. TSS varied across the sites and there was no clear pattern identified, however, it was generally found to be higher after rainfall. TN was found to be highest at Site 2 at an average of approximately 9 mg/l and gradually decreased from Site 2-5, with an average concentration at Site 5 of 2 mg/l. The same observation was made for TP, however, the concentrations ranged from a maximum of 130 µg/l at Site 2 and minimum of 50 µg/l at Site 5."*
37. Consequently, the applicant has advised that the proposed WwTP can treat wastewater flows to a level that would safeguard water quality based upon the five months of data already compiled. The applicant therefore currently envisages that they would apply for a surface water discharge permit. However, if seasonally dry periods are identified during the monitoring to be undertaken during the spring and summer months then a permit to discharge to groundwater could be sought, or the discharge point could be moved further downstream where there is acceptable flow all year round.
38. In addition, a letter from Severn Trent Connect, who would operate the Plant, advises that if more stringent levels of treatment are required by the EA than those currently proposed, there are commercially available process technologies which can be incorporated into the proposed Te-Tech design to meet these requirements.

39. With regard to the impact on the River Beult SSSI, the applicant has submitted a letter from Corylus Ecology which provides an update to their previous review of the potential effects of the proposed development on the SSSI. Corylus Ecology explain that since their previous advice was prepared the applicant has finalised their proposals for the WwTP. Based on the finalised proposals, Corylus Ecology consider that the ecological, chemical and physical characteristics of the receiving watercourse would be protected.

#### Outfall Pipe and Inlet Pipe

40. The applicant has advised that the precise location of the outfall will be determined through the EA's discharge permit process. However, the monitoring work described above has identified that a suitable point of discharge to a watercourse can be achieved approximately 280m to the north-west of the proposed WwTP site (Identified at Site 2 in **Figure 2** above).
41. The applicant has advised that the gravity fall on the outfall pipe would be 1:50. The pipe would be 150mm in diameter and a simple brick built headwall would be provided at the point of outfall. No other apparatus would be necessary at the point of outfall. Monitoring of the treated effluent would take place at the outlet to the WwTP.
42. With regard to the inlet pipe, the applicant refers to a previously submitted technical note by SLR Consulting Ltd which explains how flows would be pumped into the WwTP. This indicates that there are two potential options, both would utilise the existing IWNL operated pumping station located adjacent to the proposed WwTP. Option 1 would entail retaining the existing pump within the IWNL operated pumping station and increasing the size of the valve chamber to include for a second rising main. The existing rising main would continue to pump the agreed flows into the Southern Water network but all excess flows would be directed into the second rising main through the installation of an actuated valve. The actuate valve would be motorised, controlled via telemetry and switch flows to the new WwTP once the agreed daily limit into the Southern Water system has been met.
43. Option 2 would involve the enlargement of the existing wet well arrangement within the IWNL operated pumping station to enable a second pump and rising main to be installed, which would direct flows into the WwTP. Once the existing pump reaches the daily limit into the Southern Water system it would be shut down and excess flows would be directed into the WwTP to be treated prior to discharge into the watercourse. The Southern Water pumping would be reactivated the following day until it again reaches its daily limit..
44. The outfall and inlet pipes do not form part of this planning application. Instead these pipes would be constructed under the permitted development rights

afforded to Severn Trent Connect, the proposed operator of the WwTP as a statutory undertaker. However, for EIA purposes, the pipes form part of the 'project' and therefore their impact needs to be assessed. The location of the proposed WwTP, and the existing IWNL operated pumping station and Southern Water pumping station is shown in **Figure 3** below.



**Figure 3:** Location of existing pumping stations and proposed WwTP on Chilmington Green Road.

### Assessment of Environmental Effects

45. As set out in my report to Planning Committee in December (paragraphs 25 - 29), the proposed development is Schedule 2 development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). Therefore, the Local Planning Authority (LPA) is required to “*determine whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required*” (ref: National Planning Practice Guidance (NPPG), paragraph: 017 reference ID: 4-017-20170728). The environmental effects are determined via a screening opinion.
46. The NPPG advises that when an LPA issues its screening opinion it must state the main reasons for the conclusion with reference to the relevant criteria listed in Schedule 3 of the 2017 Regulations. Where it is determined that a proposed development is not Environmental Impact Assessment development, then the LPA must state any features of the proposed development and measures envisaged to avoid, or prevent what might otherwise have been, significant adverse effects on the environment (ref: NPPG, paragraph: 018 reference ID: 4-018-20170728)

47. The criteria in Schedule 3 refer to the characteristics of the development; the location of the development; and the types and characteristics of the potential impacts. The NPPG advises that not all of the criteria will be relevant in every case and that each case should be considered on its own merits and in a balanced way. The fundamental test is whether, within the given location, a particular development and its specific impacts are likely to result in significant effects on the environment.
48. To assist the determination as to whether a development is likely to have significant environmental effects, the NPPG includes a set of indicative thresholds and criteria. These also provide an indication of the types of impact that are most likely to be significant for particular types of development. For a WwTP development, the indicative threshold/criteria and key issues to consider are:
- Threshold/criteria - site area of more than 10 hectares or capacity exceeds 100,000 population equivalent.
  - Key Issues - size, treatment process, pollution and nuisance potential, topography, proximity of dwellings and the potential impact of traffic movement.
49. My Screening Opinion relating to the proposed WwTP is provided in **Annex D** to this report. In summary, I conclude that, from the information submitted by the applicant, I have no reason to believe that the proposed development is likely to have significant effects on the environment such that it would require the submission of an Environmental Impact Assessment alongside other application drawings, plans and supporting documents. I conclude that all of the impacts can be sufficiently assessed from the information submitted with the application.

#### Implications for the Chilmington Green Wide Environment Statement

50. The Environmental Statement (ES) submitted with the outline planning application for the Chilmington Green development identified that the development would result in increased pressure on foul sewerage infrastructure. The ES identified that investment in the drainage infrastructure by Southern Water meant that there would be no off-site foul drainage capacity constraints associated with the development. The ES concluded that mitigation to reduce water demand from the development to reduce pressure on the foul sewerage infrastructure, alongside the Southern Water infrastructure works, would result in a direct, permanent, long term minor negative to negligible residual effect on local water demand as a result of the development.

51. The Southern Water sewerage network can no longer be utilised to serve the whole of the Chilmington Green development due to the requirement to achieve nutrient neutrality within the Stodmarsh Catchment. This involves the provision of a WwTP on site to treat waste water. The applicant identifies that the provision of a WwTP would not have an impact on the capacity of existing infrastructure.
52. The applicant has submitted a report setting out the extent of the potential environmental effects of the amended foul drainage strategy for the Chilmington Green development, involving the provision of a WwTP, when compared with the environmental effects of the original foul drainage strategy assessed in the ES submitted with the outline planning application for the development. The report assesses the impacts of transport and access; noise and vibration; local air quality ecology and nature conservation; landscape and visual effects; and flood risk, drainage and water resources. The report identifies that any differences that may arise are not considered to have significant environmental effects.
53. I have reviewed the applicant's report, and the information appended to it, and I have no reason to conclude that the proposed alteration to the foul drainage strategy for the Chilmington Green development would be likely to result in significantly different environmental effects that would require the submission of an updated Environmental Impact Assessment for the whole Chilmington Green development.
54. During the Planning Committee meeting in December, reference was made to the Court Of Appeal decision - Ashchurch Rural Parish Council v Tewkesbury Borough Council (also commonly known as the 'Bridge to Nowhere' case). Concerns were expressed to the Committee that the applicant's approach to the planning application submission amounted to 'salami slicing' in order to avoid the requirement to submit an Environmental Impact Assessment.
55. The Ashchurch Rural Parish Council v Tewkesbury Borough Council case involved a planning application for a road bridge over a railway. The bridge was proposed as part of a link road to serve an urban extension. Due to funding reasons, the planning application for the bridge was submitted separately and earlier than the planning application for the link road over it and the urban extension that it would serve. The planning permission was quashed, one of the reasons being that the Council had taken into account the beneficial effects of the development to be served by the bridge but had not taken into account the adverse effects of the development to be served by the bridge. It was considered perverse to take into account the benefits without the adverse effects too.

56. The wider Chilmington Green development has already been granted outline planning permission and, in so doing, its environmental effects have already been assessed. In terms of the approach required by the case law, the Screening Opinion considers the impact of both the WwTP that requires planning permission, the inlet pipe and the outfall pipe which is proposed to be constructed under permitted development and my conclusion is that the proposals would not result in significant environmental effects.

Relevance of Hillside Park Ltd v Snowdonia National Park Authority Supreme Court decision

57. A question was raised at the Planning Committee meeting in December as to whether this recent Supreme Court decision is relevant to the planning application for the WwTP. The issue raised by this decision concerns whether granting planning permission for the proposed WwTP would conflict with the wider Chilmington Green outline planning permission to such an extent that the Chilmington Green outline planning permission could no longer be built out further because it would be physically impossible to do so.
58. The Hillside Park Ltd v Snowdonia National Park Authority decision is not relevant to the application for the WwTP because the construction of the WwTP would not prevent the wider Chilmington Green development from being brought forward in the same form as originally envisaged. There is no case law that has stated that Hillside applies to outline permissions.
59. The WwTP would be constructed on agricultural land and not land identified for built development. The loss of the agricultural land, which is shown on the parameter plans for the Chilmington Green development as being brought forward as ecologically managed farmland, would not in my opinion be so significant (given the size of the WwTP site) to result in the ecological mitigation proposed within the Chilmington Green development being reduced to such an extent that the ecological impacts arising from the development would no longer be able to be acceptably mitigated. It would remain physically possible to bring forward the development in accordance and consistent with the outline planning permission for Chilmington Green.

**Other Matters**

60. The following additional matters relating to the proposed WwTP are addressed below:
- i. Operation and Maintenance
  - ii. Revised Site Plan

- iii. Environment Agency Permit
- iv. Chilmington Green Foul Drainage Strategy
- v. Temporary Pumping Station

Operation and Maintenance

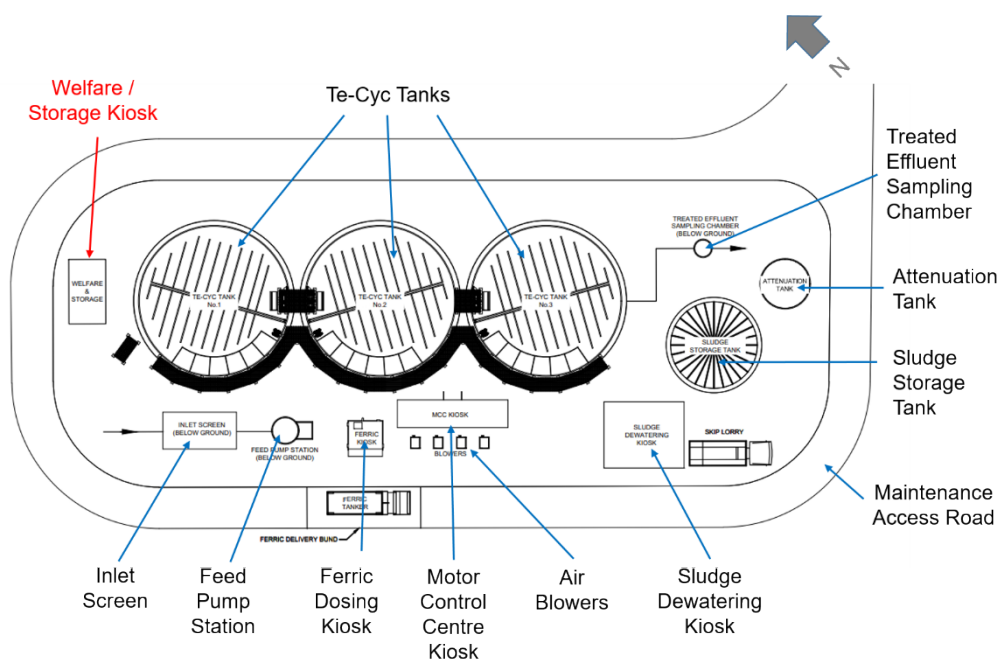
61. The applicant had previously advised the Council that Independent Water Networks Ltd (IWNL), who currently operate the waste water network for the Chilmington Green development, would operate and maintain the proposed WwTP. Since the Planning Committee meeting in December, IWNL has advised that it has not agreed to operate or maintain the WwTP. Consequently, the applicant has advised that Severn Trent Connect (STC) would now operate and maintain the proposed WwTP. A letter from STC confirms the following;
- i. STC is an Ofwat-regulated water company appointed by the Secretary of State to provide wastewater and surface water management services in England and Wales.
  - ii. Tripartite Heads of Terms have been prepared setting out arrangements between STC, IWNL and Hodson Developments. This agreement will be finalised if planning permission is granted by the Council. The agreement includes the transfer of the sewerage licence from IWNL to STC to serve the Chilmington Green development, and the design, build and operation of the WwTP.
  - iii. STC would apply to the Environment Agency (EA) for the required permit having undertaken the necessary studies (including a water quality and quantity study).
  - iv. If the EA determine that more stringent levels of treatment are required than those currently envisaged in order for a permit to be granted, there are commercially available process technologies which can be incorporated into the existing Te-Tech design to meet any such EA requirements.
  - v. STC has reviewed the two options outlined in the SLR Technical Note for separating the foul flows to be routed either through Southern Water's pumping station or to the onsite WwTP. STC is satisfied that both options would operate effectively.
  - vi. Uninterrupted sewage flows arriving at the WwTP are not a requirement for effective sewage treatment.



62. Hodson has also confirmed that STC would become the sewerage service provider in respect of wastewater infrastructure for Chilmington Green and that IWNL would have no future role in the operation of the proposed WwTP or the existing IWNL operated pumping station near to the WwTP.

Revised Site Plan

63. Following notification that STC would now operate and maintain the proposed WwTP, the applicant has also confirmed that the proposal still remains the Te-Tech design. However, STC have advised that, in order to comply with their safety standards, a welfare / storage kiosk would be required on site to provide site operatives with shower facilities and a storage area. This structure would have a footprint of 3.0m x 7.0m and would be 3.0m high with a flat roof. It would be constructed from Glass Reinforced Plastic (GRP) with an external green finish to match the colour of the other structures on site. The structure would be located to the north of the three treatment tanks, within the loop road. An amended site plan and elevations have been submitted to include this structure, these are provided in **Figures 4, 5 & 6** below.
64. I consider that the addition of the welfare/storage kiosk, given its size, scale, appearance and footprint, would not have any additional landscape or visual impacts over and above those already identified and assessed in my previous report to the Planning Committee. I therefore consider the addition of this structure to be acceptable.



**Figure 4:** Proposed Site Plan

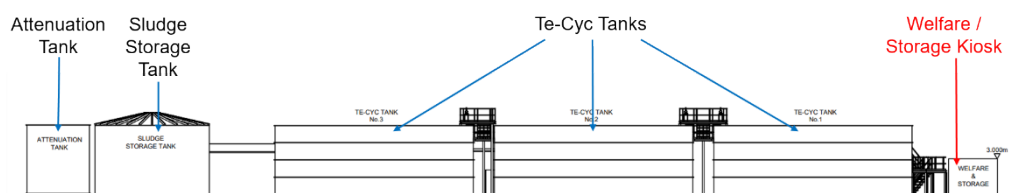


Figure 5: Proposed north-east elevation

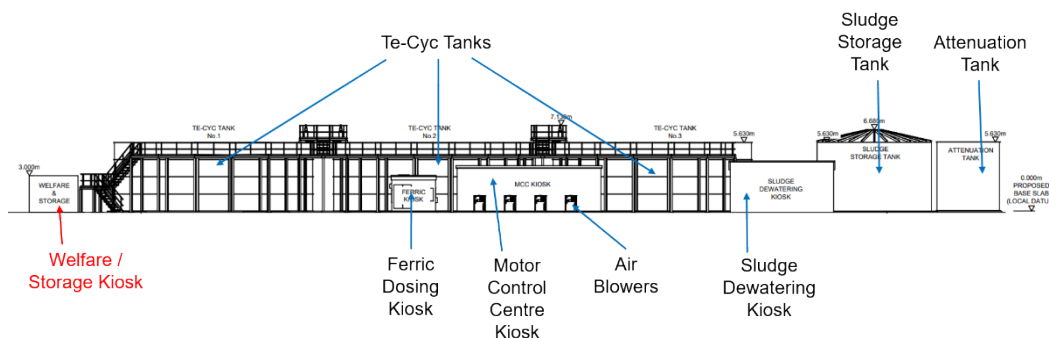


Figure 6: Proposed south-west elevation

### Environment Agency Permit

65. During the December Planning Committee meeting a query was raised about whether the applicant had submitted an application to the Environment Agency (EA) for a Permit to discharge treated effluent into the river Beult. The applicant has advised that a permit application has not yet been submitted and that if planning permission has been obtained, then the application to the EA would be submitted by Severn Trent Connect, an OFWAT approved/regulated company.
66. I also provide below additional information in respect of the EA approach to Permitting.
67. The discharge of treated effluent from the WwTP would be governed by the Environmental Permitting (England and Wales) Regulations 2016. Once the EA grant a permit, they monitor compliance and enforce permit conditions, as necessary. If an operator has, is or is likely to contravene conditions attached to a Permit then the EA may suspend the permit, for example, if the EA considers that there is a risk of serious pollution, flooding; detrimental impact on drainage; or serious harm to the environment. It is an offence to fail to comply with or to contravene an environmental permit condition and/or fail to comply with the requirements of an EA enforcement notice or a prohibition notice or a

suspension notice. Ultimate sanctions for contravening any of the above would be a fine or imprisonment.

68. The EA 'Guidance for developments requiring planning permission and environmental permits' (October 2012) document provides useful guidance about the relationship between the Permit process and the Town and Country Planning Act planning application process. A grant of planning permission determines if a development is an acceptable use of the land. The EA Permitting regime determines if the intended operations can be managed on an ongoing basis to prevent or minimise pollution.
69. An application to the EA for a permit will include an assessment of the environmental risk of the proposals including the risk under both normal and abnormal operating conditions. It will consider operator competence and management systems and consideration can be given by the EA as to whether the operator has a poor record of compliance with regulatory requirements together with their financial competence.
70. The EA Guidance states that when deciding a planning application, LPAs should:
  - i. be confident that the development would not result in unacceptable risks from pollution when considering whether the development would be an appropriate use of land;
  - ii. not focus on controlling pollution where that can be controlled by other pollution regulations, such as through the Environmental Permitting Regulations;
  - iii. take advice from other consenting bodies, such as the Environment Agency in reaching its conclusion on the appropriateness of the proposed use of land.
71. As set out in paragraphs 48 & 49 of the report presented to Planning Committee in December, the EA raised no objection to the proposed WwTP. The EA advised that the discharge from the WwTP will require an environmental permit and that OFWAT guidance must be followed.
72. The EA also advised that the discharge from the WwTP will be to a tributary of the River Beult. The Beult is a SSSI with agreed Common Standards Monitoring Guidance (CSMG) targets for water quality. Permit limits will therefore be calculated to protect the Water Framework Directive (WFD) status of the Beult and will also consider achieving favourable condition status of the River Beult SSSI. CSMG targets will therefore be considered when calculating permit limits for discharges upstream of the River Beult SSSI. The applicant is advised to

contact the EA's National Permitting team. The EA note that there is no guarantee that a permit will be granted. The permitting team will make that assessment on the receipt of a permit application.

### **Further Representations received from the Community**

73. Since the application was previously reported to the Committee in December, a further 21 objections have been received from residents who had previously objected to the application, including the 'Shadoxhurst Drainage Team'. The majority of the objections received reiterate concerns previously raised (refer to paragraphs 69 – 162 of the December report) and state that the amendments made and additional information submitted by the applicant do not address their concerns. I have summarised the new points raised below:

- The proposal is reliant on Southern Water, STC and IWNL working together. There is a lack of information from these parties about how this will work. The management and operation structure needs to be established. Who will be responsible for maintenance and/or when things go wrong?

**Response:** refer to paragraphs 61-62 above.

- The IWNL operated pumping station has a history of operational problems, it is not clear whether it has planning permission, and it is not compliant with industry standards.

**Response:** It is acknowledged that there has been on-going issues with the IWNL operated pumping station. These issues have been raised with the applicant and IWNL. I understand that the pumping station was constructed under the permitted development rights granted to the operator as a statutory undertaker.

- Concerns that the pipework to serve the WwTP has already been installed.

**Response:** the pipework to serve the wwTP has not yet been installed.

- Concerns about salami slicing the development to avoid the need to submit an EIA.

**Response:** refer to paragraphs 54-56 above.

- No consultation with local non-statutory bodies and interested parties involved in the protection of the river Beult.

**Response:** the correct statutory and non-statutory consultation has been undertaken for the application.

The approved Minutes of the December Planning Committee meeting lack detail.

**Response:** *The published minutes provide a correct record of the meeting as agreed by the Planning Committee at their meeting of 17 January 2024.*

- The LPA's screening opinion should be published.

**Response:** *refer to Annex D of this report.*

74. A representation (neither objecting nor supporting) has also been received from the Chilmington Management Organisation (CMO). The CMO is concerned about the impact that a stall on development at the Chilmington Green site would have on their residents, delaying further the provision of community infrastructure and extending the construction period. The CMO state that there is a clear need for a solution to the current nutrient neutrality situation which is stalling development. The CMO consider that a WwTP, on balance, is the best solution for the development. The CMO acknowledge that the prospect of a WwTP is not ideal for nearby residents, however, they feel that there can be proper checks and balances built into the planning application to ensure that this infrastructure is properly built and managed.

## Human Rights Issues

75. I have also taken into account the human rights issues relevant to this application. In my view, 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).

## Working with the applicant

76. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below. Conclusio

## Conclusion

77. Members' deferred making a decision at the Planning Committee meeting on 13 December 2023 because they considered that there was insufficient information for them to be able to make an informed decision.

78. The applicant has subsequently submitted additional information and proposed amendments to the scheme to address the concerns raised. I have undertaken a further assessment about whether an Environmental Impact assessment is required to support this application and have sought additional information from the applicant in respect of this.
79. I consider that the information provided in respect of odour impacts and the proposal to cover the sludge tank sufficiently address the concerns raised about odour impacts. In addition, the mitigation measures previously proposed would ensure that any noise impacts would be sufficiently addressed.
80. The amended landscape scheme to include conifer planting and to bring forward part of the Stubbcross woodland extension earlier than originally planned, would in my opinion further screen the visual impacts of the proposed development.
81. As demonstrated in the Screening Opinion that is attached in **Annex D**, I conclude that the environmental effects of the proposed development would not be so significant as to necessitate the submission of an Environmental Impact Assessment.
82. The principle of the construction of a WwTP on the application site is acceptable and in accordance with relevant national and local planning policies. I continue to consider that the proposed development is acceptable, subject to planning conditions (broad details of which are given in the Recommendation below).

## **Recommendation**

- (A) Permit subject to planning conditions and notes, including those dealing with the subject matters identified below, with any 'pre-commencement' based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018 with delegated authority to the Strategic Development and Delivery Manager or Planning Applications and Building Control Manager to make or approve changes to planning conditions and notes (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit**

### **Conditions**

1. Standard implementation time condition.
2. Development carried out in accordance with the approved plans.
3. Construction and transport management plan.

4. Archaeological field evaluation and investigations.
5. Detailed ecological mitigation strategy.
6. Hedge/hedgerow protection.
7. Sustainable surface water drainage scheme.
8. A copy of the construction and adoption agreement signed between the landowner of the site and the sewerage undertaker for the construction of the outfall pipe to be provided to the Council prior to commencement of construction of the WwTP.
9. Detailed landscaping scheme, including details of early provision of all or part of the Stubbcross Wood extension.
10. Landscape management and maintenance scheme, including details of irrigation for the bund and removal of temporary conifer screen.
11. Measures to prevent discharge of surface water to the highway.
12. Details of all boundary fencing.
13. Delivery of site access.
14. Provision and maintenance of visibility splays.
15. Traffic Regulation Order for Chilmington Green Road.
16. Use of a bound surface for first 15 metres of the access road.
17. Installation of noise mitigation measures (earth bund & acoustic shroud).
18. Surface water drainage verification report.
19. Lighting design strategy & light levels.
20. Post completion odour assessment and the implementation of any additional acoustic attenuation measures deemed necessary.
21. Post completion acoustic assessment and the implementation of any additional acoustic attenuation measures deemed necessary.
22. Details of site decommissioning and reinstatement in the event that the WwTP is no longer required.

23. Reporting of Unexpected Contamination to the LPA.
24. Removal of sludge outside the catchment.

#### Notes to Applicant

1. Working with the Applicant.
2. Plans/Documents Approved by this decision
3. Highways

#### **Working with the Applicant**

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative 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,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance:

- 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.

#### **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://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 //AS)

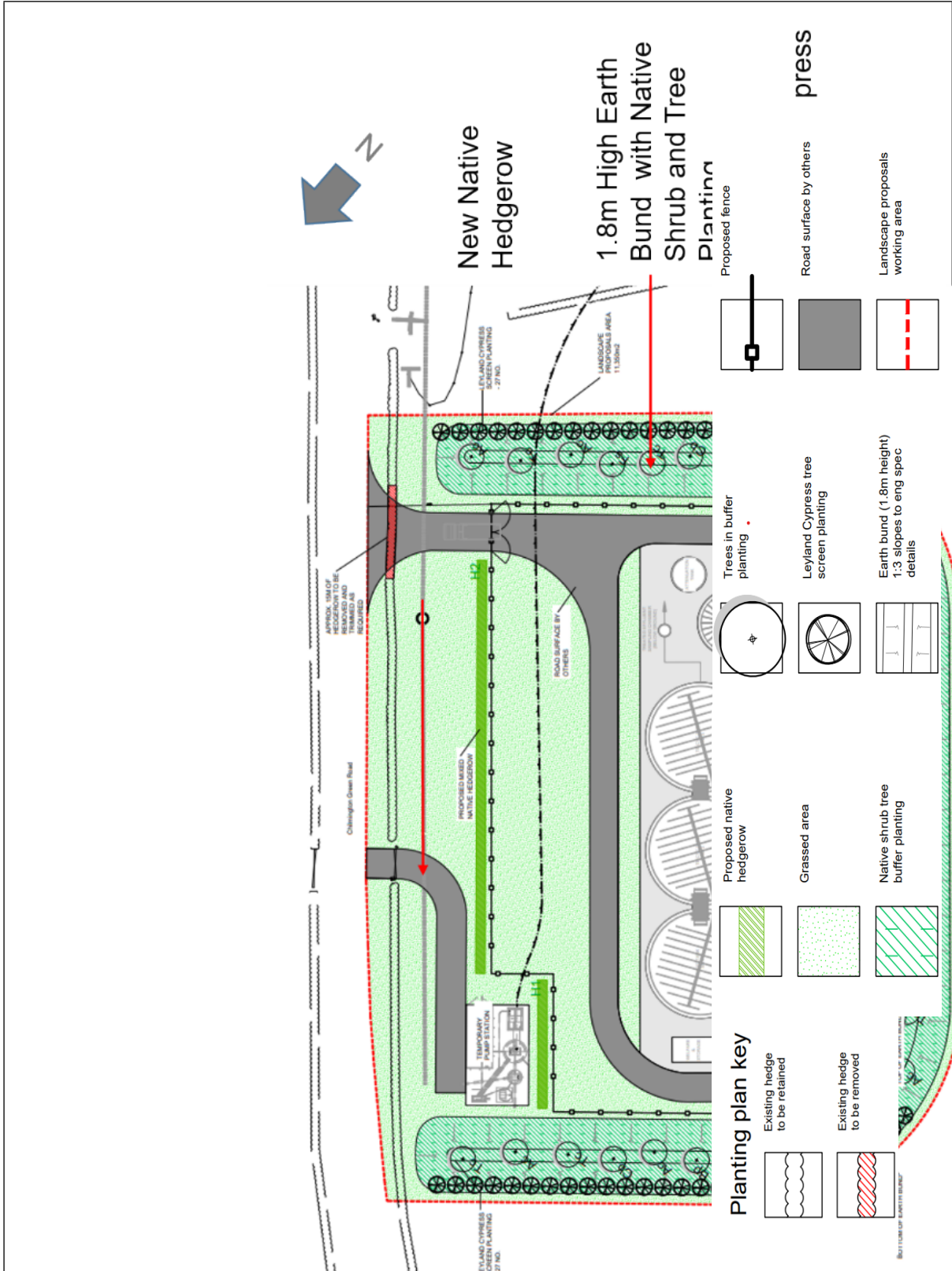
**Contact Officer:** Faye Tomlinson

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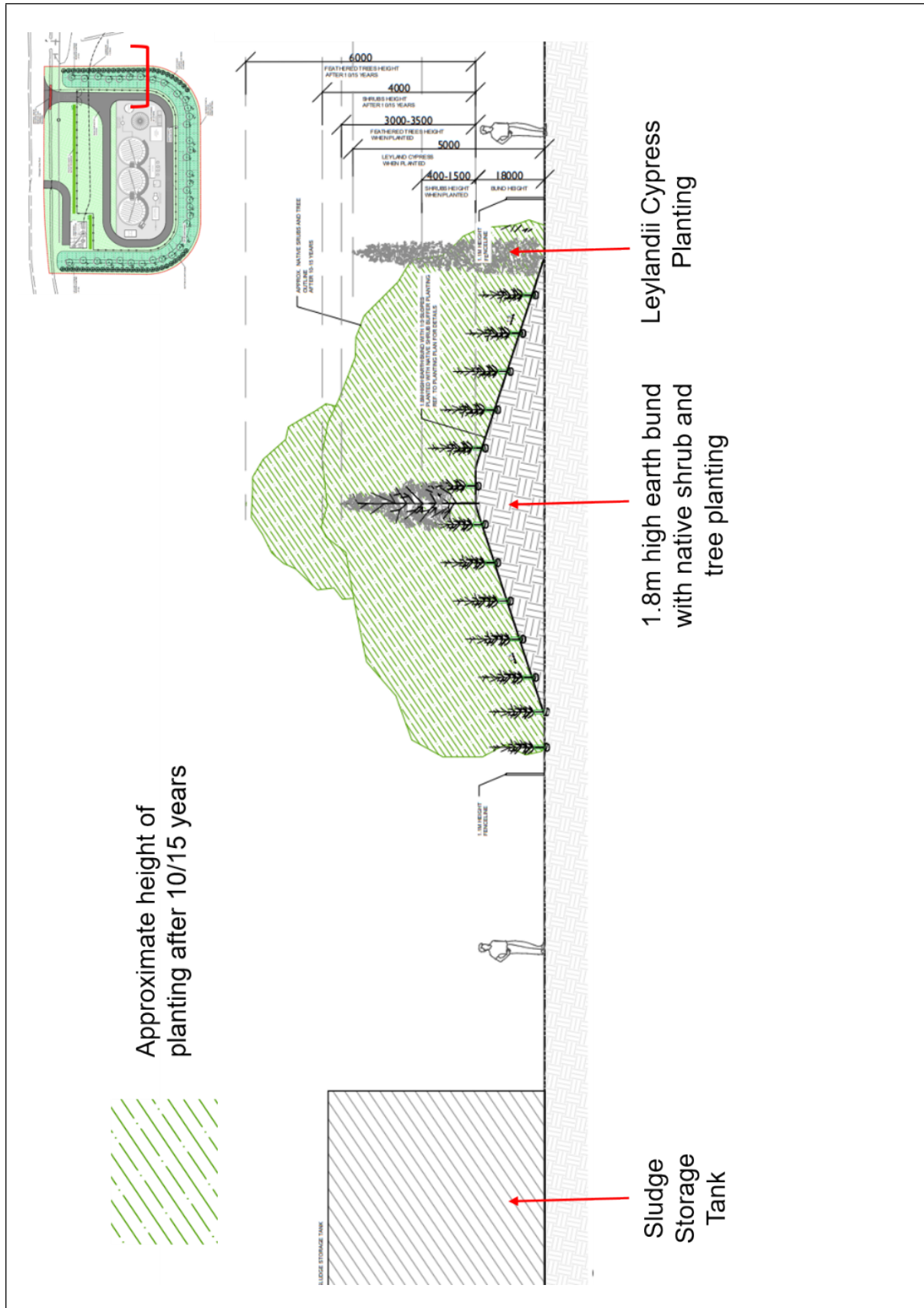
**Telephone:** (01233) 330275

**Annex C – Amended Drawings**

Amended Landscape Site Plan



Amended Site Section



Proposed Stubbcross Wood extension

