

**In the matter of
River Medway (Flood Relief) Act 1976
Defra Ref: DPI/H2265/20/13
Public Inquiry**

**Re: River Medway
Flood Relief Leigh Storage Scheme**

**Environment Agency's Statement of Case:
Update on the status of the planning permissions**

1. In its Statement of Case, dated 22 December 2020, the Environment Agency referred to the application for planning permission that is required for the works related to this Scheme under the Town and Country Planning Act 1990 (as amended).
2. The planning application also seeks permission for other improvement works at the Leigh Embankment which are required under the Reservoirs Act 1975 (and referred to as 'Measures in the Interests Of Safety' under that Act, or 'MIOS').
3. Given the location of the Leigh FSA, three different local planning authorities are affected: Sevenoaks District Council, Tonbridge & Malling Borough Council and Tunbridge Wells Borough Council (see Fig.1, from the Planning, Design and Access Statement). The Statement of Case (at Paragraph 5.2) refers to Sevenoaks District Council acting as the nominated local planning authority for the three local planning authorities.
4. A number of the planning application documents are also listed as being of relevance for this application under the River Medway (Flood Relief) Act 1976, and they are now on the inquiry library website. These have been selected from the full set of planning application documents and copies of these further documents can be provided to this inquiry if necessary. They are all publicly available, on the relevant local planning authorities' websites.
5. At the time that the Statement of Case was prepared, it was anticipated that it was likely that a decision on the planning application would be made in January 2021.

The grant of planning permission.

6. The works have now obtained planning permission, from each of the three local planning authorities with regard to their own area. The time limit for any statutory challenge to them has also now passed.
7. Copies of the three permissions are attached, namely:
 - a. The Decision Notice from Sevenoaks DC: Application Number: 20/02463/FUL, dated 8 January 2021;
 - b. The Decision Notice from Tonbridge & Malling BC: Application ref TM/20/01889/FLEA, dated 18 January 2021;
 - c. The Decision Notice from Tunbridge Wells BC: Application ref: 20/02487/FULL, dated 26 November 2020.
8. The Description of the Development is the same in three permissions:

“Proposed flood mitigation improvements to facilitate the Leigh Flood Storage Area (FSA) expansion scheme. Improvements to Leigh and Cattle Arch embankments to include: partial raising of embankments; installation of 300mm high wave return wall; creation of pumping station platform area; erection of new fencing and gates and other associated works that include culvert, eel pass, temporary access and compound areas.”
9. The permissions list the approved drawings and plans, and there are a number of planning conditions which will need to be satisfied:
 - a. The main set of planning conditions are found in the Decision Notices issued by Sevenoaks DC and Tonbridge & Malling DC. There are 11 in total, and they are the same on both permissions;
 - b. Given that the works only affect a small area of land in Tunbridge Wells, there are only 4 planning conditions on this permission which deal with a more limited range of issues.
10. There are 12 planning conditions in total on the Sevenoaks DC permission, as it contains an additional condition to deal with a specific point for their area, namely that:

“(9) Notwithstanding the approved drawings, no steps will encroach onto the definitive line of Public Right of Way SR435.”

11. These planning controls will help ensure that the project is properly implemented, and the Secretary of State can take account of them in making his decision on the application for the Revised Scheme under the 1976 Act.

12. In particular, condition 8 (in the main set of conditions, on 20/02463/FUL and TM/20/01889/FLEA) states:

“(8) The increased capacity of the flood storage area up to 28.6mAOD shall not take place until the flood mitigation measures /Measures in the Interests Of Safety measures as hereby permitted are fully completed and operational unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of reducing flood risk prior to completion of the development in accordance with National Planning Policy Framework.”

Note dated: 18th March 2021.

The Environment Agency
C/O JBA Consulting
Floor 4
31-35 Maybrook House
31/31 Grainger Street
Newcastle Upon Tyne
NE1 5JE

Application Number: 20/02463/FUL

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Grant of planning permission

Site : Leigh Flood Storage Area River Medway Sevenoaks District Council Kent

Development : Proposed flood mitigation improvements to facilitate the Leigh Flood Storage Area (FSA) expansion scheme. Improvements to Leigh and Cattle Arch embankments to include: partial raising of embankments; installation of 300mm high wave return wall; creation of pumping station platform area; erection of new fencing and gates and other associated works that include culvert, eel pass, temporary access and compound areas.

Sevenoaks District Council, as the local planning authority has **granted planning permission** for the above development,

SUBJECT TO THE CONDITIONS set out below:

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

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) No works (including site clearance or preparation) shall commence on the development hereby permitted until final design and construction drawings and method statements in relation to works in the vicinity of the A21 Medway Bridge have been submitted to and approved in writing by the Local Planning Authority (who shall consult with Highways England). The construction of the development shall be carried out in accordance with the approved drawings and statements unless otherwise agreed in writing by the Local Planning Authority (who shall consult with Highways England). At the end of the construction period, a full set of as built drawings and associated documentation shall be provided to Highways England.

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Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG
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To ensure that the A21 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

3) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

To reduce risk to controlled waters. There is always the potential for unexpected contamination to be identified during development groundworks and any contamination be identified that could present an unacceptable risk to Controlled Waters, in compliance with the National Planning Policy Framework.

4) Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by remobilised contaminants present in shallow soils/made ground in line with paragraph 170 of the National Planning Policy Framework.

5) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted for the written approval of the local planning authority. The CEMP shall include, though not necessarily be limited to the following details: a) A Construction Traffic Management Plan incorporating details of heavy vehicles movement patterns, including earliest and latest arrival and departure times, routes to be used to and from the site and signs, information to instruct drivers and maintained at the applicant's expense throughout the construction period; b) The parking arrangements for vehicles of site operatives and visitors together with measures to reduce the daily number of trips to the site; c) The loading and unloading arrangements for heavy plant and materials; d) Processes of controlling/suppressing dust emanating from the site; e) The location and type of temporary fencing/hoarding; f) The details of wheel cleaning facilities within the site to prevent mud being deposited on the public highway; g) The tool-box talk for the site operatives regarding protected species and awareness.

To mitigate the impact arising from development upon existing habitats of protected species on or surrounding the site and safeguard the amenities of adjacent neighbouring properties and existing road network in accordance with Policy SP11 of the Sevenoaks District Core Strategy, Policies GI1, EN1, T1 of the Sevenoaks Allocations and Development Management Plan and guidance in National Planning Policy Framework 2019.

6) Prior to commencement of works (including site clearance), a biodiversity enhancement plan will be submitted to, and approved by, the local planning authority. The plan will include a map of proposed enhancements, management prescriptions and biodiversity net-gain metric calculations. The approved details will be implemented and thereafter retained.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and make further wider biodiversity enhancements, in accordance with Policy SP11 of the Core Strategy and guidance in National Planning Policy Framework.

7) From the commencement of works (including site clearance), all mitigation measures for protected species and compensatory measures for habitats will be implemented in accordance with the details in section chapter 7 of the Environmental Statement (Environment Agency August 2020), unless varied by a European Protected Species licence subsequently issued by Natural England.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and wider biodiversity, in accordance with Policy SP11 of the Core Strategy and guidance in National Planning Policy Framework.

8) The increased capacity of the flood storage area up to 28.6mAOD shall not take place until the flood mitigation measures /Measures in the Interests Of Safety measures as hereby permitted are fully completed and operational unless otherwise agreed in writing by the local planning authority.

In the interests of reducing flood risk prior to completion of the development in accordance with National Planning Policy Framework.

9) Notwithstanding the approved drawings, no steps will encroach onto the definitive line of Public Right of Way SR435.

For the avoidance of any doubt

10) The development shall be carried out in strict accordance with the Environmental Action Plan as found in Appendix A Environmental Statement dated August 2020. Any changes to the Environmental Action Plan as hereby permitted shall be submitted to and agreed in writing by the Local Planning Authority. The development shall accord with the approved and implemented in full.

To mitigate the impact arising from development upon existing habitats of protected species on or surrounding the site and safeguard the amenities of adjacent neighbouring properties and existing road/footpath network in accordance with Policy SP11 of the Sevenoaks District Core Strategy, Policies GI1, EN1, T1 of the Sevenoaks Allocations and Development Management Plan and guidance in National Planning Policy Framework 2019.

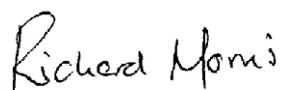
11) No demolition, site clearance or building operations shall commence on site until the protective fencing and other protection measures in the Arboricultural Impact Assessment dated 05/08/2020 have been installed. At all times until the

completion of the development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.

To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

12) The development hereby permitted shall be carried out in accordance with the following approved plans: ENVIMSE100377-JBA-LZ-OO-DR-PL-1000, ENVIMSE100377-JBA-LZ-OO-DR-PL-1002, ENVIMSE100377-JBA-LZ-OO-DR-PL-1010, ENVIMSE100377-JBA-OO-ZZ-DR-PL-1000, ENVIMSE100377-JBA-OO-ZZ-DR-PL-1020, ENVIMSE100377-JBA-OO-CAOO-DR-PL-1100, ENVIMSE100377-JBA-OO-CAOO-DR-PL-1204, ENVIMSE100377-JBA-OO-CAOO-DR-PL-1240, ENVIMSE100377-JBA-OO-CAOO-DR-PL-1241 ENVIMSE100377-JBA-OO-ZZ-DR-PL-1000, ENVIMSE100377-JBA-OO-ME00-DR-PL-1303, ENVIMSE100377-JBA-OO-ME01-DR-PL-1100, ENVIMSE100377-JBA-OO-ME02-DR-PL-1100, ENVIMSE100377-JBA-00-ME03-DR-PL-1100, ENVIMSE100377-JBA-00-ME04-DR-PL-1100 ENVIMSE100377-JBA-00-ME04-DR-PL-1101, ENVIMSE100377-JBA-00-ME04-DR-PL-1220, ENVIMSE100377-JBA-00-ME04-DR-PL-1225, ENVIMSE100377-JBA-00-ME04-DR-PL-1200, ENVIMSE100377-JBA-00-NR02-DR-PL-1100, ENVIMSE100377-JBA-00-NR02-DR-PL-1200 ENVIMSE100377-JBA-00-EPOO-DR-EN-001, ENVIMSE100377-JBA-00-EPOO-DR-EN-002, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1100 ENVIMSE100377-JBA-DE-PFOO-DR-PL-1101, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1102, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1103 ENVIMSE100377-JBA-DE-PFOO-DR-PL-1104, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1105, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1200-A5-C01, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1201 to 1211, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1301 & 1302 and Planning Design Access Statement, Arboricultural Impact Assessment and Environmental Statement dated August 2020.

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



Richard Morris
Deputy Chief Executive
Chief Officer - Planning & Regulatory Services

Dated: 8 January 2021

Notes for the applicant

Conditions

If permission has been granted you will see that it may be subject to a number of planning conditions. They are an integral part of our decision on your application and are important because they describe how we require you to carry out the approved work or operate the premises. It is YOUR responsibility to comply fully with them. Please pay particular attention to those conditions which have to be met before work commences, such as obtaining approval for the siting and levels of buildings and the protection of trees on the site. If you do not comply with all the conditions in full this may invalidate the permission.

There is a fee required when submitting an application to discharge conditions to the District Council, unless the application relates solely to conditions on a listed building consent. Further information on how to submit an application or the fee required can be found at: https://www.sevenoaks.gov.uk/info/20013/planning_applications/282/apply_for_planning_permission.

Further information about how to comply with planning conditions can be found at: https://www.planningportal.co.uk/info/200126/applications/60/consent_types/12

Please note that there is a right of appeal against a planning condition. Further information can be found at: https://www.planningportal.co.uk/info/200207/appeals/108/types_of_appeal

Community Infrastructure Levy (CIL)

This proposal may be liable for the Community Infrastructure Levy (CIL). This may be payable to the District Council, as the local collecting authority, on commencement of application 20/02463/FUL.

If CIL is liable, we will contact all relevant interested parties once we have issued a decision notice and serve them with a liability notice. This will identify the parties, the scale of liability, how it was calculated, when it will be due for payment and the opportunities to claim relief. Should you wish to claim relief from CIL you must make an application to us before any work starts on site. There is no automatic exemption from the CIL and it is not possible to make a retrospective claim once work has started.

Any party liable to pay CIL must assume liability before any work starts; they must provide us with a valid [Commencement Notice](#). If this is not provided we can impose surcharges and require immediate payment.

Please email cilenquiries@sevenoaks.gov.uk quoting 20/02463/FUL if you have any questions about CIL, before work commences.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Building Control

This permission relates to planning permission. Applicants are advised to contact our Building Control service on 01732 227376 for further information on whether it is necessary for permission to be given under the building regulations.

Planning informatives

- 1 The drawings and documentation required prior to and post construction should be produced in accordance with and demonstrate the compliance of the development with the Design Manual for Roads and Bridges, insofar as they apply to the A21 Medway Bridge and its vicinity. Drafts may be sent to planningse@highwaysengland.co.uk for agreement prior to formal submission to facilitate expeditious processing.

- 2 Fuel, Oil and Chemical Storage - Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground. The areas for storage should not drain to any surface water system. Drainage - The following points should be noted wherever infiltration drainage (such as soakaways) are proposed at a site:
 - Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water should drain directly to the system entering after any pollution prevention methods;
 - No infiltration system should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated;
 - There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table;
 - A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.Disposal of soil - Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:
 - Duty of Care Regulations 1991
 - Hazardous Waste (England and Wales) Regulations 2005
 - Environmental Permitting (England and Wales) Regulations 2010
 - The Waste (England and Wales) Regulations 2011Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Proposed ecological enhancement schemes - Works such as Stage zero and river enhancements (Powdermill stream and Straight Mile) are likely to require an internal Flood Risk Activity Permit, which will assess impacts for flood risk, environmental and ecological concerns. Any floodplain or riverine based mitigation/enhancement schemes will need to demonstrate that the activity will not cause detriment to Water Framework directive (WFD) status or protected species. If delivered, the changes could also be included as an update within the Biodiversity Net Gain (BNG) calculations. The LPA may request to see an update if they wish. Invasive Non Native Species (INNS) management plan approach and named references It is welcome to see a dedicated plan for identifying and managing the risk of potentially spreading INNS either around site, or through the activity (Le. spread elsewhere off site). There is specific example reference to Himalayan balsam and mudsnail species, which are

locally detected and relevant risks to manage. However, it is recommended that the plan continues to also approach other high risk species, including American skunk cabbage (also reported within the area, but not listed on the legislation as Himalayan balsam - yet presents a credible risk to colonise wetland areas just as well) another approach is to direct a focus on the biosecurity protocols to control the most likely potential spread pathways of the most likely range of assumed species, Le. rather than purely a prescriptive approach to specific species. This is because the risk of spreading and introducing INNS are assumed to be ubiquitous, and the measures in place which affect the potential spread pathways will be appropriate for a range of species. Different taxa will also require different spread risk pathway analysis and biosecurity protocols. Recommendation for INNS biosecurity protocols in site management documentation It is recommended to ensure biosecurity measures for each construction Area and phase is included within relevant Environmental Action Plan (EAP) and/or CEMP.

- 3 It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries> The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- 4 Any changes or improvements to the public rights of way across the site will require the express consent of the Highway Authority, in this case KCC PROW and Access Service.
- 5 Southern Water Informatives - The 450 mm public foul sewer and 450 mm public foul trunk sewer requires a clearance of 3.5 meters on either side of the sewers to protect it from construction works and to allow for future access for maintenance. No development or tree planting should be carried out within 3.5 meters of the external edge of the public sewer without consent from Southern Water. - The 350 mm public foul rising main requires a clearance of 3 meters on either side of the sewers to protect it from construction works and to allow for future access for maintenance. No development or tree planting should be carried out within 3 meters of the external edge of the public foul rising main without consent from Southern Water. - No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 meters of a public sewer. - All existing infrastructure should be protected during the course of construction works.
 - Please refer to: [southernwater.co.uk/media/default/1PDFs/stand-off-distances.pdf](https://www.southernwater.co.uk/media/default/1PDFs/stand-off-distances.pdf).
 - For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).



**Planning, Housing &
Environmental Health**

**Development Control
Gibson Building, Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ**

Telephone 01732 844522
Web Site <http://www.tmbc.gov.uk>
email planning.applications@tmbc.gov.uk

Mr Andy Dellar
c/o Miss Della Adams
Floor 4, Maybrook House
Grainger Street
Newcastle
NE1 5JE

Your ref
Our ref TM/20/01889/FLEA
Contact Emma Keefe
Direct line 01732 876240
email emma.keefe@tmbc.gov.uk
Date 18 January 2021

APPLICATION:TM/20/01889/FLEA

VALIDATED: 27 August 2020

PARISH: Tonbridge

This was approved in accordance with the following submitted details: Block Plan ENVIMSE100377-JBA-00-CA00-DR-PL-1100 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-00-CA00-DR-PL-1200 C02 received 26.08.2020, Drawing ENVIMSE100377-JBA-00-CA00-DR-PL-1204 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-00-CA00-DR-PL-1240 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-00-CA00-DR-PL-1241 C01 received 26.08.2020, Drawing ENVIMSE100377-JBA-00-EP00-DR-EN-0001 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-00-EP00-DR-EN-0002 C01 received 26.08.2020, Location Plan ENVIMSE100377-JBA-00-ME00-DR-PL-1000 C01 received 26.08.2020, Drawing ENVIMSE100377-JBA-00-ME00-DR-PL-1303 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-00-ME01-DR-PL-1100 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-00-ME02-DR-PL-1100 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-00-ME03-DR-PL-1100 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-00-ME04-DR-PL-1100 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-00-ME04-DR-PL-1101 C01 received 26.08.2020, Drawing ENVIMSE100377-JBA-00-ME04-DR-PL-1200 C02 received 26.08.2020, Drawing ENVIMSE100377-JBA-00-ME04-DR-PL-1220 C02 received 26.08.2020, Block Plan ENVIMSE100377-JBA-00-ME04-DR-PL-1225 C02 received 26.08.2020, Block Plan ENVIMSE100377-JBA-00-NR02-DR-PL-1100 C01 received 26.08.2020, Section ENVIMSE100377-JBA-00-NR02-DR-PL-1200 C01 received 26.08.2020, Location Plan ENVIMSE100377-JBA-00-ZZ-DR-PL-1000 C01 received 26.08.2020, Drawing ENVIMSE100377-JBA-00-ZZ-DR-PL-1020 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1100 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1101 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1102 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1103 C01 received 26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1104 C02 received 26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1105 C01 received 26.08.2020, Section ENVIMSE100377-JBA-DE-PF00-DR-PL-1200 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1201 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1202 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1203 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1204 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1205 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1206 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1207 C02 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1208 C01 received 26.08.2020, Sections

ENVIMSE100377-JBA-DE-PF00-DR-PL-1209 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1210 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1211 C01 received 26.08.2020, Drawing
ENVIMSE100377-JBA-DE-PF00-DR-PL-1301 C01 received 26.08.2020, Drawing
ENVIMSE100377-JBA-DE-PF00-DR-PL-1302 C02 received 26.08.2020, Drawing
ENVIMSE100377-JBA-LZ-00-DR-PL-1002 C02 received 26.08.2020, Drawing ENVIMSE100377-
JBA-LZ-00-DR-PL-1010 C01 received 26.08.2020, Location Plan ENVIMSE100377-JBA-LZ-00-DR-
PL-1000 C02 received 26.08.2020, Letter received 26.08.2020, Notice Article 13 received
26.08.2020, Other Article 13 address list received 26.08.2020, Environmental Statement received
26.08.2020, Other LEHES newsletter received 26.08.2020, Other Technical note received
26.08.2020, Other Technical note received 26.08.2020, Planning Statement received 26.08.2020,
Materials Schedule received 26.08.2020, Environmental Statement APPENDIX A received
26.08.2020, Historic Decision Notice APPENDIX B.1A received 26.08.2020, Historic Decision
Notice APPENDIX B.1B received 26.08.2020, Environmental Assessment APPENDIX B.2
received 26.08.2020, Environmental Assessment APPENDIX B.3 received 26.08.2020,
Environmental Assessment APPENDIX B.4 received 26.08.2020, Environmental Assessment
APPENDIX B.5 received 26.08.2020, Historic Decision Notice APPENDIX B.6 received
26.08.2020, Environmental Assessment APPENDIX B.7 received 26.08.2020, Flood Risk
Assessment APPENDIX D received 26.08.2020, Environmental Assessment APPENDIX D.2
received 26.08.2020, Report APPENDIX E.1 received 26.08.2020, Environmental Statement
APPENDIX E.10 received 26.08.2020, Report APPENDIX E.2 received 26.08.2020, Habitat
Survey Report APPENDIX E.3 received 26.08.2020, Ecological Assessment APPENDIX E.4
received 26.08.2020, Ecological Assessment APPENDIX E.5 received 26.08.2020, Ecological
Assessment APPENDIX E.6 received 26.08.2020, Ecological Assessment APPENDIX E.7
received 26.08.2020, Ecological Assessment APPENDIX E.8 received 26.08.2020, Bat Survey
APPENDIX E.9 received 26.08.2020, Other APPENDIX F.1 received 26.08.2020, Drawing
APPENDIX F.2 received 26.08.2020, Drawing APPENDIX F.3 received 26.08.2020, Drawing
APPENDIX F.4 received 26.08.2020, Drawing APPENDIX F.5 received 26.08.2020, Drawing
APPENDIX G.1 received 26.08.2020, Drawing APPENDIX G.1 received 26.08.2020, Drawing
APPENDIX G.1 received 26.08.2020, Drawing APPENDIX G.1 received 26.08.2020, Drawing
APPENDIX G.2 received 26.08.2020, Drawing APPENDIX G.2 received 26.08.2020, Letter
Sevenoaks DC received 26.08.2020, Arboricultural Assessment received 26.08.2020,

APPLICANT: Mr Andy Dellar
c/o Miss Della Adams Floor 4, Maybrook House Grainger Street Newcastle NE1 5JE
PROPOSAL: Proposed flood mitigation improvements to facilitate the Leigh Flood Storage Area (FSA)
expansion scheme. Improvements to Leigh and Cattle Arch embankments to include:
partial raising of embankments; installation of 300mm high wave return wall; creation of
pumping station platform area; erection of new fencing and gates and other associated
works that include culvert, eel pass, temporary access and compound areas
(SE/20/02463/FUL)
LOCATION: Leigh Flood Storage Area River Medway Tonbridge And Malling BC Kent

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015

TAKE NOTICE that the TONBRIDGE AND MALLING BOROUGH COUNCIL, the District Planning Authority under the Town and Country Planning Acts, has **GRANTED PERMISSION** for the proposal as specified above , subject to compliance with the following conditions:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. No works (including site clearance or preparation) shall commence on the development hereby permitted until final design and construction drawings and method statements in relation to works in the vicinity of the A21 Medway Bridge have been submitted to and approved in writing by the Local Planning Authority (who shall consult with Highways England). The construction of the development shall be carried out in accordance with the approved drawings and statements. At the end of the construction period, a full set of as built drawings and associated documentation shall be provided to Highways England

To ensure that the A21 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

3. 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 remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

To reduce risk to controlled waters. There is always the potential for unexpected contamination to be identified during development groundworks and any contamination be identified that could present an unacceptable risk to Controlled Waters, in compliance with the National Planning Policy Framework.

4. Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by remobilised contaminants present in shallow soils/made ground in accordance with the requirements of paragraph 170 of the National Planning Policy Framework

5. Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted for the written approval of the Local Planning Authority. The CEMP shall include, though not necessarily be limited to the following details:

- a) Heavy vehicles movement patterns, including earliest and latest arrival and departure times, routes to be used to and from the site and signs, information to instruct drivers and maintained at the applicant's expense throughout the construction period;
- b) The parking arrangements for vehicles of site operatives and visitors together with measures to reduce the daily number of trips to the site;
- c) The loading and unloading arrangements for heavy plant and materials;
- d) Processes of controlling/suppressing dust emanating from the site;
- e) The location and type of temporary fencing/hoarding;
- f) The details of wheel cleaning facilities within the site to prevent mud being deposited on the public highway;
- g) The tool-box talk for the site operatives regarding protected species and awareness.

To mitigate the impact arising from development upon existing habitats of protected species on or surrounding the site and safeguard the amenities of adjacent neighbouring properties and existing road network.

6. Prior to commencement of works (including site clearance), a biodiversity enhancement plan will be submitted to, and approved by, the Local Planning Authority. The plan will include a map of proposed enhancements, management prescriptions and biodiversity net-gain metric calculations. The approved details will be implemented and thereafter retained.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and make further wider biodiversity enhancements.

7. From the commencement of works (including site clearance), all mitigation measures for protected species and compensatory measures for habitats will be implemented in accordance with the details in section chapter 7 of the Environmental Statement (Environment Agency, August 2020), unless varied by a European Protected Species licence subsequently issued by Natural England.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and wider biodiversity.

8. The increased capacity of the flood storage area up to 28.6mAOD shall not take place until the flood mitigation measures /Measures in the Interests Of Safety measures as hereby permitted are fully completed and operational.

In the interests of reducing flood risk prior to completion of the development in accordance with National Planning Policy Framework.

9. The development shall be carried out in strict accordance with the Environmental Action Plan as found in Appendix A Environmental Statement dated August 2020. Any changes to the Environmental Action Plan as hereby permitted shall be submitted to and agreed in writing by the Local Planning Authority. The development shall accord with the approved and implemented in full.

To mitigate the impact arising from development upon existing habitats of protected species on or surrounding the site and safeguard the amenities of adjacent neighbouring properties and existing road/footpath network.

10. No demolition, site clearance or building operations shall commence on site until the protective fencing and other protection measures in the Arboricultural Impact Assessment dated 05/08/2020 have been installed. At all times until the completion of the development, such fencing and protection measures shall thereafter be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.

To protect the trees on site which are to be retained in the interests of the visual amenities of the locality.

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

Block Plan ENVIMSE100377-JBA-00-CA00-DR-PL-1100 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-00-CA00-DR-PL-1200 C02 received 26.08.2020, Drawing
ENVIMSE100377-JBA-00-CA00-DR-PL-1204 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-00-CA00-DR-PL-1240 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-00-CA00-DR-PL-1241 C01 received 26.08.2020, Drawing
ENVIMSE100377-JBA-00-EP00-DR-EN-0001 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-00-EP00-DR-EN-0002 C01 received 26.08.2020, Location Plan
ENVIMSE100377-JBA-00-ME00-DR-PL-1000 C01 received 26.08.2020, Drawing
ENVIMSE100377-JBA-00-ME00-DR-PL-1303 C01 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-00-ME01-DR-PL-1100 C01 received 26.08.2020, Block Plan

ENVIMSE100377-JBA-00-ME02-DR-PL-1100 C01 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-00-ME03-DR-PL-1100 C01 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-00-ME04-DR-PL-1100 C01 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-00-ME04-DR-PL-1101 C01 received 26.08.2020, Drawing
ENVIMSE100377-JBA-00-ME04-DR-PL-1200 C02 received 26.08.2020, Drawing
ENVIMSE100377-JBA-00-ME04-DR-PL-1220 C02 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-00-ME04-DR-PL-1225 C02 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-00-NR02-DR-PL-1100 C01 received 26.08.2020, Section ENVIMSE100377-
JBA-00-NR02-DR-PL-1200 C01 received 26.08.2020, Location Plan ENVIMSE100377-JBA-00-ZZ-
DR-PL-1000 C01 received 26.08.2020, Drawing ENVIMSE100377-JBA-00-ZZ-DR-PL-1020 C01
received 26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1100 C01 received
26.08.2020, Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1101 C01 received 26.08.2020,
Block Plan ENVIMSE100377-JBA-DE-PF00-DR-PL-1102 C01 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-DE-PF00-DR-PL-1103 C01 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-DE-PF00-DR-PL-1104 C02 received 26.08.2020, Block Plan
ENVIMSE100377-JBA-DE-PF00-DR-PL-1105 C01 received 26.08.2020, Section ENVIMSE100377-
JBA-DE-PF00-DR-PL-1200 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-
DR-PL-1201 C01 received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1202 C01
received 26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1203 C01 received
26.08.2020, Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1204 C01 received 26.08.2020,
Sections ENVIMSE100377-JBA-DE-PF00-DR-PL-1205 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1206 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1207 C02 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1208 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1209 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1210 C01 received 26.08.2020, Sections
ENVIMSE100377-JBA-DE-PF00-DR-PL-1211 C01 received 26.08.2020, Drawing
ENVIMSE100377-JBA-DE-PF00-DR-PL-1301 C01 received 26.08.2020, Drawing
ENVIMSE100377-JBA-DE-PF00-DR-PL-1302 C02 received 26.08.2020, Drawing
ENVIMSE100377-JBA-LZ-00-DR-PL-1002 C02 received 26.08.2020, Drawing ENVIMSE100377-
JBA-LZ-00-DR-PL-1010 C01 received 26.08.2020, Location Plan ENVIMSE100377-JBA-LZ-00-DR-
PL-1000 C02 received 26.08.2020, Environmental Statement received 26.08.2020, Other
Technical note received 26.08.2020, Other Technical note received 26.08.2020, Planning
Statement received 26.08.2020, Materials Schedule received 26.08.2020, Environmental
Statement APPENDIX A received 26.08.2020, Environmental Assessment APPENDIX B.2
received 26.08.2020, Environmental Assessment APPENDIX B.3 received 26.08.2020,
Environmental Assessment APPENDIX B.4 received 26.08.2020, Environmental Assessment
APPENDIX B.5 received 26.08.2020, Historic Decision Notice APPENDIX B.6 received
26.08.2020, Environmental Assessment APPENDIX B.7 received 26.08.2020, Flood Risk
Assessment APPENDIX D received 26.08.2020, Environmental Assessment APPENDIX D.2
received 26.08.2020, Report APPENDIX E.1 received 26.08.2020, Environmental Statement
APPENDIX E.10 received 26.08.2020, Report APPENDIX E.2 received 26.08.2020, Habitat
Survey Report APPENDIX E.3 received 26.08.2020, Ecological Assessment APPENDIX E.4
received 26.08.2020, Ecological Assessment APPENDIX E.5 received 26.08.2020, Ecological
Assessment APPENDIX E.6 received 26.08.2020, Ecological Assessment APPENDIX E.7
received 26.08.2020, Ecological Assessment APPENDIX E.8 received 26.08.2020, Drawing
APPENDIX F.3 received 26.08.2020, Bat Survey APPENDIX E.9 received 26.08.2020, Other
APPENDIX F.1 received 26.08.2020, Drawing APPENDIX F.2 received 26.08.2020, Drawing
APPENDIX F.4 received 26.08.2020, Drawing APPENDIX F.5 received 26.08.2020, Drawing
APPENDIX G.1 received 26.08.2020, Drawing APPENDIX G.1 received 26.08.2020, Drawing
APPENDIX G.1 received 26.08.2020, Drawing APPENDIX G.1 received 26.08.2020, Drawing
APPENDIX G.2 received 26.08.2020, Drawing APPENDIX G.2 received 26.08.2020, Arboricultural
Assessment received 26.08.2020,

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

Informatives:

1 The drawings and documentation required prior to and post construction should be produced in accordance with and demonstrate the compliance of the development with the Design Manual for Roads and Bridges, insofar as they apply to the A21 Medway Bridge and its vicinity.

2 Fuel, Oil and Chemical Storage - Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground. The areas for storage should not drain to any surface water system.

3 Drainage - The following points should be noted wherever infiltration drainage (such as soakaways) are proposed at a site:

- Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water should drain directly to the system entering after any pollution prevention methods

- No infiltration system should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated;

- There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table;

- A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.

4 Disposal of soil - Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991

- Hazardous Waste (England and Wales) Regulations 2005

- Environmental Permitting (England and Wales) Regulations 2010

- The Waste (England and Wales) Regulations 2011

5 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer.

6 Proposed ecological enhancement schemes - Works such as Stage zero and river enhancements (Powdermill stream and Straight Mile) are likely to require an internal Flood Risk Activity Permit, which will assess impacts for flood risk, environmental and ecological concerns.

7 Any floodplain or riverine based mitigation/enhancement schemes will need to demonstrate that the activity will not cause detriment to Water Framework directive (WFD) status or protected species.

8 If delivered, the changes could also be included as an update within the Biodiversity Net Gain (BNG) calculations. The LPA may request to see an update if they wish.

9 Invasive Non Native Species (INNS) management plan approach and named references It is welcome to see a dedicated plan for identifying and managing the risk of potentially spreading INNS either around site, or through the activity (Le. spread elsewhere off site). There is specific example reference to Himalayan balsam and mudsnail species, which are locally detected and relevant risks to manage. However, it is recommended that the plan continues to also approach other high risk species, including American skunk cabbage (also reported within the area, but not listed on the legislation as Himalayan balsam - yet presents a credible risk to colonise wetland areas just as well) another approach is to direct a focus on the biosecurity protocols to control the most likely potential spread pathways of the most likely range of assumed species, Le. rather than purely a prescriptive approach to specific species.

This is because the risk of spreading and introducing INNS are assumed to be ubiquitous, and the measures in place which affect the potential spread pathways will be appropriate for a range of species. Different taxa will also require different spread risk pathway analysis and biosecurity protocols.

Recommendation for INNS biosecurity protocols in site management documentation: It is recommended to ensure biosecurity measures for each construction Area and phase is included within relevant Environmental Action Plan (EAP) and/or CEMP.

10 It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

11 Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

12 Any changes or improvements to the public rights of way across the site will require the express consent of the Highway Authority, in this case KCC PROW and Access Service.

13 The 450 mm public foul sewer and 450 mm public foul trunk sewer requires a clearance of 3.5 meters on either side of the sewers to protect it from construction works and to allow for future access for maintenance. No development or tree planting should be carried out within 3.5 meters of the external edge of the public sewer without consent from Southern Water.

14 The 350 mm public foul rising main requires a clearance of 3 meters on either side of the sewers to protect it from construction works and to allow for future access for maintenance. No development or tree planting should be carried out within 3 meters of the external edge of the public foul rising main without consent from Southern Water.

15 No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 meters of a public sewer.

16 All existing infrastructure should be protected during the course of construction works.

Please refer to: [southernwater.co.uk/media/defaultIPDFs/stand-off-distances.pdf](https://www.southernwater.co.uk/media/defaultIPDFs/stand-off-distances.pdf).

For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).

17 The applicant is strongly encouraged to continue ongoing dialogue with Tonbridge and Malling Leisure Services regarding use of land within the Council's ownership and matters relating to the operation of the Country Park.

In reaching this decision, the Local Planning Authority has had appropriate regard to the provisions of paragraph 38 of the National Planning Policy Framework 2019.

Louise Reid

Head of Planning

NOTE REGARDING PLANNING CONDITIONS

Please note that if conditions are attached to this permission, some of them may require the submission, pursuant to Article 27 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, of details for the formal approval of the Local Planning Authority prior to the development commencing. The Borough Council may consider it appropriate to carry out consultations and other procedures prior to giving a formal decision on these matters and it is unlikely that this will take less than 4 weeks. This should be taken into account when programming the implementation of the permission. Any development that takes place in breach of such conditions is likely to be regarded as unlawful.

THIS IS NOT A BUILDING REGULATION APPROVAL

It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations, where required, and any other necessary approval, have been obtained, and that the details shown on the plans hereby approved agree in every respect with those approved under such legislation.

IMPORTANT: Your attention is drawn to the Notes attached.

TOWN AND COUNTRY PLANNING ACT 1990

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the First Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within six months (12 weeks in the case of proposals relating to shopfronts) of the date of this notice, using a form which you can get from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application then you must do so within:

28 days of the date of service of the enforcement notice or six months in the case of a householder appeal of the date of this notice, whichever period expires earlier.
- In the event of an appeal being lodged one copy of the completed appeal form should be forwarded to the Chief Solicitor of the Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ.
- The Secretary of State can allow a longer period for giving notice of an appeal but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

Purchase Notices

- If either the local planning authority or the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Borough Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

General Notes

- Your attention is drawn to the provisions of Section 76 of the Town and Country Planning Act 1990 relating to the need to provide adequate access and other facilities for the disabled.
- Section 53 of the County of Kent Act 1981 applies to an application for the erection/extension of a building.

This requires that adequate access for the fire brigade is provided for buildings. In view of these provisions, **YOU ARE ADVISED TO CONSULT THE KENT FIRE BRIGADE** at an early stage.



Mr Andy Dellar
C/O Miss Della Adams
JBA Consulting
31-35 Floor 4 Maybrook House
Grainger Street
Newcastle, NE1 5JE

26 November 2020

PLANNING DECISION NOTICE

APPLICANT:	Mr Andy Dellar
DEVELOPMENT TYPE:	Major Others
APPLICATION REFERENCE:	20/02487/FULL
PROPOSAL:	Proposed flood mitigation improvements to facilitate the Leigh Flood Storage Area (FSA) expansion scheme. Improvements to Leigh and Cattle Arch embankments to include: partial raising of embankments; installation of 300mm high wave return wall; creation of pumping station platform area; erection of new fencing and gates and other associated works that include culvert, eel pass, temporary access and compound areas
ADDRESS:	Land At, Lower Haysden Lane, Tonbridge, Kent,

The Council hereby **GRANTS** permission/consent for the proposal referred to above subject to the following Condition(s):

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

ENVIMSE100377-JBA-LZ-00-DR-PL-1000-A5-C02-Red Line Boundary
ENVIMSE100377-JBA-LZ-00-DR-PL-1002-A5-C02-Scheme Overview Plan
ENVIMSE100377-JBA-LZ-00-DR-PL-1010-A5-C01-County District Plan
ENVIMSE100377-JBA-00-ME00-DR-PL-1000-A5-C01-Site Location Plan
ENVIMSE100377-JBA-00-ME04-DR-PL-1101-A5-C01-Block Plan Sheet 2
ENVIMSE100377-JBA-00-ME04-DR-PL-1200-A5-C01-Resurfacing Construction Details
ENVIMSE100377-JBA-00-ME04-DR-PL-1225-A5-C02-Bridleway Block Plan

Supplementary Information _Proposed Materials _JBA Technical Note 2019s0897 - Fencing details with annotated images.

Reason: To clarify which plans have been approved.

- (3) Contamination
If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason To reduce risk to controlled waters. There is always the potential for unexpected contamination to be identified during development groundworks. We should be consulted should any contamination be identified that could present an unacceptable risk to Controlled Waters. To comply with the National Planning Policy Framework paragraph 170.

- (4) Risk to controlled waters.
Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by remobilised contaminants present in shallow soils/made ground in line with paragraph 170 of the National Planning Policy Framework.

Informative(s):

- (1) Construction Environmental Management Plan
As the majority of the works will be in Sevenoaks District Council, and in Tonbridge and Malling District Council. Only a very small area falls within the Tunbridge Wells Borough Council Area. It is therefore a matter for Sevenoaks District Council to decide on appropriate

Environmental Controls for the protection of residents. TWBC would recommend a condition to any consent for the application, requiring the applicant to develop a suitable Construction Environmental Management Plan.

As the development involves demolition and / or construction, it is recommended that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

(2) Changes to Public Right of Ways.

Any changes or improvements to the public rights of way across the site will require the express consent of the Highway Authority, in this case KCC PROW and Access Service

(3) All necessary highway approvals and consents be obtained

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look

like roads or pavements but are actually part of the road. This is called 'highway land'.

Some of

this land is owned by The Kent County Council (KCC) whilst some are owned by third party

owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

(4) Environment Agency Informatives:

The following informatives are from the Environment Agency:

Fuel, Oil and Chemical Storage

Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground. The areas for storage should not drain to any surface water system.

Drainage

The following points should be noted wherever infiltration drainage (such as soakaways) are proposed at a site:

- o Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water should drain directly to the system entering after any pollution prevention methods.

- o No infiltration system should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated.
- o There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.
- o A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater

Disposal of soil

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- o Duty of Care Regulations 1991
- o Hazardous Waste (England and Wales) Regulations 2005
- o Environmental Permitting (England and Wales) Regulations 2010
- o The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer.

Proposed ecological enhancement schemes

Works such as Stage zero and river enhancements (Powdermill stream and Straight Mile) are likely to require an internal Flood Risk Activity Permit, which will assess impacts for flood risk, environmental and ecological concerns.

Any floodplain or riverine based mitigation/enhancement schemes will need to demonstrate that the activity will not cause detriment to Water Framework directive (WFD) status or protected species.

If delivered, the changes could also be included as an update within the Biodiversity Net Gain (BNG) calculations. The LPA may request to see an update if they wish.

Invasive Non Native Species (INNS) management plan approach and named references
 It is welcome to see a dedicated plan for identifying and managing the risk of potentially spreading INNS either around site, or through the activity (i.e. spread elsewhere off site). There is specific example reference to Himalayan balsam and mudsnail species, which are locally detected and relevant risks to manage. However, it is recommended that the plan continues to also approach other high risk species, including American skunk cabbage (also reported within the area, but not listed on the legislation as Himalayan balsam - yet presents a credible risk to colonise wetland areas just as well) another approach is to direct a focus on the biosecurity protocols to control the most likely potential spread pathways of the most likely range of assumed species, i.e. rather than purely a prescriptive approach to specific species. This is because the risk of spreading and

introducing INNS are assumed to be ubiquitous, and the measures in place which affect the potential spread pathways will be appropriate for a range of species.

Different taxa will also require different spread risk pathway analysis and biosecurity protocols

Recommendation for INNS biosecurity protocols in site management documentation.
It is recommended to ensure biosecurity measures for each construction Area and phase is included within relevant Environmental Action Plan (EAP) and/or CEMP.

The Council's approach to this application:

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

- The application was acceptable and no further assistance was required.



Stephen Baughen
Head of Planning
Tunbridge Wells Borough Council

IMPORTANT: YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF CONSENT OR GRANT OF CONSENT SUBJECT TO CONDITIONS

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 or Control of Advertisements Regulations 1989.

Please see "Development Type" on page 1 of the decision notice to identify which type of appeal is relevant for the following:

- If this is a decision to refuse planning permission for a Householder application or a Minor Commercial application and you want to appeal the decision, or any of the conditions imposed, then you must do so within 12 weeks of the date of this notice.
- In all other cases, you will need to submit your appeal against the decision, or any of the conditions imposed, within 6 months of the date of this notice.

For applications relating to Enforcement Notices:

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is subsequently served and relates to the same or substantially the same land and development and if you want to appeal against the decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder or minor commercial application decision] of the date of this notice, whichever period expires earlier.

Appeals must be made using a form which you can get from The Planning Inspectorate, Room 3/13, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted advertisement consent for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.