

2.2 REFERENCE NO - 19/502769/FULL		
APPLICATION PROPOSAL		
Construction of an irrigation reservoir, with associated operational development and landscape enhancements.		
ADDRESS Culnells Farm School Lane Iwade Sittingbourne Kent ME9 8QJ		
RECOMMENDATION Approval		
SUMMARY OF REASONS FOR RECOMMENDATION		
There is a demonstrated agricultural need for the proposed irrigation reservoir and therefore the principle of development is acceptable. The proposal would not give rise to harm in terms of visual amenity, highways amenity, flood risk, residential amenity or biodiversity.		
REASON FOR REFERRAL TO COMMITTEE		
Iwade Parish Council Objection		
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT AC Goatham & Son AGENT Bloomfields
DECISION DUE DATE 30/08/19	PUBLICITY EXPIRY DATE 15/08/19	

Planning History

19/502115/ENVSCR

EIA Screening Opinion for Construction of an Irrigation Reservoir to Store Water for Agricultural Irrigation

Decision Date: 14.05.2019

1. DESCRIPTION OF SITE

- 1.1 The site is located to the west and south of School Lane, situated within the open countryside. The site comprises an existing field in agricultural use, which is roughly rectangular in shape. The Site itself is predominantly grass with hedge and tree boundary planting to the north and west, a wooded block to the east and the reservoir, a ditch and a more open boundary to the south.
- 1.2 As noted above to the south of the site there is an existing reservoir which is used for agricultural purposes. Also to the south of the site is an agricultural field and beyond this is a group of buildings at Culnells Farm. To the south-east of the site are two dwellings, nos. 1 and 2 Culnells Farm Cottages. To the east is School Lane which is a designated Rural Lane with agricultural fields on the other side of the road. To the north of the site is an agricultural fields, with nos. 1-4 Moat Farm Cottages fronting onto School Lane. To the west of the site are agricultural fields and to the north-west is a brickearth extraction site.
- 1.3 The existing levels of the Site are at their lowest to the south at approximately 17m AOD with a flat area to the centre of the field and then rising up in the north of the field to approximately 22m AOD.

- 1.4 The development would be located approximately one kilometre from the Medway Special Protection Area (SPA)

2. PROPOSAL

- 2.1 The proposal seeks the construction of an irrigation reservoir for agricultural purposes, with associated operational development and landscaping.
- 2.2 The proposed irrigation reservoir would be used to provide additional water storage for the top fruit production at Culnells and Howt Green Farms. These farms cover an area of 113.4 hectares and are currently being planted with four different varieties of apples and one variety of pear. The end user is AC Goatham and Son which is a large provider of top fruit in Kent and the UK.
- 2.3 The proposed reservoir will be roughly rectangular in shape and will extend to approximately 205 metres in length and 55 metres in width at its widest points. The embankment surrounding the reservoir extends to approximately 11 metres in width to the south, 21 metres in width to the east, 34 metres in width to the west with a larger contoured area of in-fill to the north.
- 2.4 The embankments will be between 7 and 8 metres high from the reservoir base, with 2 to 3 metres being raised above existing ground level. The reservoir will have a maximum working depth of 7.15 metres. The reservoir will cover approximately 1.12 hectares of open water and is roughly less than half the size of the existing reservoir that serves Howt Green Farm.
- 2.5 The proposed irrigation reservoir would connect to the existing reservoir at Howt Green Farm which covers some 3.3ha. The proposed reservoir is to assist in providing sufficient irrigation water for the additional land, and new/replanted orchards at Culnells and Howt Green Farms, ensuring that any shortage or fluctuation of rainfall can be balanced out by the irrigation supply.
- 2.6 The reservoir will be cut into the ground surrounded by an earth embankment approximately 2 to 3 metres above existing ground level.
- 2.7 The reservoir will be excavated and constructed around a compacted clay core enclosed by an earth embankment providing a total water storage capacity of 56,500m³, of which 22,340m³ is above existing ground level and 34,160m³ is below existing ground level. The excavated layer of top soil is to be stripped off and stored and reused for the completion of the embankment. A core trench will be cut around the embankment centre line and filled with compacted clay. As works progresses, this will increase in height in compacted layers to approximately 1 metres above the capacity water level. The internal slopes will be constructed using secondary clay and overburden. Top-soil will be spread over the external faces of the embankments and the top of the embankment and seeded with grass to provide maximum stability.
- 2.8 In terms of access the proposal will not require a different or separate access to those that exist and serves the land at Culnells Farm and Howt Green Farm. The application has been supported by a Construction Management Plan which sets out different options for the access route of HGVs during the construction phase and for the construction parking area. KCC Highways have outlined that the preferred option for construction traffic is option 2 which uses internal access routes through Howt Green

Farm which is located off Sheppey Way, and for the construction parking area to be located via the main access into Howt Green Farm off Sheppey Way. Internal access tracks will be used to access and maintain the reservoir upon completion.

3. SUMMARY INFORMATION

	Proposed
Site Area (ha)	5.31 ha
Approximate Length(m)	205 metres
Approximate Width (m)	55 metres
Embankment height above ground level	2-3 metres
Reservoir working depth	7.15 metres

4. PLANNING CONSTRAINTS

- 4.1 Potential Archaeological Importance
- 4.2 Countryside location
- 4.3 School Lane is a designated Rural Lane

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Paragraphs 7, 8, 11 (sustainable development); 80 and 83 (building a strong economy, including prosperous rural economy), 102 (transport); 127 and 130 (achieving well designed places); 163 (flood risk), 165 (sustainable drainage systems) 170 (local and natural environment); 175 (biodiversity), 206 (mineral safeguarding) are relevant to this proposal.
- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 - (ST1 (Delivering sustainable development in Swale), ST3 (The Swale settlement strategy), CP1 (Building a strong, competitive economy), CP4 (Requiring good design), CP7 (Conserving and enhancing the natural environment), DM3 (The rural economy), DM6 (Managing transport demand and impact), DM7 (Vehicle parking), DM14 (General development criteria), DM21 (Water, flooding and drainage), DM24 (Conserving and enhancing valued landscapes), DM26 (Rural lanes), DM28 (Protecting biodiversity), DM31 (Agricultural land)
- 5.3 DM7 of the Kent Minerals and Waste Local Plan 2013-30: Policy DM7 (Safeguarding Mineral Resources).

6. LOCAL REPRESENTATIONS

- 6.1 None Received

7. CONSULTATIONS

7.1 Iwade Parish Council Object (23/09/2019) on the following grounds:

- Concerns over flooding of Iwade Stream.

There has been correspondence with Iwade Parish Council through the course of the application which is set out below;

11/07/2019 – Iwade Parish Council Comments

- Concerns regarding the impact of another reservoir place in this area as it will ultimately feed into the Iwade Stream; adding to the Weinerberger feed, the existing reservoir feed and that from housing further down.
- Iwade stream floods (although at times it may look quite insignificant); the latest event being May 2018 when fourteen homes were flooded and damaged. As a result of this the National Flood Forum, headed by Katia Sanhueza-Pino, Flood Project Officer (South East), has been holding meetings with those affected, the Parish Council and multi agencies, including the Environment Agency, KCC (John Kelly, Max Tant, and Earl Bournier), Southern Water and Swale Borough Council (Victoria Hadfield, Mike Knowles and Della Fackrell); a walk-through of the stream by the multi agencies is planned for the end of this month
- Request that KCC's formal flood defence consent be sought and that a detailed CCTV survey be undertaken as suggested (in KCC consultation dated 09/07/2019) prior to any planning consent.

12/09/2019 – Iwade Parish Council Comments

- Disappointed to see the responses from KCC and the Environment Agency
- The Environment Agency only mention pollution; there was no reference to flooding concerns and the impact the extra water will have on the Iwade Stream.
- Iwade Parish Council queried the consultation response made by KCC Flood and Water (dated 09/07/2019) which outlined the potential need for formal flood consent. For clarity KCC Flood and Water provided the following response which was passed to Iwade Parish Council in an email dated 16/09/2019; *"The original application did not provide a lot of information about the operation of the reservoir, consequently our response covered a number of possible issues. Since then, we have been able to discuss with the applicant how the reservoir is intended to be filled and operated in more detail. They confirmed in their letter the intention to fill in a controlled manner by pumping from the existing reservoir, there is no new direct abstraction from the watercourse and the water is only used to satisfy irrigation demand. In most circumstance it would not discharge any water into the watercourse."*

Following these clarifications, we consider the proposal is a low risk in terms of any potential for increase in flood risk elsewhere, so we have not requested that the applicant undertake any assessments of the watercourse downstream. We have requested a verification report as a planning condition, the operation and maintenance requirements must be detailed in full when discharging this condition.

As the applicant is not making any changes to the watercourse, land drainage consent (also known as flood defence consent) is not required, as this only applies to construction activities within the banks or channel of the watercourse itself. It does not concern flow rates or volumes etc. which are discussed as part of the planning application. The paragraph referring to this in our original response is a standard paragraph that we often include to make applicants aware that this is required, which we now know is not in this

instance. Should land drainage consent be required, it is granted as part of a separate legal process to planning approval, the approval of a planning application does not provide land drainage consent and our response to a planning application would not indicate this (though it may highlight the need to apply for this, as our original response did)."

23/09/2019 – Iwade Parish Council maintain their objection;

- Even though KCC Drainage maintain the risk is low, the same comment has been made in the past and from experience with Iwade Stream even a 'low risk' is not acceptable due to the flooding the village has had to suffer in the past. The Parish Council does still object to this application if at some time water from the reservoir is permitted to enter the stream.

7.2 Environment Agency raise no objection (22/08/2019)

22/08/2019: The Environment Agency have reviewed the details and raise no objection to the proposal. After confirmation from the applicant the EA find the plans acceptable and the pollution prevention measures are appropriate.

Officer Note: Please note the Environment Agency have only provided comments regarding pollution prevention measures, and issues relating to flooding and drainage fall outside their remit and would be considered by KCC as the Local Lead Flood Authority, (as set out in para 7.4 below).

7.3 Natural England raise no objection (21/08/2019)

05/07/2019: As submitted, the application could have potential significant effects on the Medway Estuary and Marshes Ramsar Site and Special Protection Area (SPA). Natural England requested further information in the form of an assessment of the potential suitability of the site to support non-breeding birds which are an interest feature of the designated sites noted above.

21/08/2019: based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Additional information provided on 31 July 2019 concerning winter bird use of the proposed farm reservoir site indicates that it is unlikely that the development site it utilised by interest feature bird species of nearby designated sites, therefore is unlikely to be considered functionally linked land.

7.4 KCC Flood and Water raise no objection subject to conditions (14/08/2019)

27/06/2019: KCC Flood and Water outlined that the proposed works did not fall under the remit of Kent County Council as Lead Local Flood Authority. They outlined that 'The works proposed apply to a reservoir as defined under the Reservoirs Act 1975 and consultation should be undertaken with the Environment Agency.'

Officer Note: Following the receipt of this consultation response there was correspondence between the planning agent and KCC Flood and Water regarding whether the proposal was covered by the 1975 Reservoir Act (and therefore the Environment Agency). As set out in KCC's consultation response for 19/502115/ENVSCR (Environmental Screening Opinion) for the proposal it was clarified

that it would not fall under the 1975 Reservoir Act as the proposal was below the above existing ground level threshold storage size of 25,000 m³ and therefore would not require the Environment Agency approval. The proposal is for a reservoir with a total capacity of 56,500 m³ of which 22,340 m³ would be above existing ground level and therefore does not meet the threshold of the 1975 Reservoir Act. As such further comments were sought from KCC Flood and Water.

09/07/2019: “KCC Flood and Water comment that in principle, they are satisfied with the drainage strategy for the proposed reservoir where surface water overflow will be discharged to greenfield runoff for all critical events.

At the detailed design stage, we would also expect to see the drainage system modelled using FeH rainfall data in any appropriate modelling or simulation software. Where FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (June 2017).

As this proposal will be increasing the volume of surface water to the existing ordinary watercourse, we need to be sure that it is in a condition to take this additional volume. A CCTV survey could be undertaken at detailed design stage.”

They included a note stating; “Any feature capable of conveying water can be considered to fall under the definition of an ‘ordinary watercourse’ and we would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch’s ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.” (**Officer Note: see updated position from KCC in para 7.1)**

KCC Flood and Water therefore raised no objection to the proposal subject to conditions seeking 1) a detailed surface water drainage scheme prior to the commencement of development, and 2) a verification report regarding the approved surface water drainage scheme prior to occupation/use of the development.

14/08/2019: The agent submitted further information regarding a drainage strategy (letter dated 25/07/2019). KCC outlined that they are satisfied with the drainage strategy, and are satisfied sufficient information has been supplied at this stage. As such KCC raise no objection to the application subject to the inclusion of condition two, and remove the first condition proposed in their consultation response dated 09/07/2019.

7.5 KCC Highways raise no objection subject to conditions (08/07/2019)

08/07/2019: KCC Highways reviewed the submitted Construction Management Plan and note there are a couple of points that require further clarification as set out below (points 1 and 2). KCC Highways raise no objection to the application subject to the inclusion of conditions regarding the route of HGVs during the construction phase to be via the preferred option 2 (Through Howt Green Farm off Sheppey Way), and for the construction parking area to be located via the main access into Howt Green Farm off Sheppey Way.

1) It would appear that two options are being presented for the routing of HGVs during the construction phase and although it is noted that these movements are to be limited to the delivery and collection of machinery and materials, we would favour a route that takes these movements as much off the highway as possible, i.e. through Howt Green Farm. This should consequently be designated by way of condition as the preferred option 2.

2) The parking area for contractors during the construction phase up until its incorporation into the contoured area would appear to propose the use of an existing access off School Lane, to the north of the proposed reservoir. In our view this access would not be suitable for the increase in vehicle movements that would be generated by these proposals and we would favour ensuring again by way of condition that these vehicles are routed via the main access into the farm.

17/06/2019: KCC Highways requested a detailed Construction Management Plan

7.6 KCC Ecology raise no objection (22/07/2019) subject to conditions

01/07/2019: Requested further information regarding Great Crested Newts (GCN) “as GCN is a protected species, there is a requirement to either carry out the proposed works under the traditional European Protected Species (EPS) Licencing or as part of the District Level Licencing (DLL). We require clarification of what approach is proposed to be implemented prior to determination. As such:

- If the District Level Licencing is proposed, we advise a copy of the certificate from Natural England confirming that the scheme has been accepted.
- If the traditional EPS Licencing is proposed, we advise this is secured as a condition using the information detailed in section 4.4 of the ecology report.”

With regard to reptiles, KCC Ecology raise no objection subject to a condition seeking compliance with the ecological mitigation measures outlined within the submitted Preliminary Ecological Appraisal, Reptile Survey and Mitigation Strategy (KB Ecology March 2019). KCC Ecology requested the inclusion of an informative regarding breeding birds.

22/07/2019: The agent provided additional information regarding GCN outlining that the District Level Licencing is proposed and included a certificate outlining that the scheme can be accepted within the District licensing scheme. KCC Ecology reviewed the submitted information and considered this addressed their request regarding GCN and outlined no further information was required.

7.7 KCC Minerals and Waste raise no objection (24/09/2019)

24/09/2019: “We have reviewed the borehole evidence, which we consider to have sufficient spread across the proposed site to be representative. The data shows that the deposit is substantially contaminated with sands and flints and is clay in nature. Brickearth is mineralogically very similar to clay in nature and thus the first 0.4m of some of the boreholes may well be recording a Brickearth deposit. However, experience has shown that the local mineral operators do not regard this type of deposit useable. Furthermore, the depth of any potential deposit is shown to be limited. Therefore, based on the information available it can be concluded that given the contamination and limited

depth, the mineral is unlikely to be economic and therefore criterion 1 of Policy DM7 of the KMWLP can be invoked. The County Council as Minerals and Waste Planning Authority therefore has no objection on the basis of the new information.”

- 7.8 **Southern Water raise no objection (10/06/2019)**, and their comments are included as an informative

- 7.9 **Rural Planning raise no objection (11/06/2019)**

Comment: ‘The applicants are large-scale local fruit growers, and packers of their own fruit, and other farmers’ fruit, with their operational base at Hoo St Werburgh, where at Flanders Farm they have constructed a large fruit processing and storage facility with associated parking and hardstandings etc, initially permitted in outline in 2011.

The applicants are now understood to own or rent a total of 26 farms, mainly in the Medway and Swale areas, but also further afield in Kent, farming a total of over 900 ha overall. Culnells Farm (about 41 ha) was partially acquired, partially rented in 2017, and is farmed together with the nearby Howt Green Farm (about 73 ha).

Howt Green Farm has an existing reservoir covering some 3.3 ha and it is now proposed to add a further (connected) reservoir nearby covering some 1.1 ha, and about 7m deep. This is to assist in providing sufficient irrigation water for the additional land, and new/replanted orchards.

It is normally considered that important environmental and agricultural benefits are obtained from the provision of adequate winter storage capacity on fruit farms, for crops that are highly demanding of adequate irrigation water for summer cropping. The size of the reservoir proposed does not appear excessive in relation to the area of orchards that it would serve. I conclude that the development is necessary for the purposes of agriculture here.’

- 7.10 **Lower Medway Internal Drainage Board** were consulted on the application, but have made no comments.

8. BACKGROUND PAPERS AND PLANS

- 8.1 The application has been supported by a site location plan; existing block plan, proposed block plan’ proposed elevations; proposed site sections; proposed contour plan; proposed drainage plan and inflow construction details; proposed dimensioning plan and landscape masterplan. The application has been supported by a preliminary ecology appraisal, reptile survey and mitigation; flood risk assessment; landscape and visual impact assessment; planning statement, construction management plan; planning statement; a letter regarding non-breeding birds and supporting minerals statement.

9. APPRAISAL

Principle of Development

- 9.1 Paragraph 83 of the NPPF supports a prosperous rural economy and notes that decisions should enable “a) *the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and b) the development and diversification of agricultural and other land-based rural businesses;...*”. Policy DM3 of the Swale Borough Local Plan, supports the

rural economy including development in the agricultural sector. The policy states that planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area.

- 9.2 Policy DM3 sets out that all proposals shall ‘result in no significant harm to the historical, architectural, biodiversity, landscape or rural character of the area’ (1.e) and shall ‘avoid scales of traffic generation incompatible with the rural character of the area, having regard to Policy DM6 and Policy DM26’ (1.f). The policy has further criterion for agricultural/forestry sectors set out in part 3 of the policy;

- a. enable the diversification of a farm; or*
- b. extend the growing season or improve the reliability and availability of local crops; or*
- c. provide for the storage, distribution or added value activities in central hubs located close to crop sources and the primary and secondary road networks; or*
- d. increase the availability of locally grown food sold direct to the consumer; or*

With regard to the criteria set out above, it is considered that the proposal would meet parts 3.b and 3.d. The proposed development will ensure that there is sufficient water in place to provide a reliable source of irrigation water to the orchards, this in turn optimises the growing season and efficiency of the local crops.

- 9.3 The applicants are large-scale local fruit growers, and packers of their own fruit and other farmers fruit at an operational fruit processing and storage facility based at Hoo St Werburgh. The proposed irrigation reservoir would be used to provide additional water storage for the top fruit production at Culnells and Howt Green Farms (approx. 114 hectares), including new and replanted top fruit orchards. The Councils Rural Agricultural Advisor has been consulted regarding the agricultural ‘need’ for the proposed reservoir and noted that *“It is normally considered that important environmental and agricultural benefits are obtained from the provision of adequate winter storage capacity on fruit farms, for crops that are highly demanding of adequate irrigation water for summer cropping. The size of the reservoir proposed does not appear excessive in relation to the area of orchards that it would serve.”* The Council’s Rural Agricultural Advisor concluded that the proposed development is necessary for the purposes of agriculture here.

- 9.4 Therefore taking into account the above, it is considered that the principle of development for an agricultural irrigation reservoir is acceptable.

- 9.5 The impact upon the landscape, rural character of the area, highways, biodiversity, drainage/flood risk and residential amenities will be assessed below.

Visual Impact and Landscape

- 9.6 The site has a clear rural and agricultural character comprising an existing agricultural field and is surrounded by agricultural fields, an existing irrigation reservoir, an area of woodland and sporadic buildings to the north/south/east which maintain the rural and agricultural character of the area. The site itself has screening enclosure to the east in the form of a woodland block between the site and School Lane, to the north and west there is existing hedge and tree planting along the field boundaries and immediately to the south is the existing reservoir. Members will note that the application site is not designated on account of landscape quality; to the west and north, on the western side

of Iwade Road, between the road and the Medway estuary, land is designated as an Area of High Landscape Value (Swale Level).

- 9.7 The proposed reservoir is roughly rectangular in shape, with grass embankments to the east, west and south. A larger area of contouring from the excavated material is proposed to the north, this area comprises gradual land contours and new earthworks to blend in to the new reservoir embankment and the existing surrounding landscaping. This area to the north will be re-laid with agricultural quality soil re-laid ready for future proposed crops.
- 9.8 A Landscape and Visual Impact Assessment has been undertaken and has been used to inform any necessary mitigation planting or landscaping to soften the impact of the development, and ensure there is no unacceptable harm to the landscape character. The submitted Landscape Masterplan sets out that native hedge and tree planting is proposed along the north and west field boundaries to strengthen the existing planting; native hedge and tree planting is proposed on the eastern boundary between the site and School Lane to strengthen the existing woodland planting. To the southern boundary a new alder shelter belt is proposed.
- 9.9 The Landscape and Visual Impact Assessment sets out that in terms of the visual impact of the development, the zone of theoretical visibility would be contained to an area only a couple of hundred metres to the north and south, with many of the views from the north being obscured or partial. The views from the east and west would be limited due to the proposal sites containment within the densely planted field boundaries. Upon completion and establishment of the proposed enhancement planting this zone of theoretical visibility would be further significantly reduced, with most views of the proposal limited to within the developments field boundaries.
- 9.10 As set out within the Landscape and Visual Impact Assessment there would be a moderately adverse landscape impact during the construction phase, though once the reservoir and enhancement planting has been implemented the potential landscape character impact has been judged to be minor to moderate adverse. The assessment outlines that once the planting is established and the reservoir is in use the landscape character impact is judged to be minor beneficial.
- 9.11 School Lane is a designated Rural Lane which is situated to the east and north of the site. The closest part of the proposed reservoir to the rural lane is along the eastern boundary where there is existing woodland between the site and the highway, which is proposed to be strengthened by additional native landscaping. There is a significant gap between the reservoir and the northern part of School Lane with landscaping and agricultural fields situated between the site and highway. As such it is considered the proposal would not result in harm to the character of the designated rural lane.
- 9.12 Taking into account the above, it is considered that the proposal would not have a harmful visual impact on the character and appearance of area subject to the proposed additional planting and landscaping which will be sought via condition. A clear agricultural need for the development has been demonstrated and the proposal would maintain the rural and agricultural nature of the site, albeit in a different way to its current form. As such it is considered the proposal is acceptable in terms of visual impact and landscape character.

Highways

- 9.13 With regard to the impact on the highway network, the proposed development would not require a new access. The application has been supported by a Construction Management Plan which set out different options for the access route of HGVs/construction traffic during the construction phase and for the construction parking area.
- 9.14 KCC Highways and Transportation have reviewed the submitted information and have concluded that the preferred option for construction traffic is to utilise existing internal access routes through Howt Green Farm, and for the construction parking area to be located via the existing main access into Howt Green Farm, both of which use an existing access off Sheppey Way. KCC Highways and Transportation have outlined that this will limit the extent of movements on the public highway, and that alternative construction parking area situated off School Lane would not be suitable. As such, KCC Highways and Transportation raise no objection to the proposed development subject to conditions controlling the route for construction traffic and construction parking area which is outlined in condition (8).
- 9.15 Once the development is complete, internal access track through the farm will be used to access and maintain the reservoir and therefore is not considered to have a harmful affect on the highway network. Therefore taking this into account and provision for traffic movements to pass through Howt Green Farm will ensure there will be less impact upon the local road network. It is therefore considered that the proposed development will be acceptable in traffic terms and satisfy Local Plan policy DM6.

Drainage and Flood Risk

- 9.16 Due to the scale of development, the application has been supported by a Flood Risk Assessment including a Drainage and Surface Water Drainage Strategy (SuDs), policy DM21 of the Local Plan is relevant. The application site falls within the Environment Agency Flood Zone 1 which is a 'Low Probability' area regarding flood risk. The flood risk vulnerability classification for this type of development in this location is considered as 'Water Compatible' development which is acceptable in Flood Zone 1.
- 9.17 Iwade Parish Council have raised concerns regarding the increased risk of flooding to Iwade from the impact of an additional reservoir, as it has the potential to feed into the Iwade Stream; adding to the Weinerberger feed, the existing reservoir feed and that from housing further down. Iwade Parish Council has noted that the Iwade stream flooded in May 2018.
- 9.18 Consultation has been sought from both the Environment Agency and KCC Flood and Water regarding flood risk and drainage. As set out within the consultation response section (para 7.2), the Environment Agency's comments are limited to pollution prevention measures, as issues relating to flooding and drainage fall outside their remit and therefore would be considered by KCC as the Local Lead Flood Authority. As such, the comments from KCC Flood and Water are pertinent and are discussed below.
- 9.19 The initial comments (09/07/2019) dated from KCC Flood and Water outlined that they were satisfied with the drainage strategy and therefore raised no objection subject to conditions seeking 1) a detailed surface water drainage scheme prior to the commencement of development, and 2) a verification report regarding the approved

surface water drainage scheme prior to occupation/use of the development. Further information was provided by the agent with regard to the drainage strategy and KCC Flood and Water provided an updated consultation response outlining that this information was sufficient to satisfy their requested condition, and therefore raised no objection subject to the verification report which is outlined in condition (3).

- 9.20 Further to concerns from Iwade Parish Council, clarification was sought from KCC Flood and Water regarding potential flood risk. They provided a comprehensive response which is included below; *“The original application did not provide a lot of information about the operation of the reservoir, consequently our response covered a number of possible issues. Since then, we have been able to discuss with the applicant how the reservoir is intended to be filled and operated in more detail. They confirmed in their letter the intention to fill in a controlled manner by pumping from the existing reservoir, there is no new direct abstraction from the watercourse and the water is only used to satisfy irrigation demand. In most circumstance it would not discharge any water into the watercourse.*

Following these clarifications, we consider the proposal is a low risk in terms of any potential for increase in flood risk elsewhere, so we have not requested that the applicant undertake any assessments of the watercourse downstream. We have requested a verification report as a planning condition, the operation and maintenance requirements must be detailed in full when discharging this condition.

As the applicant is not making any changes to the watercourse, land drainage consent (also known as flood defence consent) is not required, as this only applies to construction activities within the banks or channel of the watercourse itself. It does not concern flow rates or volumes etc. which are discussed as part of the planning application. The paragraph referring to this in our original response is a standard paragraph that we often include to make applicants aware that this is required, which we now know is not in this instance. Should land drainage consent be required, it is granted as part of a separate legal process to planning approval, the approval of a planning application does not provide land drainage consent and our response to a planning application would not indicate this (though it may highlight the need to apply for this, as our original response did).

- 9.21 In conclusion, the proposed development is considered to be low risk in terms of any potential for increase in flood risk elsewhere, and is an appropriate form of development within Flood Zone 1. KCC Flood and Water as the Local Lead Flood Authority have raised no objection to the proposed development in terms of flood risk and have outlined that the submitted drainage measures are suitable subject to a condition which is set out above. As such, it is considered the proposal is acceptable in terms of flood risk and drainage.

Residential Amenity

- 9.22 The nearest residential dwellings to the proposed reservoir at 1 and 2 Culnells Farm Cottages located approximately 200m to the south-east of the proposal and nos. 1-4 Moat Farm Cottages which are located approximately 290m to the north of the proposal. Taking into account the significant distance between the proposed development and these residential dwellings and the nature of the development, the proposal is considered to respect the residential amenities of these neighbouring dwellings.

Biodiversity

- 9.23 Paragraph 174 of the NPPF 2018 advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. It also advises that opportunities to incorporate biodiversity in and around developments should be encouraged. Local Plan Policy DM28 outlines that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 9.24 The application was supported by 'Preliminary Ecological Appraisal, Reptile Survey and Mitigation Strategy'. The submitted report outlined that great crested newts are likely to be present on site, and that also found the presence of reptiles within the vicinity of the site. With regard to the great crested newts (GCN), KCC Ecology requested clarification regarding whether the required mitigation would be carried out under the traditional European Protected Species (EPS) Licencing or as part of the District Level Licencing (DLL). The agent provided additional information regarding GCN outlining that the District Level Licencing is proposed and included a provisional certificate outlining that the scheme can be accepted within the District licensing scheme. KCC Ecology reviewed the submitted information and considered this addressed their request regarding GCN and outlined no further information was required.
- 9.25 With regard to reptiles on site, KCC Ecology are satisfied with the mitigation measures outlined in the report and therefore raise no objection subject to a condition seeking compliance with the ecological mitigation measures, which is set out in condition (6). KCC Ecology have also requested the inclusion of an informative regarding breeding birds which has been included.

Minerals

- 9.26 The Kent Minerals and Waste Local Plan 2013-2030 shows that part of the site lies within an area of potential Brickearth deposits. Policy DM7 (Safeguarding Mineral Resources) of the Kent Minerals and Waste Local Plan 2013-2030 sets out the criteria which will need to be satisfied in order for planning permission to be granted for non mineral development that is incompatible with minerals safeguarding. The application has been supported by a Minerals Assessment which has been assessed by the KCC Minerals and Waste officer. The supporting assessment outlines that the deposit is substantially contaminated with sands and flints, and local mineral operators do not regard this type of deposit useable, furthermore the depth of the any potential deposits has been shown to be limited. Therefore, based on the information available it can be concluded that given the contamination and limited depth, the mineral is unlikely to be economic and therefore criterion 1 of Policy DM7 of the KMWLP can be invoked. The County Council as Minerals and Waste Planning Authority therefore has no objection on the basis of the new information. As such, I consider believe that criterion 1 of DM7 (the mineral is not of economic value or does not exist) has been satisfied.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

- 9.27 This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Medway and The Swale

Special Protection Areas (SPAs) which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

- 9.28 SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 9.29 In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.
- 9.30 The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *“it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.”* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group (NKEPG)
- 9.31 As part of the consultation process, Natural England requested further information in the form of an assessment of the potential suitability of the site to support non-breeding birds which are an interest feature of the designated sites (Medway Estuary and Marshes Ramsar Site and Special Protection Area (SPA)).
- 9.32 Further information regarding non-breeding birds was submitted concerning winter bird use of the proposed farm reservoir site and indicates that it is unlikely that the development site is utilised by interest feature bird species of nearby designated sites, therefore is unlikely to be considered functionally linked land. As such, Natural England has advised that the proposed development will not have significant adverse impacts on designated sites and that a likely significant effect can be ruled out, and therefore raises no objection
- 9.33 Furthermore, as the proposal does not seek any form of residential development there is no requirement for a SAMMS contribution in this instance.

10. CONCLUSION

- 10.1 Having considered the proposal on its own merits and against planning policies set out in NPPF and the Local Plan, I am of the view that this proposal can be considered as development necessary to assist in the viability and vitality of agricultural and rural business whereby it should be supported and complies with Policy DM 3 of the Local Plan. Subject to the proposed additional planting and landscaping it is considered the proposal would not have a harmful visual impact on the character and appearance of

area. As set out in the assessment above it is not considered that the proposed development would give rise to harm in terms of highways amenity, residential amenity, or biodiversity (indeed the additional native species planting has the potential to enhance biodiversity at the site).

10.2 The proposed development is considered to be low risk in terms of any potential for increase in flood risk elsewhere, and is an appropriate form of development within Flood Zone 1. KCC Flood and Water as the Local Lead Flood Authority have raised no objection to the proposed development in terms of flood risk and have outlined that the submitted drainage measures are suitable. As such, it is considered the proposal is acceptable in terms of flood risk and drainage.

10.3 Taking all material planning consideration into account, I consider the proposal to be acceptable and therefore recommend that planning permission be granted subject to conditions.

11. RECOMMENDATION

GRANT Subject to the following conditions

CONDITIONS to include

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in accordance with the details shown on the following drawings;

Site Location Plan, drawing no. JPR02-4-1-001 Rev B
 General Arrangement Plan, drawing no. JPR02-4-1-002 Rev A
 Proposed Contour Plan, drawing no. JPR02-4-1-003 Rev A
 Dimensioning Plan, drawing no. JPR02-4-1-004 Rev A
 Drainage Plan, drawing no. JPR02-4-1-005 Rev A
 Proposed Site Sections, drawing nos. JPR02-4-3-001 Rev A; JPR02-4-3-002 Rev A;
 JPR02-4-3-003 Rev A; JPR02-4-3-004 Rev A
 Embankment Construction Details (North East South), drawing no. JPR02-4-5-001 Rev A

Embankment East and Overflow Construction, drawing no. JPR02-4-5-002 Rev B
 Inflow Construction Details, drawing no. JPR02-4-5-003 Rev B
 Landscape Masterplan

Reasons: For the avoidance of doubt and in the interest of visual amenity.

3. The development hereby permitted shall not be occupied (or the use commenced) until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the

submission of an operation and maintenance manual for the sustainable drainage scheme as constructed

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

4. Notwithstanding the details on 'Landscape Masterplan', prior to first occupation of any part of the development full details of soft landscaping works shall be submitted to the Local Planning Authority for approval. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. Upon approval the agreed landscaping scheme shall be implemented within the next available planting season.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

5. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

6. All ecological mitigation measures and/or works shall be carried out in accordance with the details contained within 4.4 of the Preliminary Ecological Appraisal, Reptile Survey and Mitigation Strategy (KB Ecology March 2019). Any changes to the ecological mitigation measures need to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of reptile habitat and biodiversity

7. The development must accord with the site survey and sectional drawings showing site level details and proposed site levels of the reservoir and associated development. No other alterations to levels, other than those indicated on these approved plans, shall take place within the site without the prior written approval of the Local Planning Authority.

Reason: In the interest of visual amenity.

8. The routing of construction and delivery vehicles to/from the site shall be in accordance with para 3.4 and figure 2 as set out within the Construction Management Plan (dated June 2019) and the parking and turning areas for construction and delivery vehicles and site personnel including wheel washing facilities shall be in accordance with the area shown on figure 5 as set out within the Construction Management Plan (dated June 2019). Any changes to these arrangements need to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

INFORMATIVES

Southern Water:

The exact position of the public water main must be determined on site by the applicant before the layout of the proposed development is finalised. (Please refer to consultation response dated 10/06/2019 for a plan).

All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works. No excavation, mounding or tree planting should be carried out within 6 metres of the public water main without consent from Southern Water.

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The application details for this development indicate that the proposed means of surface water drainage for the site is via a watercourse. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

For further advice, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119), www.southernwater.co.uk or by email at developerservices@southernwater.co.uk.

KCC Ecology:

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

KCC Highways

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.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

