

PLANNING COMMITTEE – 28 MAY 2020**PART 2**

Report of the Head of Planning

PART 2Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 19/500990/SUB			
APPLICATION PROPOSAL Submission of Details to Discharge Condition 9 details of foul water method subject to 14/501588/OUT.			
ADDRESS Stones Farm The Street Bapchild Kent ME9 9AD			
RECOMMENDATION Grant			
SUMMARY OF REASONS FOR RECOMMENDATION The details provided have been considered acceptable by Southern Water.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Monique Bonney			
WARD West Downs	PARISH/TOWN Bapchild	COUNCIL	APPLICANT Chartway Group Ltd AGENT
DECISION DUE DATE 24/04/19		PUBLICITY EXPIRY DATE 11/11/19	

Planning History

14/501588/OUT - Hybrid application (part outline, part approval of detail) consisting of: Outline application for the development of 550-600 houses and all necessary supporting infrastructure including roads, open space, play areas, neighbourhood shopping/community facilities (up to 650 sq m gross) and landscaping. All detailed matters are reserved for subsequent approval except (i) vehicular access to A2 Fox Hill; (ii) emergency access to Peel Drive; (iii) landscape buffer between housing and countryside gap and (iv) layout, planting, biodiversity enhancement and management of countryside gap, as amended by drawings 5257/OPA/SK001 Rev J (new red line plan), D119/52 (Swanstree Avenue Plan) and D119/53 (junction layout plan). Approved 22.12.2017.

19/502967/NMAMD - Non Material Amendment Being Alterations to Wording of Planning Conditions 9 and 12, Please See Covering Letter for Wording, Subject to 14/501588/OUT Approved 21.10.2019.

1. PROPOSAL

1.1 This is an application seeking to discharge details required under condition 9 of planning permission 14/501588/OUT. The original condition was amended via an application for a non-material amendment, referenced above, and as such the condition is worded as follows:

9) Prior to the commencement of the development (save for (i) the vehicular access to A2 Fox Hill; (ii) the emergency access to Peel Drive; (iii) the landscape buffer between housing and countryside gap and (iv) the layout, planting, biodiversity enhancement and management of the countryside gap) hereby approved, full details of the method of disposal of foul water shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies and in order to prevent localised flooding; and to ensure that these details are approved before works on the relevant part of the scheme commence.

1.2 As such, the condition requires full details of the method of disposal of foul water to be submitted. Details have been submitted and the application has proceeded as follows.

2. REPRESENTATIONS

2.01 Bapchild Parish Council – Raised the following concerns:

- Previous correspondence from Southern Water stated that the sewer network in the area needed upgrading before waste from the development can be accommodated;
- An area of Bapchild required a tanker to remove raw sewerage;
- There have also been sewerage problems in Folkestone;
- A separate application (17/505851/OUT; though Members will note that this was one of nine reasons for refusal) was refused as there was insufficient capacity at the waste water treatment works;
- Development and / or occupation of dwellings should be held and the application refused until the local drainage infrastructure is adequate;
- Have a limited understanding of what is being proposed and there may be connection to a private cesspool;
- The proposal is not in the best interests of new residents, the school, local businesses, and the wider village;
- Tankers removing sewerage will cause more traffic;
- There has been a lack of transparency about this application and it should be returned for public consultation;
- Is a sewerage pumping station being proposed?

2.02 Due to the comments received from the Parish Council (and the technical consultees below), I set out in a report (which is referred to below) my consideration of the application and sent this to the Ward Member (Cllr Monique Bonney). On this basis, Cllr Bonney provided the following comments:

“Regarding this condition I would request that this matter is reviewed by the full planning committee, the original planning permission, 14/501588/OUT recorded the following;

“The outline permission imposes a condition requiring full details of the method of disposal of foul water which the applicant will be required to discharge”.

The latest report does not give a full explanation of how the foul water will actually be dealt with and discharged.

Comments “as a result of this, the strategy does not include the need for cesspits and as such I do not believe there will be a requirement for tankers to remove sewerage, a concern raised by the Parish Council”.

Tankers being used or not should be a definitive statement and not left hanging as “I do not believe”.

With reference to the Southern Water’s letter dated 2nd March 2020 the officers report is correct in stating “the submitted drainage layout is satisfactory to Southern Water relating to foul drainage”. However the following paragraphs from that communication outlines a number of observations and concerns about what is being proposed.

The submitted drainage layout is satisfactory to southern water relating to foul drainage. No discharge of foul sewerage from the site shall be discharged into the public system until offsite drainage works to provide sufficient capacity within foul network to cope with additional sewerage flows are complete. Southern Water is currently in process of designing and planning delivery of offsite sewerage network reinforcements.

As previously advised Southern Water seeks to limit the timescales to a maximum of 24 months from a firm commitment of the development. Due to the vibration, noise and potential odour generated by sewage pumping stations, no habitable rooms should be located closer than 15 metres to the boundary of a proposed pumping station site.

There is a NAV [New Appointments and Variations] agreement in place between Southern Water and Icosa Water Services Ltd for the supply of water and sewerage services. The connection/ discharge points to the public network and agreed discharge flow rates must comply with NAV agreements terms.

I believe Southern Water’s requirements should be included as conditions in any permission that might be granted. If the applicant can clarify these points (to my satisfaction) prior to the next committee then I will withdraw my request for this Condition to go to committee.

From day one occupation are these new units going to be properly connected to the main sewer? How does the public sewer reinforcement programme tie in with this requirement?”

- 2.03 As per the above comments, the applicant’s agent was provided with Cllr Bonney’s response and provided the following information:

“The development will be connected to mains foul drainage – see further detail below explaining the process.

A 15m cordon is a standard design requirement for residential properties to be off-set from a pumping station. We will ensure that residential property is located a minimum of 15m from the pumping station as we start to develop our layout for the next phase of

development (i.e. at the rear of the site). In any event, the detailed layout for Phase 2 will be subject to full review by the LPA (and other relevant consultees) as part of the consideration of any subsequent Reserved Matters application.

As stated above, the new dwellings will be connected to a mains sewer from the point of 1st occupation. As highlighted by Southern Water there is a NAV agreement in place between Icosa Water and Southern Water for the supply of water and sewerage services to the site. In practical terms this means that the developer pays a statutory 'infrastructure charge' that is used by Southern Water to upgrade their local network (where they deem this is necessary). Southern Water undertake any upgrading works to their network in line with their overall network management/upgrading regime. We construct the on-site sewerage infrastructure to an agreed specification – which as you will note in this instance has been fully agreed with Southern Water – which includes the physical connections from the houses to the pumping station and the link between the pumping station and the public sewerage network."

3. CONSULTATIONS

- 3.1 Southern Water – Initially responded on 28/3/2019 to confirm that they could not recommend the discharge of the condition as *"The submitted drainage plans are not clear and we are therefore unable to make any recommendations. Kindly submit a detailed drainage layout plan, clearly indicating the on-site foul drainage and their relevant final discharge points."*

Further comments were made regarding network reinforcement and a further condition was recommended which stated *"Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development"*

Further comments were received on 7th May 2019, reiterating the comments as set out above.

Additional comments were received on 11/11/2019 which stated:

"There is a NAV agreement in place between Southern Water and Icosa Water Services Ltd for the supply of water and sewerage services. The connection/ discharge points to the public network and agreed discharge flow rates must comply with NAV agreements terms."

Further comments received on 2/3/2020 stating the following:

"The submitted drainage layout is satisfactory to southern water relating to foul drainage. [My emphasis]

No discharge of foul sewerage from the site shall be discharged into the public system until offsite drainage works to provide sufficient capacity within foul network to cope with additional sewerage flows are complete. Southern Water is currently in process of designing and planning delivery of offsite sewerage network reinforcements. As previously advised Southern Water seeks to limit the timescales to a maximum of 24 months from a firm commitment of the development.

Due to the vibration, noise and potential odour generated by sewage pumping stations, no habitable rooms should be located closer than 15 metres to the boundary of a proposed pumping station site.

There is a NAV agreement in place between Southern Water and Icosa Water Services Ltd for the supply of water and sewerage services. The connection/ discharge points to the public network and agreed discharge flow rates must comply with NAV agreements terms.”

- 3.2 Icosa Water Ltd – Comments were made confirming that *“Icosa Water Services Ltd. are a statutory water and wastewater undertaker licensed to operate across England and Wales by the Secretary of State in October 2016. This means we have the same license as incumbents such as Southern Water and Thames Water with the same legal powers and customer and financial obligations.”*

The letter goes on to confirm the relationship between the company and the relevant waste water incumbents and discusses the issue of capacity as referred to by Southern Water above.

- 3.3 Lead Local Flood Authority (KCC) – *“Condition 9 appears to relate to the disposal of foul water only and therefore falls outside of our remit as a statutory consultee. Accordingly we have no comments to make and would recommend consultation takes place with the sewerage undertaker.”*

- 3.4 Environment Agency – *“Thank you for consulting us on the above planning application. The proposed foul drainage strategy is acceptable in principle. We would seek a conditional discharge of the foul drainage condition, such that occupation of any phase of development is not permitted until confirmation of foul connections to mains sewer is submitted in writing to the LPA.”*

4. APPRAISAL

- 4.1 At the outset it is of fundamental importance to remind Members that this is an application seeking to discharge a condition imposed on an extant planning permission. Therefore this application looks at a relatively narrow issue, namely - are the details provided acceptable in respect of what the condition requires (i.e. the method of foul water disposal).
- 4.2 I do also note that Southern Water, in their comments of 28/3/2019, and Cllr Bonney has requested that further conditions are added. However, these comments have been made in response to this current discharge of condition application and therefore there is no mechanism to add further conditions, as the application is simply seeking to confirm that the details provided are acceptable. In any case, the condition(s) requested would not meet the necessary tests as it relates to network reinforcement, which falls outside of the planning process as expanded on below.
- 4.3 In terms of the details submitted, I recognise the comments received from Cllr Bonney and Bapchild Parish Council. I also take into account the details received from Southern Water (and Icosa Water), the Lead Local Flood Authority and the Environment Agency and the applicant's agent.

- 4.4 In respect of the points made by the Parish Council, separate sewerage issues in Bapchild and Folkestone that have occurred in the past and a separate application being refused are not in my opinion material considerations in terms of the submission of details under this current application. In terms of the comments from the Parish Council and Cllr Bonney regarding there being a limited understanding about what is proposed, the 'Foul Drainage Strategy' which supports the application has been made publicly available on the file. Due to the subject matter – foul drainage – this is understandably a technical document.
- 4.5 In summarised terms, the document sets out (as confirmed by the applicant's agent) that the drainage strategy is to connect the foul drainage from the site to the foul drainage system which runs along Canterbury Road. Due to the topography of the site, a pumping station will be required, shown as being located in the northern part of the site. As a result of this, the strategy does not include the need for cesspits – and I have received confirmation from the agent that none will be installed - and as such I do not believe there will be a requirement for tankers to remove sewerage, a concern raised by the Parish Council. Although I note Cllr Bonney's comments on this issue in terms of my phraseology, this reflects my professional opinion on the matter based upon the information before me.
- 4.6 Although further comments have been made by Southern Water in respect of network reinforcement, this is a private matter between the developer and the sewerage undertaker and falls outside of the planning process (the process of which is explained further by the applicant's agent above). On this subject, Southern Water have separate, non planning related legislative powers, which ensures that the foul drainage disposal from new development meets their requirements. As such, on the basis of the requirements of condition 9, which seeks details of the method of foul drainage, I am of the view that Southern Water's acceptance of the drainage layout confirms their position. Therefore, although the points raised by Cllr Bonney and the Parish Council in respect of this element of the proposals are important in terms of the development as a whole, they do not influence whether the details provided are acceptable in respect of what this specific planning condition requires.
- 4.7 The comments from the EA are noted in that they accept the principle of the proposal. I also take into account their comment that "*We would seek a conditional discharge of the foul drainage condition, such that occupation of any phase of development is not permitted until confirmation of foul connections to mains sewer is submitted in writing to the LPA.*" However, condition 9 is worded in such a way that the approved details are to be implemented prior to any occupation. As such, this point is already dealt with.

5. CONCLUSION

- 5.1 To conclude, although the comments from Cllr Bonney and the Parish Council are noted, based upon the appraisal section above I do not believe that they would outweigh the responses of the technical consultee(s), who consider that the details submitted are acceptable in respect of the requirements of this condition.

6. **RECOMMENDATION** - I recommend that the details submitted (Foul Drainage Strategy, February 2019) are approved and condition 9 pursuant to 14/501588/FULL (and as amended by 19/502967/NMAMD) is discharged.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 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.

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.

