

RECOMMENDATION:

To give delegated authority to the Director of Planning & Place to issue the draft letter attached in Annex B.

1.0 BACKGROUND

- 1.1 Eastern Quarry Ltd (EQL) are strategic master developer and landowner of Eastern Quarry. EQL provide serviced plots for plot developers, one of which is Redrow Homes. Redrow Homes are developing homes on a series of parcels in the southern part of Alkerden Village between the Fastrack route and Castle Hill Lake. EDC Planning Committee has already approved reserved matters for two parcels totalling 318 homes and officers are in pre-application discussions on the third phase; there are four Redrow phases in total in this area.
- 1.2 Eastern Quarry is being developed under the outline planning permission reference EDC/17/0048 (see below) and a s106 agreement was signed by interested parties at that time. The s106 contains a substantial number of obligations for developers to comply with either through financial payment or on-site delivery of infrastructure. The s106 agreement binds landowners but obligations are not passed down to individual homeowners when a plot is sold.
- 1.3 Infrastructure across Eastern Quarry has been largely funded by a loan facility that EQL entered into with Homes England (HE) in 2018. Income received from the sale of serviced parcels to plot developers is paid into an account where HE is a co-signatory alongside EQL. Any funds in this account have to be used for the delivery of infrastructure and s106 obligations.

2.0 SUBMISSION

- 2.1 A letter has been received from EQL concerning certain obligations in the s106, the letter can be found attached to this report in Annex A. The obligations relate to the provision of site wide infrastructure but the letter is seeking consideration of how these obligations will be enforcement against a certain Parcel of land in Alkerden South, this parcel of land is edged red on the map attached to the letter. The Parcel is the next part of Alkerden South to be sold to Redrow Homes.
- 2.2 The obligations referenced in the letter relate to the provision of the following infrastructure:
 - Schedule 5 paragraph 2.1 (practical completion of 2x community pitches) and paragraph 2.6 (construction of dual use sports hall as part of secondary school)
 - Schedule 7 paragraph 3.3 (schools first fit out), paragraph 3.3A (schools final fit out) and paragraph 5.2A (lifelong learning centre delivery)
 - Schedule 8 paragraph 3.1 (provision of comparison goods floorspace)
 - Schedule 9 paragraph 12 (all Fastrack provisions)
- 2.3 The letter is seeking confirmation from EDC that, subject to evidence being provided that the land sale receipt has been paid into the stated bank account, EDC will not be minded to enforce the stated positive obligations above in relation to the particular

Parcel. The land sale is subject to two payments of £6,778,940, one upon completion of the sale, and the second 12 months later. EQL have advised that the initial payment will be used to commence construction of the temporary Secondary School which is required to be open by September 2025 and will provide 4 forms of entry for Year 7 pupils, along with two community pitches.

2.0 RELEVANT PLANNING HISTORY

- 2.1 EDC/17/0048 Application for variation of conditions 3 & 4 attached to planning permission reference no. 12/01451/EQVAR for a mixed use development of up to 6,250 dwellings & up to 231,000 square metres of non-residential floorspace with associated infrastructure and open space; to allow for the substitution of approved parameter plans and documents under condition 3 and revised strategies under condition 4. Approved Subject to Conditions, 28 March 2018.

3.0 PUBLICITY AND CONSULTATION

- 3.1. No publicity or consultation is required to be undertaken when considering this submission.

4.0 PLANNING APPRAISAL

- 4.1 Paragraph 59 of the National Planning Policy Framework (NPPF) advises that enforcement action is discretionary and that local planning authorities should act in a proportionate manner. As such EDC is able to decide this request.
- 4.2 As stated in the submission letter, receipts from land sales have to be invested back into the site to deliver infrastructure or s106 obligations. This aligns with our understanding of the agreement that EQL has entered into with Homes England. This is logical but also provides the local planning authority with comfort that the income from the sale of land cannot be used for other purposes or be invested outside of the site. EDC and KCC as Education Authority are keen to see the delivery of the temporary Secondary School accommodation and two community pitches. Whilst it is acknowledged that the income from the land sale could be used for other infrastructure on site, it is helpful to understand the intended use for the funds. It is also understandable that a plot developer purchasing land wishes to be free from obligations on site wide matters once the purchase has been made.
- 4.3 It is important to consider the scale of the applicable Parcel and the number and nature of obligations referenced. The submission letter states that the Parcel has the capacity to deliver 272 homes. EDC has been in pre-application discussions on some of the land and based on what we have seen to date there is no reason to query the applicant's assumption on site capacity. This should be seen in the content of the remaining Parcels of land which total over 3,200 homes. As such if EDC were to agree with this request there would be substantial remaining development land on which to enforce the planning obligations and so there is limited risk that the infrastructure would not be delivered as a result of this decision. There are also a significant number of developer obligations contained within the S106 and this correspondence, whilst relating to the higher valued items, relates to a small number of clauses. The remainder of the obligations within the s106 agreement would still be enforceable against the Parcel.
- 4.4 S106 agreements have both 'negative' restrictions and 'positive' obligations. This submission letter relates to 'positive' obligations, i.e. that a developer should deliver

something or make a payment. Negative restrictions are also contained in the s106 and these place caps on occupation triggers, for example that a certain number of dwellings cannot be occupied until a s106 obligation has been complied with. As such this request does not seek relief from the agreed occupation triggers, which will remain enforceable, and so existing provisions will ensure the timely provision of infrastructure on site.

- 4.5 In order to support the ongoing delivery of the site and considering the limited risk associated with this decision, it is recommended that the letter in Annex B is issued.

5.0 HUMAN RIGHTS

- 5.1 The submission has been considered in the light of the Human Rights Act 1998 and it is considered that the analysis of the issues in this case, as set out in this report and recommendation, is compatible with the Act.

6.0 PUBLIC SECTOR EQUALITY DUTY

- 6.1 In determining this submission, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to –

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

- 6.2 It is considered the application proposals would comply with objectives of the Duty.

7.0 RECOMMENDATION

- 7.1 It is recommended that Planning Committee give delegated authority to the Director of Planning & Place to issue the draft letter in Annex B.



FAO: Mark Pullin,
Chief Planning Officer
Ebbsfleet Development Corporation
The Observatory,
Castle Hill Drive,
Ebbsfleet Valley
DA10 1EE

26/06/2024

Dear Sirs,

Eastern Quarry Section 106 Agreement **dated 28 March 2018 (the “s106 Agreement”) as varied on []**

Request for Release from the Released Obligations

We confirm for the purposes of this correspondence that the “Released Obligations” are defined as relating specifically to the provision of positive obligations relating to :

Paragraph 2.1 and Paragraph 2.6 of Schedule 5;

Paragraph 3.3, Paragraph 3.3A and Paragraph 5.2A of Schedule 7;

Paragraph 3.1 of Schedule 8; and

Paragraph 12 of Schedule 9

We hereby confirm, that the residential parcel shown marked highlighted and edged in Red on the attached plan and known as as Alkerden Parcel One Phase Two (“AP1P2”) is due to be transferred to Redrow Homes on or just after 18th July 2024 This parcel of land has capacity for a further 272 units land payments are key to securing the Released Obligations. Land Payments of £ 6,778,940 each will be made at Completion and 12 months thereafter the second payment being secured by a Legal Charge.

As is the case with just those developers whose occupations fall during the construction and completion timeline for the Released Obligations , The Contract with Redrow Homes requires us to ensure upon transfer of the Funds Redrow Homes are released from the Released obligations

These land payments are critical to our cashflow and in particular commencement of the construction of the Temporary School due to open in September 2025. This temporary school is being provided to ensure that local

Eastern Quarry Ltd – Registered Number 04103953
Registered Office 1 Christchurch Way, Woking,, Surrey, GU21 6JG

education demand is met and will comprise temporary classrooms dining and play facilities for four forms of year 7 together with an additional 2 community pitches

The payments are to be paid into an account with co-signatories to the account being Henley Camland 801 Ltd(for its wholly owned subsidiary Eastern Quarry Ltd) and Homes England. Monies from this account have to be spent delivery of the Infrastructure and S106 obligations required to service the parcel , such as the aforementioned temporary School and no debt, interest or equity repayment can be made until obligations are satisfied.

We would be obliged if EDC could provide written confirmation by return that the provision of the above arrangements following the disposal of residential parcel AP1P2 will provide satisfactory assurance to EDC that sufficient pro-rata funds have been paid into the account in discharge of the Released Obligations as relates to residential parcel AP1P2, and that that EDC are not minded to enforce the provisions of the Released Obligations relating to parcel AP1P2

We confirm, in turn, that following receipt of EDC's written confirmation and subsequent the receipt of payment that we will provide further written notice that such funds have been received within 10 working days.

We look forward to your early response.

Yours faithfully

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For Eastern Quarry Ltd

P Nelson

Director

Annex B

FAO: Peter Nelson
Eastern Quarry Ltd

Sent by email

XX July 2024

Eastern Quarry s106 Agreement dated 28 March 2018 (the “s106 Agreement”)

Dear Peter,

I write in response to your letter dated 26 June 2024 concerning the above.

We note the request made in respect of the following positive obligations contained in the s106 Agreement:

- 1) Paragraph 2.1 and Paragraph 2.6 of Schedule 5
- 2) Paragraph 3.3, 3.3A and Paragraph 5.2A of Schedule 7
- 3) Paragraph 3.1 of Schedule 8; and
- 4) Paragraph 12 of Schedule 9

(herein referred to as the “Relevant Obligations”).

Having considered the details provided by Eastern Quarry Ltd I would like to advise as follows:-

EDC is not minded to enforce the provisions of the Relevant Obligations, relating to parcel AP1P2 as shown on the submitted plan subject to: -

- Receipt of written confirmation from Eastern Quarry Limited and Homes England within 10 working days of payment that £6,778,940.00 has been paid into the account held jointly by those parties and which is solely used towards the delivery of infrastructure and the Relevant Obligations until the obligations are complete.

We trust that you will bring the content of this letter to the attention of Redrow Homes Limited.

Yours sincerely,

Mark Pullin
Director of Planning & Place (Chief Planning Officer)

PLANNING ACTIVITY REPORT – Q1 2024/25

1. Background

- 1.1 The Ebbsfleet Development Corporation (EDC), as a Local Planning Authority, has a requirement to collect and submit data to the Department for Levelling Up, Housing and Communities (DLUHC) on the time taken to determine planning applications and the quality of decisions.
- 1.2 The approach to planning performance is published by the government in a document entitled 'Improving Planning Performance – Criteria for designation'. This document covers performance in relation to both speed and quality of decisions and was most recently updated in October 2022.
- 1.3 The performance thresholds for the reporting period are: -
 - Speed Major Developments: to determine 60% of applications within 13 weeks.
 - Speed Non-Major Developments: to determine 70% of applications within 8 weeks.
 - Quality Major Developments: to have no more than 10% of appeals overturned.
 - Quality Non-Major Developments: to have no more than 10% of appeals overturned.
- 1.4 It should be noted that the quality of decision making in relation to appeals is calculated on the basis of the number of schemes overturned in the context of the overall number of decisions made by an authority during the assessment period.
- 1.5 This paper provides EDC's Planning Committee with the statistics for Q1 of 2024/25.

2. Statistics

- 2.1 Annex A contains a series of charts showing data concerning the determination of planning applications.
- 2.2 Figure 1 shows the number of applications received and determined for the year by quarter. During the period 1 April 2024 to 30 June 2024 the Corporation received 14 planning applications which fall within the statutory returns. During this same period the Corporation determined 8 such planning applications.
- 2.3 Applications can be subject to a bespoke determination timescale which is agreed between the applicant and the local planning authority. These can be in the form of a Planning Performance Agreement (PPA) or a Planning Extension Agreement (PEA). Of the decisions this quarter 2 were subject to either a PPA or PEA.
- 2.4 Figures 2 & 3 show performance against the targets for major and non-major applications set out in paragraph 1.3. The overall performance for the period 1 April 2024 to 30 June 2024 is:
 - 'Major application' within time or within time agreed is 100%.
 - 'Non-major applications' within time or within time agreed is 100%.
- 2.5 The Corporation received no planning appeal decisions during Q1.

3. Advice and Analysis

- 3.1 This report is submitted for information and enables EDC's Planning Committee to monitor the work of the Planning Team.
- 3.2 It should be noted that the activity outlined in these performance statistics relates to only those applications which are covered under the statutory reporting process. The Corporation considers a substantial number of other applications including pre-application enquiries, condition discharge applications and non-material amendment applications which do not get captured in these numbers.
- 3.3 The overall activity for the quarter including those applications not formally reported shows 37 being received and 29 being determined.
- 3.4 In relation to enforcement action, no formal notices were served during Q1.
- 3.5 However there were 3 enforcement cases created and 7 cases closed during the quarter. Of note, one closed case related to a noise complaint from a resident at Cable Wharf due to noise from the Red Lion PH which was resolved following communication between EDC and Keepmoat Homes to enforce installation of the approved acoustic fence which has now been completed. Also of note is a longstanding householder enforcement case relating to erection of a front boundary wall at Mercer Avenue in Castle Hill that caused highway visibility issues raising safety concerns from KCC which, following communication with the resident, has now been satisfactorily resolved due to the resident reducing the height of the wall.

4. Financial and Legal Implications

- 4.1 Planning income for 1 April 2024 to 30 June 2024 was £43,454.00. Annex B (Figure 1) shows the planning application fees received.
- 4.2 The most significant application fee received during this quarter relates to a Reserved Matters Application for Alkerden Hub which comprises a health facility, lifelong learning centre and multi-use hall in the Whitecliffe development (£30,866). The quarterly breakdown is given as follows:
 - Apr - Jun 2024 = £43,454.00
- 4.3 If the Local Planning Authority is designated as non-performing then applicants would have the choice of submitting applications to the Planning Inspectorate, which would include the fee. This would not only take control away from the Corporation but would reduce income.
- 4.4 There are no legal implications arising directly from this report.

5. Recommendation

- 5.1 This report is submitted for information to assist EDC's Planning Committee in monitoring Development Management activity and therefore there are no recommendations for the committee to consider.

Annex A: Applications

Figure 1: Number of applications received and determined per quarter

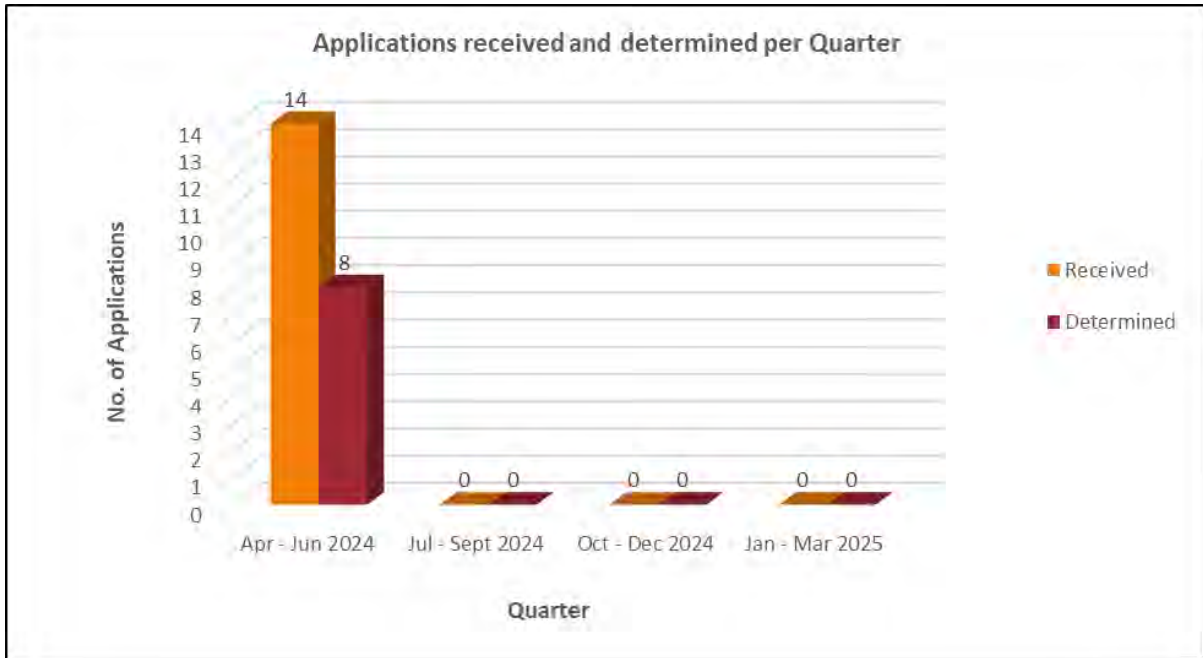


Figure 2: Percentage of Major Applications determined against the statutory performance target per quarter.

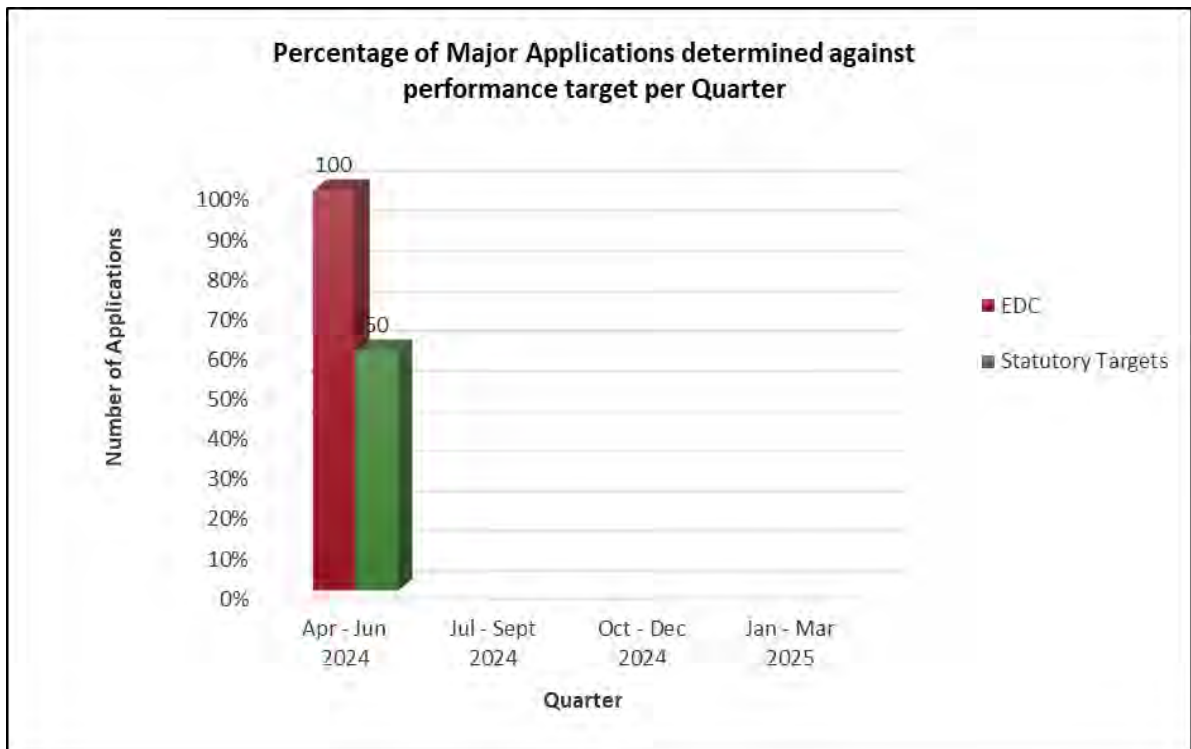
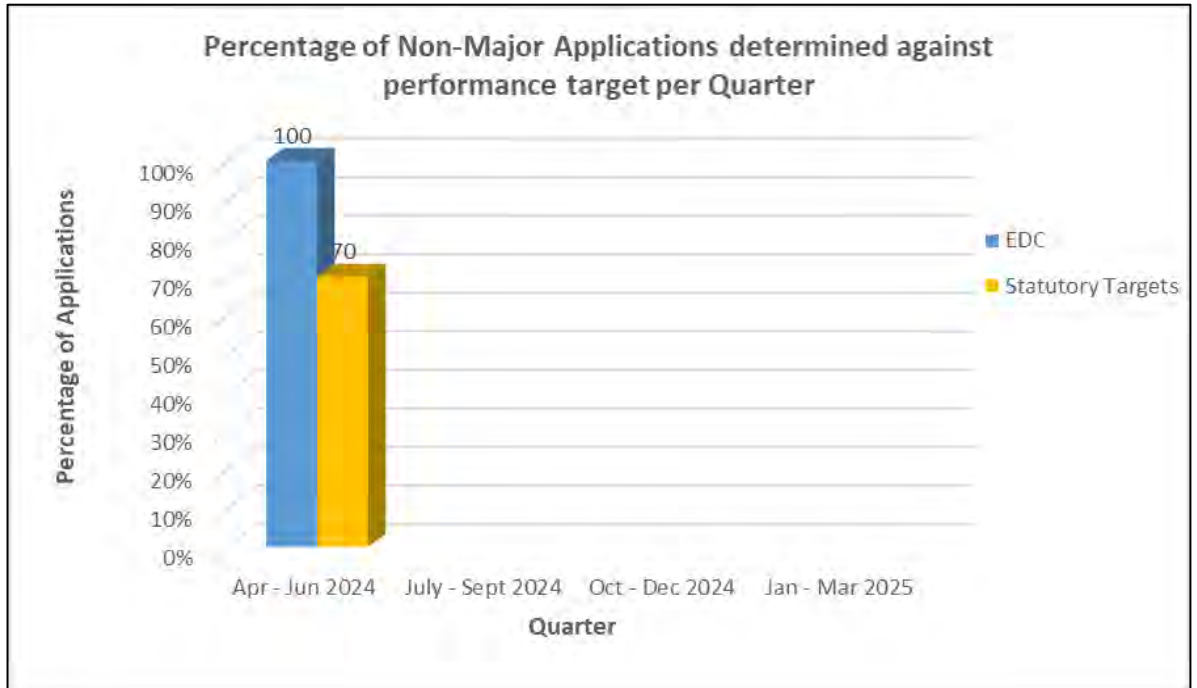


Figure 3: Percentage of Non-Major Applications determined against the statutory performance target per quarter.



Annex B: Planning Fees

Figure 1: Planning application fees received per quarter



LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS

Period for Report: May – June 2024

EASTERN QUARRY:

Application Reference: EDC/24/0027 Decision Date: Thu 02 May 2024

Location: Eastern Quarry Watling Street Swanscombe Kent

Applicant: Henley Camland LLP

Proposal: Request for a Scoping Opinion pursuant to Regulation 15 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) in respect of amendments to outline planning permission reference EDC/17/0048 comprising an increase in maximum residential dwellings, incorporating flexibility to allow Use Class C2 uses and reduction of the total office floor space.

Ward: Ebbsfleet

Decision: EIA Scoping Opinion Issued

Application Reference: EDC/23/0009 Decision Date: Wed 08 May 2024

Location: Alkerden Parcel 5A Eastern Quarry Watling Street Swanscombe Kent

Applicant: Bellway Homes Limited (Kent)

Proposal: Discharge of condition 11 (EVCPs) pursuant to reserved matters approval EDC/21/0128

Ward: Ebbsfleet

Decision: Approved

Application Reference: EDC/24/0024 Decision Date: Thu 09 May 2024

Location: 10 Farmer Close Castle Hill Ebbsfleet Valley Kent DA10 1DH

Applicant: Mr J Pinto

Proposal: Installation of 2 dormer windows and 2 rooflights with associated loft conversion

Ward: Ebbsfleet

Decision: Approved Subject to Conditions

Application Reference: EDC/24/0026 Decision Date: Fri 10 May 2024

Location: Alkerden (Parcel 5A) Eastern Quarry Watling Street Swanscombe Kent

Applicant: C/O Agent - Mr Gregory Evans (Savills)

Proposal: Discharge of condition 10 (PV Panels) pursuant to reserved matters approval EDC/21/0128

Ward: Ebbsfleet

Decision: Approved

Application Reference: EDC/23/0155 Decision Date: Tue 21 May 2024

Location: Ashmere and Alkerden Pumping Stations Eastern Quarry Watling Street Swanscombe Kent

Applicant: C/o Agent - Mr James Dodds (CBRE Ltd)

Proposal: Partial discharge of condition 34 (contamination) pursuant to outline planning permission EDC/17/0048 in relation to sites in Alkerden and Ashmere identified for foul water pumping stations (Part 3 and partial discharge of Parts 4 & 5).

Ward: Ebbsfleet

Decision: Approved

Application Reference: EDC/24/0028 Decision Date: Thu 30 May 2024

Location: 4 Croucher Avenue Castle Hill Ebbsfleet Valley Kent DA10 1BU

Applicant: Mr & Mrs Jasmail Ranu

Proposal: Installation of 1 dormer to the rear elevation and 3 rooflights to the front elevation with associated loft conversion

Ward: Ebbsfleet

Decision: Approved Subject to Conditions

Application Reference: EDC/22/0156 Decision Date: Thu 06 Jun 2024

Location: Alkerden (Parcel 5A) Eastern Quarry Watling Street Swanscombe Kent

Applicant: Bellway Homes Limited (Kent)

Proposal: Partial discharge of condition 5 (full lighting scheme for pocket park only) pursuant to reserved matter approval EDC/21/0128

Ward: Ebbsfleet

Decision: Approved

Application Reference: EDC/23/0184

Decision Date: Thu 20 Jun 2024

Location: Alkerden Market Centre Eastern Quarry Watling Street Swanscombe Kent

Applicant: Mr W Hunter

Proposal: Non-material amendment to reserved matters approval EDC/22/0084 to allow changes to the affordable housing tenure mix

Ward: Ebbsfleet

Decision: Withdrawn

Application Reference: EDC/24/0031

Decision Date: Mon 24 Jun 2024

Location: Alkerden Village Parcel 3 Eastern Quarry Watling Street Swanscombe Kent

Applicant: C/O Agent - Mr Gregory Evans (Savills)

Proposal: ****DUPLICATE APPLICATION**** Reserved matters application (details relating to access, appearance, landscaping, layout and scale) pursuant to condition 2 and 25 of outline planning permission EDC/17/0048 for the erection of 56 dwellings and associated parking, open space and infrastructure.

Ward: Ebbsfleet

Decision: Withdrawn

Application Reference: EDC/23/0178

Decision Date: Tue 25 Jun 2024

Location: Ashmere North and Hedge Place Roundabout Eastern Quarry Watling Street Swanscombe Kent

Applicant: Eastern Quarry Ltd

Proposal: Partial discharge of Condition 3 (parts iii) hard surfacing, iv) lighting and vi) street furniture) pursuant to reserved matters approval EDC/20/0021.

Ward: Ebbsfleet

Decision: Approved

Application Reference: EDC/22/0155

Decision Date: Tue 25 Jun 2024

Location: Alkerden (Parcel 5A) Eastern Quarry Watling Street Swanscombe Kent

Applicant: Bellway Homes Limited (Kent)

Proposal: Full discharge of Condition 9 (Air Source Heat Pumps) pursuant to reserved matters approval EDC/21/0128

Ward: Ebbsfleet

Decision: Approved

NORTHFLEET EMBANKMENT WEST:

Application Reference: EDC/24/0034 Decision Date: Thu 30 May 2024

Location: Land at Former Northfleet Cement Works The Shore Northfleet Gravesend Kent DA11 9HD

Applicant: c/o Agent - Gregory Evans (Savills)

Proposal: Discharge of Condition 5 (CEMP) pursuant to Full Planning Approval EDC/22/0015

Ward: Northfleet and Springhead

Decision: Approved

NORTHFLEET EMBANKMENT EAST:

Application Reference: EDC/24/0035 Decision Date: Mon 17 Jun 2024

Location: 40 Crete Hall Road Northfleet Gravesend Kent DA11 9GP

Applicant: Phillip West

Proposal: Installation of air source heat pump

Ward: Rosherville

Decision: Approved Subject to Conditions

Application Reference: EDC/24/0023 Decision Date: Thu 27 Jun 2024

Location: 6 Lyon Walk Northfleet Gravesend Kent DA11 8GX

Applicant: Mr Craig Sneddon

Proposal: Installation of Air Source Heat Pump on property.

Ward: Northfleet and Springhead

Decision: Approved Subject to Conditions

EBBSFLEET GREEN:

Application Reference: EDC/24/0016 Decision Date: Thu 30 May 2024

Location: Northfleet West Sub Station Southfleet Road Swanscombe Kent

Applicant: Redrow Homes Limited c/o WSP

Proposal: Discharge of Condition 5 (Tree Maintenance and Management Plan) pursuant to planning permission ref EDC/23/0122

Ward: Ebbsfleet

Decision: Approved

Application Reference: EDC/24/0025 Decision Date: Wed 12 Jun 2024

Location: 129 Mason Avenue Weldon Ebbsfleet Valley Kent DA10 1DS

Applicant: Mr & Mrs M Heath

Proposal: Erection of a single storey rear extension

Ward: Ebbsfleet

Decision: Approved Subject to Conditions

LAND NORTH OF LONDON ROAD:

Application Reference: EDC/24/0063 Decision Date: Wed 12 Jun 2024

Location: Land at Reservoir North of Lower Road Northfleet Kent

Applicant: Anglo-European Developments GB Limited

Proposal: Request for a Screening Opinion pursuant to Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) in respect of a full planning application for the change of use to open storage (Use Class B8).

Ward: Greenhithe and Knockhall

Decision: EIA Not Required
