



Ms Hannah Gunner
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Copy: Mr Dave Harris, Chief Planning Officer; Mr Peter Hockney, Head of Development
Management Planning Service

FROM THE COMMITTEE 16 SEPTEMBER 2026

Dear Ms Gunner

The decision on condition 32, drainage

Land east and west of Church Street, Cliffe: MC/22/0254, appeal
APP/A2280/W/22/3313673

Application MC/26/1459, details pursuant to condition 32, decision notice dated 15 September 2026

I write on behalf of the committee of the Cliffe and Cliffe Woods Residents Development Group. Your decision notice of 15 September 2026 discharges condition 32 “for ALL PHASES” on the basis that “the details are acceptable”. It gives no other reason.

Before that decision was made, the group asked the Council to do specific things first. Our Formal Representation of 9 August 2026 was registered against this application on 11 August. I commented again on 28 August. Twelve residents objected in all. On 15 September, the day the notice was issued, the committee wrote to Mr Hockney asking the Council to answer a series of matters before it determined any of the twelve applications on this land. MC/26/1459 was one of them. The decision notice mentions none of this.

The committee has now read what the Council approved: the Drainage Technical Note, both parts of the Drainage Statement including the ground investigation reports, all fourteen drainage layout sheets and the calculations. They raise questions the notice does not answer. Several come from the developer’s own consultants.

The group asks the Council to do three things. First, to publish its record of this decision. Second, to answer the questions in Part Seven in writing. Third, to tell the group by Wednesday 30 September 2026 whether it accepts that this decision should be looked at again, which Part Eight explains can be done without prejudice to anyone.

This letter does not reopen the principle of development, which the Inspector settled on 28 November 2023. It advances no argument under regulation 65 of the Conservation of Habitats and Species Regulations 2017. No member of the group is a lawyer, and where the law is referred to we have tried to put it no higher than the sources allow.

In short

	ASKED BEFORE THE DECISION, OR REQUIRED BY CONDITION 32	WHAT THE FILE SHOWS
1	Screen the decision under regulation 63(1A) for the Thames Estuary and Marshes Ramsar site, and consult Natural England (9 August)	No screening record. Natural England was not consulted. One consultee, “Flood”, was asked.
2	Identify where the surface water ends up and whether it connects to the Ramsar site	All of it is to go into the ground, over a Principal Aquifer. The developer’s ground report puts the Ramsar site 6 m away. The drainage note says 450 m and does not mention a Ramsar site.
3	Show that the ground can take the water (28 August)	The latest soakage tests were stopped before completion. The consultant who ran them called soakaways into the chalk “not a viable option” and said the Environment Agency “must be consulted”. It was not.
4	A timetable, including phased implementation, condition 32(ii)	None found.
5	An operational maintenance and management plan for each drainage component, 32(iii)	None found.
6	Arrangements for future adoption, 32(iv)	A drawing key marking sewer pipes and manholes “Adoptable S104”. Nothing for the basins, swales or permeable paving.
7	A scheme “for that phase or sub-phase”	No phase is named. The note says it supports “the Reserved Matters Application”, which is undetermined. The condition was discharged for all phases at once.
8	Take the representations into account	Twelve objections are counted on the portal. None appears in the document list and the notice refers to none.

PART TWO

What was decided

The decision notice is dated 15 September 2026 and addressed to Lucy Wilford of Esquire Developments Ltd. It lists the documents received on 3 August 2026, records the reason for condition 32, states that “the submitted information has been reviewed, and it is considered that the details are acceptable”, and discharges the condition for all phases. The register had given the application an internal target date of 28 September 2026.

On 16 September 2026 the register for MC/26/1459 showed 26 documents. None of them is an officer’s report, a consultee response, a habitats screening or a representation. The consultee tab records one consultee, “Flood”, which has responded. Its response is not published.

The notice says the details were considered against the Medway Local Plan 2003, without naming a policy, and “paragraph 165 of the National Planning Policy Framework (2023)”. Condition 32’s own reason uses the same paragraph, so we understand where it came from. But the Framework in force

on 15 September 2026 was the one republished on 17 August 2026, which no longer has numbered paragraphs. It is a small point. It does suggest the notice was prepared from a template rather than from a fresh look at the file.

PART THREE

The Ramsar site

Since 21 May 2026, regulation 63(1A) of the 2017 Regulations has applied the assessment duty to Ramsar sites in England. The saving in regulation 4 of SI 2026/549 covers only permissions granted before 17 August 2020, and this permission was granted on 28 November 2023. In *C G Fry & Son Ltd v SSHCLG* [2025] UKSC 35, at paragraph 56, it was held that regulation 63 can apply when a condition is discharged, where that decision is what allows the project to proceed. Condition 32 opens “No development within any phase or sub-phase ... shall take place until ...”.

Our letter of 9 August asked the Council to establish, before deciding, where the surface water would finally go, whether there was any connection to the Ramsar site, what the water quality effects might be, what happens in a storm beyond the design standard, and the effects in combination with other projects. It asked the Council to consult Natural England and to record its conclusions. I repeated the request on 28 August. We did not assume then, and do not assume now, that the water reaches the Ramsar site. The point is that nothing on the file shows the Council asked. The developer’s own documents give reasons to ask.

- 1 **All of it goes into the ground.** The Drainage Technical Note, paragraph 4.8, says the scheme is “based entirely on infiltration, with no positive discharge from the site”. That is the water from roughly 6.5 hectares of roofs, roads, parking and pitches.
- 2 **Over a vulnerable aquifer.** The Phase 2 ground investigation (Ground and Environmental Services, 13539/Phase 2 GEI, August 2025, section 4.2) records “a Principal Aquifer within the bedrock Seaford Chalk” and that “the soils are classified as high vulnerability with an intermediate pollutant speed”. It describes Principal Aquifers as able to support “river base flow on a strategic scale”.
- 3 **Next to the designated site.** The same report’s environmental table, section 4.4, lists “Ramsar Sites ... 6m south and west. Thames Estuary and Marshes”, with the Special Protection Area and the SSSI at 7 m. It describes the western parcel as bounded by “West Street and a large Lake and Nature Reserve”, with its western half to be “an open buffer space to protected marshlands”.
- 4 **A different distance in the drainage note.** Paragraph 4.23 of the note places Cliffe Marshes “approximately 450 m north”. The words Ramsar, Special Protection Area and SSSI do not appear in it.
- 5 **A watercourse that is not identified.** Paragraph 5.33 says the treatment train keeps pollutants out of “the existing watercourse downstream”. Paragraph 4.23 says there are no surface water features within the site, and paragraph 4.8 says there is no discharge. Which watercourse is meant?
- 6 **Nothing on nutrients.** The note treats the whole scheme as residential (paragraph 5.31) and says nothing about fertiliser or treatment run-off from 2.1 hectares of sports pitches. The Ramsar Information Sheet for the site lists eutrophication as an adverse factor.

We cannot say which distance is right. Either figure puts a scheme that sends all its water into a vulnerable chalk aquifer close to an internationally designated wetland. That is where the Regulations

expect a screening to be carried out and written down, and where regulation 63(3) requires Natural England to be consulted if an assessment is needed. If the Council screened this decision, we ask to see the screening. If it did not, we ask why.

PART FOUR

Whether the ground can take the water

Two sets of soakage tests are in the documents.

TESTS	WHAT THEY FOUND
March 2019	Southern Testing, for Peter Brett Associates. Seven pits. Four gave good rates, 2.10 to 6.90×10^{-5} m/s. In the other three, SA2, SA3 and SA4, the pit did not empty and the sheet records “Non compliant value was calculated”.
July to August 2025	Ground and Environmental Services. Three tests, SP1 to SP3, gave 1.42 to 2.54×10^{-6} m/s, “estimated by extrapolation of test data”. “All three tests terminated before 75% drainage due to the time constraints of the ground investigation.”

On the 2025 results the report concludes, at section 8.5, that “the use of shallow chamber type soakaways discharging into the Seaford Chalk Formation is not a viable option for the disposal of surface water”. It ends that section: “The Environment Agency and Local Authority must be consulted when planning soakaway installations.”

To be fair to the developer, the approved scheme uses basins rather than chamber soakaways, and the note says the two main infiltration basins are in the south-east of the site “where favourable infiltration rates have been confirmed”. It does not say which tests confirmed them. We ask the Council to identify them, and to answer the following.

- 1 The sports ground.** Paragraph 5.24 of the note says “no infiltration testing was undertaken within the sports pitches parcel” and that a rate of 1.0×10^{-5} m/s was assumed. Sheet 14 of the layout drawings is marked “BASED ON THE ASSUMED INFILTRATION RATE”. That is about four times the highest rate measured in 2025 ($1.0 \div 0.254 = 3.9$). On what evidence did the Council accept it?
- 2 Dissolution.** The 2025 report records “4x Solution pipes in chalk” 162 m east of the site and a moderate dissolution hazard 56 m to the south-east. The note places the main basins in the south-eastern part of the site (paragraph 5.13). The report quotes CIRIA C574: where dissolution features are prevalent, soakaways “should be avoided if at all possible”, and if unavoidable kept at least 20 m from foundations. The note applies 10 m (paragraph 5.14). Was the dissolution risk considered?
- 3 The Environment Agency.** The only consultee was “Flood”. Was the Environment Agency consulted, as the developer’s own consultant advised? If not, why not?
- 4 Flooding beyond the design storm.** The note concludes the site “is not at risk of flooding from ... groundwater”. Residents told the Council that West Street floods every winter. Nothing in the note deals with where water goes when a storm exceeds the design, which our letter of 9 August asked about. The word exceedance appears in the note only in the phrase “1% annual exceedance rainfall event”.

What condition 32 requires

Condition 32, as amended by MC/24/0750, reads:

“No development within any phase or sub-phase, with the exception of highway works, shall take place until a scheme showing details of the disposal of surface water for that phase or sub-phase, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme has been submitted to and approved in writing by the local planning authority, in consultation with the lead local flood authority. i. Details of the design of the scheme (in conjunction with the landscaping plan where applicable); ii. A timetable for its implementation (including phased implementation); iii. Operational maintenance and management plan including access requirements for each sustainable drainage component; iv. The details shall also include proposed arrangements for future adoption by any public body, statutory undertaker or management company.”

We have searched every document the notice lists for items ii, iii and iv, and cannot find them.

- 1 **Timetable, item ii.** There is none, phased or otherwise. In the drainage documents the word “phase” appears only in the titles of the Phase 1 and Phase 2 ground investigation reports.
- 2 **Maintenance and management plan, item iii.** There is none. Paragraph 5.22 of the note mentions keeping “access for inspection and maintenance” through the fencing around four basins deeper than 2 m. That is the whole of it.
- 3 **Adoption, item iv.** Each layout sheet has a key identifying “Adoptable S104 Surface Water Manhole & Pipe” and the foul equivalent. Nothing says who will own or look after the infiltration basins, swales, permeable paving, flow controls or fencing, or who will pay for them.

The condition also works phase by phase. The approved phasing plan (MC/24/0801) sets out the phases, and the submission names none of them. The layouts it drains are the subject of MC/26/1465, MC/26/1466 and MC/26/1467, all undetermined. The note describes itself as supporting “the Reserved Matters Application”. Thirteen of the fourteen layout sheets are at revision A01, “Issued For Approval”. Sheet 11 is at A02, “Updated to New Site Layout”, dated 9 July 2026, without saying which layout. The decision notice lists the drawings with no revision letters at all, so nobody reading it can tell which versions were approved. If the reserved matters layouts change, the drainage approved for them no longer fits. Yet condition 32 has been discharged for every phase.

If the Council considers these items are in the documents, please tell us the document and page.

The representations

The public comments tab shows twelve objections, made between 11 August and 1 September 2026, all before the decision. They include the group’s own, registered on 11 August, and my comment of 28 August, which asked the Council to confirm where the water would discharge, to show that the ground could absorb it, and to publish any habitats assessment. Another resident asked for evidence “that the land can cope with this new build”.

None of these representations appears in the document list for MC/26/1459, although representations on the other applications appear in theirs. The decision notice does not refer to them. We ask how they were taken into account, and that they be placed on the file.

What the group asks the Council to do

- 1 Publish the officer's report or other record of the decision on MC/26/1459.
- 2 Publish the response of the "Flood" consultee, and confirm whether that consultee is the Council acting as lead local flood authority.
- 3 Say whether the Council screened this decision under regulation 63 for the Thames Estuary and Marshes Special Protection Area and Ramsar site. If it did, publish the screening. If it did not, explain why it considered none was needed.
- 4 Confirm whether Natural England was consulted and, if not, why not.
- 5 Confirm whether the Environment Agency was consulted, given section 8.5 of the developer's ground investigation, and, if not, why not.
- 6 Identify where in the approved documents the Council found the timetable, the maintenance and management plan and the adoption arrangements that condition 32(ii), (iii) and (iv) require, and the phase or phases the scheme relates to.
- 7 Explain what evidence the Council relied on to accept the assumed infiltration rate for the sports ground, and how it considered the dissolution risk recorded in the ground investigation.
- 8 Say which distance to the Ramsar site the Council relied on, 6 m or 450 m, and identify the "existing watercourse downstream" referred to at paragraph 5.33 of the note.
- 9 Explain how the twelve representations were taken into account, and place them on the file.
- 10 Record its conclusion under regulation 9 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 on whether the environmental information already before it was adequate for the drainage details now approved, as the committee's letter of 15 September asked for each application.
- 11 Tell the group whether the Council accepts that the decision should be looked at again and, if so, what it proposes to do. If the Council's view is that it cannot revisit a decision once issued, please say so and explain what course it considers is open.
- 12 Place this letter on the files for MC/26/1459, MC/26/1465, MC/26/1466 and MC/26/1467, and acknowledge receipt.

Why the Council can look at this again now

Looking at this decision again would harm no one. Nothing can be built yet. Condition 9 (construction environmental management plan, including site clearance) and condition 34 (construction surface water management plan, highway works excepted) must both be approved before development in any phase, and no application has ever been made for either. The same is true of conditions 7, 13, 14, 20, 38, 40, 42 and 43. The three reserved matters applications are undetermined.

This village floods. Residents told the Council so. They asked it to check where the water from 250 homes and a sports ground would go before approving the scheme, and to check the protected wetland beside the village. The file does not show that either was done. The developer's own ground engineers said shallow soakaways into the chalk were not viable and that the Environment Agency

must be consulted. The condition asked for a timetable, a maintenance plan and an owner for the basins, and none of them is there. We ask the Council to look at this again while nothing has yet been built, and would be grateful for an acknowledgement by return and a reply by Wednesday 30 September 2026.

Yours sincerely

Patricia Leslie

CHAIR, FOR AND ON BEHALF OF THE COMMITTEE

Cliffe and Cliffe Woods Residents Development Group

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Documents referred to, all available to the Council on its own register: appeal decision APP/A2280/W/22/3313673; non-material amendment MC/24/0750 (condition 32 as amended); phasing plan decision MC/24/0801; for MC/26/1459, the decision notice of 15 September 2026, the cover letter of 31 July 2026, Drainage Technical Note 5997-003-001 Rev A (Robert West Consulting, July 2026), Drainage Statement parts 1 and 2 including Phase 2 Geo-Environmental Investigation 13539/Phase 2 GEI (Ground and Environmental Services, August 2025) and the 2019 Southern Testing soakage results, Proposed Drainage Layout sheets 1 to 14 and the public comments tab; the group's Formal Representation of 9 August 2026; and the committee's letter of 15 September 2026.

Copy: Natural England (reference 556482); Cliffe and Cliffe Woods Parish Council; Cllr Gary Etheridge, Cllr Mrs Elizabeth Turpin and Cllr John Williams, Strood Rural ward.