

CLIFFE AND CLIFFE WOODS RESIDENTS DEVELOPMENT GROUP

mycliffevillage@gmail.com

Constituted 29 March 2022 | Rule 6(6) party to appeal APP/A2280/W/22/3313673 | Nominating body for the APCM Recreation Ground asset of community value

Ms Hannah Gunner

Principal Planning Officer, Development Management

Medway Council, Gun Wharf, Dock Road, Chatham, Kent ME4 4TR

By email: hannah.gunner@medway.gov.uk and planning.representations@medway.gov.uk, and via the planning portal

Copy: Mr Peter Hockney, Head of Development Management Planning Service

9 September 2026

Dear Ms Gunner

OBJECTION

Application MC/26/1721

Details pursuant to condition 10 (highway works), as amended by MC/24/0750, on the outline planning permission granted on appeal under APP/A2280/W/22/3313673 (application MC/22/0254), land to the east and west of Church Street, Cliffe, Rochester

The Cliffe and Cliffe Woods Residents Development Group objects to this application. The group is a constituted residents' association, was granted Rule 6(6) status by the Planning Inspectorate in the appeal which granted the underlying permission, and is the nominating body for the listing of the APCM Recreation Ground as an asset of community value.

The group objects because nothing has been published on the public register for this application. It was received and validated on 7 September 2026 and has an internal target date of 2 November 2026. As at the date of this letter its documents tab is empty: it contains no application form, no covering letter and no drawing. The group cannot make an informed representation on an application whose contents have not been published, and asks that the documents be published and a consultation period run from the date of publication.

This objection does not seek to reopen the principle of development. That was settled by the appeal decision of 28 November 2023. It is directed solely at whether the details now submitted, whatever they are, are capable of discharging condition 10. It is filed now to protect the group's position, and the group reserves the right to make further and fuller representations once the documents are available. The group relies in addition on its Formal Representation to the Council of 9 August 2026 and asks that it be linked to this file.

1. What is on the register

The register records the application as MC/26/1721, application type "Discharge Condition", applicant Mr James Daughtry of Esquire Developments Ltd, received 7 September 2026, validated 7 September 2026, internal target date 2 November 2026. No case officer is recorded. No consultation start date and no consultation expiry date is published. The documents tab

renders its column headings and no rows: there is no application form on the register, and there is no drawing.

The group puts the comparison it can support, and no wider. The four companion applications validated on the same day and the next do have documents: MC/26/1720 shows three, MC/26/1722 six, MC/26/1723 six and MC/26/1724 three. On this batch, on this land, MC/26/1721 stands alone. The group does not assert that Medway never publishes documents late; it recognises that an application one or two days old may simply not yet have been fully processed. That is precisely why it asks the question at section 2 rather than asserting an answer.

2. Ground 1: the group cannot comment on what it cannot see

An application which is validated is an application the Council has judged complete. The public register exists so that those affected can see what has been submitted and say what they think of it before it is determined. The portal invites comments on MC/26/1721. There is nothing to comment upon.

Either the documents exist and have not yet been published, in which case the group asks that they be published without delay, or the application was validated without them, in which case the group asks the Council to say so. The group asks the Council to confirm in writing which of those is the position, and to place the answer on the file.

The group asks that, once the documents are published, a consultation period of at least twenty-one days be set and published, running from the date of publication, and that the application not be determined before that period has expired. The group made the same request in respect of an unpublished covering letter on MC/26/1646 on 7 September 2026.

3. Ground 2: what condition 10 requires

Condition 10, as amended by MC/24/0750, provides:

No development shall take place until the details of the following highway works have been submitted to and approved in writing by the local planning authority: Cooling Road improvements as shown on Drawing Number ITB11092-GA-018 Rev A. The approved details shall thereafter be implemented in full prior to the commencement of that phase of the development.

The group draws the Council's attention to what the non-material amendment changed. As originally imposed by the Inspector, the final sentence read "prior to the commencement of any part of the development". MC/24/0750 replaced "any part" with "that phase". The trigger for implementation is therefore now phase-specific, and the Council should record which phase it considers is engaged.

The condition requires details of one identified work, the Cooling Road improvements shown on ITB11092-GA-018 Rev A. The group makes the following points now, so that they are on the file before determination, and will particularise them once the submitted details are available.

- The Council should satisfy itself that the details submitted are details of the works shown on ITB11092-GA-018 Rev A, and not of some other scheme. On the companion application MC/26/1722 the four drawings submitted carry a different reference series from the drawings named in condition 11, and none of them carries any cross-reference to the drawings that condition names.*

- *Medway Council is the local highway authority for this area. By articles 4 and 5 of the Kent (Borough of Gillingham and City of Rochester upon Medway) (Structural Change) Order 1996, SI 1996/1876, the county council's functions were transferred to the new Medway council and the district ceased to form part of Kent with effect from 1 April 1998; and by section 1(2) of the Highways Act 1980 the highway authority for highways in a county area is the council of that county. The group asks that Medway's highways officers be consulted in that capacity and their response placed on the file. On MC/26/1722 the submitted general arrangement drawing names Kent County Council as the body which would adopt the proposed highway drainage, and the word "Medway" appears on none of the four drawings submitted with that application.*
- *Cooling Road is one of the three approved accesses and carries traffic through the village. The group asks that the details include vehicle tracking, visibility splays, drainage, lighting, footway and crossing provision, and the extent of any section 278 works, and that they be assessed against the traffic assumptions in the Transport Assessment which supported the appeal.*
- *If the works involve vegetation or tree removal, a tree survey and replacement planting proposals should be required, as the group has asked on MC/26/1722, where the site clearance drawing proposes tree removal with no arboricultural information of any kind.*
- *The group asks that any approval state expressly which phase or sub-phase of the phasing plan approved under condition 5 in MC/24/0801 is engaged.*

4. Ground 3: approval of condition 10 would not permit development to commence

Condition 9, as amended by MC/24/0750, provides that no development shall take place on any phase of development, "including site clearance or preparation", until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority, which shall consult National Highways. Unlike conditions 7, 21, 22, 32, 34 and 54, condition 9 contains no exception for highway works. The words "including site clearance or preparation" and the absence of any highway works exception are original to the Inspector; the only change MC/24/0750 made to condition 9 was to insert the words "on any phase of development". The group has now read the Schedule of Conditions annexed to the appeal decision and confirms that, as imposed by the Inspector, none of conditions 7, 21, 22, 32, 34 or 54 contained an exception for highway works. No application has been made to discharge condition 9.

Conditions 11, 13 and 14 are each in the form "no development shall take place until" details of identified highway works have been approved. Condition 12 is in the form "no development shall take on the eastern parcel until". Condition 11 is the subject of MC/26/1722, on which details for one of the four named works have been submitted. Condition 12 is the subject of MC/26/1723, validated on 7 September 2026 and undetermined. No application has been made under conditions 13 or 14. Condition 20 bars commencement, other than that required as part of an approved scheme of remediation, until conditions 20 to 22 have been complied with, and the remediation conditions 22 and 23 are undetermined in MC/26/1542.

On the Council's own register only three conditions have been discharged on this permission: condition 5 in MC/24/0801, condition 6 in MC/24/1396 and condition 53 in MC/25/0101.

The group asks the Council to record on any decision notice that approval of condition 10 confers no entitlement to commence development of any kind, including site clearance or preparation, and to identify the conditions which remain to be discharged first.

5. Ground 4: the Habitats Regulations position is not recorded on the file

The group puts this ground as a question about the decision record.

Part 1 of Schedule 5 to the Planning and Infrastructure Act 2025, given effect by section 96(1)(a), inserted a new regulation 63(1A) into the Conservation of Habitats and Species Regulations 2017, extending the appropriate assessment duty to Ramsar sites in England. It was commenced on 21 May 2026 by regulation 3 of SI 2026/549. Regulation 4(1) of that instrument disapplies the amendments, so far as material here, in relation to a project authorised by a planning permission granted before 17 August 2020. This permission was granted on 28 November 2023. Regulation 4(2)(a) reads a permission granted under section 73 back to the date of its parent permission; MC/24/0750 was an amendment under section 96A and not a permission under section 73, so that provision does not assist. The saving therefore does not apply.

In *C G Fry & Son Ltd v Secretary of State for Housing, Communities and Local Government* [2025] UKSC 35 the Supreme Court considered whether regulation 63 operates at the reserved matters and condition-discharge stages. The group puts the authority accurately and in full. The developer's appeal was dismissed on that issue but allowed on a separate issue, so the developer succeeded overall; and Lord Sales recorded at paragraph 43 that the interpretation point "is not a critical point in my reasoning", the Court dealing with it because it had heard full argument. Subject to that, the Court concluded at paragraph 56:

in a case involving a potential impact on a European site where the Habitats Regulations have effect, application of a normal purposive approach to their interpretation and having regard to the precautionary principle leads to the conclusion that regulation 63 would apply to a decision to give reserved matters approval or to discharge conditions attached to such an approval where that would result in authorisation for the project to proceed.

The group does not assert that the discharge of condition 10, taken alone, would authorise the project to proceed; condition 9 alone prevents that. That is a reasonable inference the group invites the Council to consider, and not a proposition it presses as fact. The appropriate assessment carried out for the 2023 appeal, recorded at paragraphs 53 to 55 of the decision, addressed recreational disturbance to the Thames Estuary and Marshes Special Protection Area and Ramsar site from the additional resident population, and did not address highway construction works as a source of effect in their own right.

The group asks that the Council record its screening conclusion under regulation 63(1A), and the objective information supporting it, on the public file before determination. For the avoidance of doubt, no argument is advanced under regulation 65 of those Regulations.

6. There is no time pressure on the Council

The deemed discharge provisions in section 74A of the Town and Country Planning Act 1990 do not apply. Article 30(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, made under section 74A(6)(c), disapplies deemed discharge where the condition falls within Schedule 6 to that Order, and paragraph 2(1)(a) of that Schedule exempts a condition attached to the grant of planning permission where the development permitted is EIA development. At paragraph 52 of the appeal decision the Inspector recorded that the proposal is EIA development, supported by an Environmental Statement. There is therefore no obstacle to the Council publishing the documents and running a proper consultation before it determines this application.

7. What the group asks the Council to do

- ***Publish all documents submitted with MC/26/1721 on the public register without delay, and confirm in writing whether the application was validated with or without them.***
- ***Set and publish a consultation period of at least twenty-one days running from the date of publication, confirm the closing date in writing to mycliffevillage@gmail.com, and do not determine the application before it expires.***
- ***Treat this letter as an objection on the file, and accept further representations from the group once the documents are available.***
- ***Confirm that the details submitted are details of the works shown on drawing ITB11092-GA-018 Rev A, and state expressly in any approval which phase or sub-phase of the phasing plan approved under condition 5 is engaged.***
- ***Consult the Council's highways officers, as local highway authority, and place their response on the file.***
- ***Record on any decision notice that approval confers no entitlement to commence development of any kind, including site clearance or preparation, conditions 9, 11, 12, 13, 14 and 20 remaining undischarged, conditions 11 and 12 being the subject of the undetermined applications MC/26/1722 and MC/26/1723.***
- ***Record on the public file the Council's screening conclusion under regulation 63(1A) of the Conservation of Habitats and Species Regulations 2017, and link the group's Formal Representation of 9 August 2026 to this file.***
- ***Acknowledge receipt of this objection in writing, confirm that it has been placed on the file for MC/26/1721, and notify mycliffevillage@gmail.com on the day any decision is issued.***

8. Suggested reason for refusal

Offered so that the Council has wording available should it agree with this objection.

- ***No details have been made available on the public register in respect of the highway works required by condition 10 of the permission granted on appeal under APP/A2280/W/22/3313673, namely the Cooling Road improvements shown on drawing ITB11092-GA-018 Rev A. The group draws attention to an inconsistency within the Inspector's own schedule: condition 10 describes ITB11092-GA-018 Rev A as "Cooling Road improvements", while the approved plans list at condition 4 describes ITB11092-GA-018A as "Proposed improvement scheme on Station Road". The group asks the Council to record which description governs. The local planning authority is therefore unable to conclude that the details submitted accord with the condition, and interested parties have had no opportunity to make representations upon them.***

9. Closing

The group is not seeking to be obstructive. It is asking for the ordinary thing: to be able to read what has been submitted before the Council decides. Five applications on this land were validated in two days, and one of them has no documents at all. The group asks the Council to put that right before it determines any of them.

The group would be grateful for written acknowledgement that this objection has been placed on the file, and asks to be notified of the decision.

Yours sincerely

Patricia Leslie (Chair)

For and on behalf of Cliffe and Cliffe Woods Residents Development Group

mycliffevillage@gmail.com