
Rother District Council Development & Sites Allocation Local Plan

Land off Spindlewood Drive Bexhill (Policy BEX 9)

Statement by Philip Woodhams, B. Sc, MRTPI

On behalf of Bedford Park Developments Ltd

April 2019



1.0 Introduction

- 1.1 This statement has been prepared following a request to the Programme Officer by email on 12th April 2019 seeking agreement of the Inspector to the participation of advisors to Bedford Park Developments Ltd in the Examination of the Rother District Council Development and Sites Allocation Local Plan. The request has been made because they have expertise regarding the land off Spindlewood Drive, Bexhill (allocated under Policy BEX 9 and hereafter referred to as "the land") which it is considered would be beneficial to the Inspector in relation to the key issues he has defined regarding Policy BEX 9.
- 1.2 At the time of writing, no response to the request of 12th April 2019 has been received, but given the tight deadlines this statement, which furnishes a brief context, is being submitted within the constraints of the deadlines, but without prejudice to the decision of the Inspector on this matter. Two further statements concerning the ecological and highway issues are being dispatched directly to the Programme Officer by Bedford Park's advisers on these issues.

2.0 Background

- 2.1 Policy BEX9 of the Rother Development and Site Allocations Local Plan provides the basis for the allocation of the land and sets out the key requirements for the future development of the site accordingly. The Local Plan policies should be read in the context of the Council's Community Infrastructure Levy Scheme which includes funding towards improvement to the Little Common Roundabout.
- 2.2 The key policy requirements for BEX9 are as follows:
- 160 dwellings; and
 - 30% of dwellings to be provided as affordable housing.
- 2.3 Bedford Park Developments Ltd has been promoting the land for inclusion in the Rother Development and Site Allocations Local Plan since 2011.
- 2.4 The Company and its advisers have been engaged in ongoing dialogue and discussions with Rother District Council, Natural England (NE), Highways England (HE) and East Sussex County Council, in relation to the promotion and future delivery of the land following its allocation in the Rother District Council Development and Site Allocations Local Plan.

3.0 The Current Planning Application

- 3.1 Bedford Park Developments Ltd has submitted a planning application for the development of the land (Council ref : RR/2017/1705/P), meeting the key policy requirements as indicated above, which is currently before the Council. This is accompanied by comprehensive supporting documents and the Inspector is invited to review these documents if it is considered helpful to their assessment of the matters in hand. The planning application has been considered by the Planning

Committee on 14th February 2019 and the Committee report is attached as Appendix A to this statement. It will be seen from this that the Planning Officer recommended approval and there are no objections to the application from statutory consultees. The Committee resolved to defer the decision on the application and it will be reconsidered in June 2019. A Section 106 agreement has been drafted as part of this process and is in an advanced stage of preparation.

- 3.2 It is evident from the Committee report that there are no impediments to the grant of planning permission, and in particular neither HE nor NE have an objection to the grant of planning permission. Further information regarding the background and evolution of the views of NE and HE regarding the ecological and highway issues is being addressed by Simon Maiden-Brooks of Herrington Consulting Limited and Chris Smith of Exigo Project Solutions respectively.

4.0 Conclusions

- 4.1 Within the above context it is considered that the BEX 9 land is deliverable and developable, in accordance with paragraph 67 of the National Planning Policy Framework. The land is considered to be viable when taking into account the policy requirements within the Rother Development and Site Allocations Local Plan. Having regard to the evidence on the ecology and highway issues it is submitted that Policy BEX9 is sound.
- 4.2 A Statement of Common Ground has been prepared with Rother District Council's Planning Officers confirming this position and it is our intention to provide the Inspector with this in advance of the hearing session.

Appendix A



RR/2017/1705/P

BEXHILL Spindlewood Drive – land off**Outline: Residential development for circa 160 dwellings with all matter other than access reserved**

Applicant:	Mr Ainslee
Agent:	Morgan Carn Partnership
Case Officer:	Ms J. Edwards Email: jo.edwards@rother.gov.uk
Parish:	BEXHILL
Ward Members:	Councillor K. Harmer

Reason for Committee consideration: Head of Service Strategy & Planning referral: Public interest

Statutory 13 week date: 1 November 2017

Extension of time agreed to: 28 February 2019

This application is included in the Committee site inspection list.

1.0 POLICIES

1.1 The following 'saved' policy of the adopted Rother District Local Plan 2006 is of principal relevance to the proposal:

- DS3: Development Boundaries

1.2 The following policies of the Local Plan Core Strategy 2014 are relevant to the proposal:

- PC1: Presumption in favour of sustainable development
- OSS1: Overall spatial development strategy (additional dwellings required)
- OSS2: Use of development boundaries
- OSS3: Location of development
- OSS4: General development considerations
- BX1: Overall strategy for Bexhill
- BX3: Bexhill – development strategy
- SRM2: Water supply and wastewater management
- CO3: Improving sports and recreation provision
- LHN1: Achieving mixed and balanced communities
- LHN2: Affordable housing
- EN1: Landscape stewardship
- EN2: Stewardship of the historic built environment
- EN3: Design quality
- EN5: Biodiversity and green space
- EN7: Flood risk and development
- TR2: Integrated transport

- TR3: Access and new development
- TR4: Car parking

1.3 The National Planning Policy Framework and Planning Policy Guidance are also material considerations, particularly:

- Paragraph 11 – presumption in favour of sustainable development
- Paragraph 67 – supply of deliverable housing sites
- Paragraph 109 – development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual impacts on the road network would be severe.
- Paragraph 165 – major developments should incorporate sustainable drainage systems unless there is clear evidence this would be inappropriate.
- Paragraphs 170 – conserving and enhancing the natural environment, Paragraph 177 – the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined. In a consultation paper published October 2018 the Government signalled its intention to amend this part of the Framework to say, *“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that there will be no adverse effect from the plan or project on the integrity of the habitats site.”* It is not known when the proposed amendments to the National Planning Policy Framework will be published.
- Section 16 – conserving and enhancing the historic environment.

1.4 For applications for planning permission affecting the setting of a listed building Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 confers a statutory duty on local planning authorities when considering whether to grant planning permission, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

1.5 The Council submitted the Development and Site Allocations Local Plan (DaSA) for public examination on 18 January 2019. Within the DaSA the application site is a proposed site allocation:

“Land off Spindlewood Drive, Bexhill” where proposed policy BEX9 states:

“Land off Spindlewood Drive, Bexhill as shown on the Policies Map, is allocated for residential development. Proposals will be permitted where:

- some 160 dwellings are provided, of which 30% are affordable;*
- highway access is provided from Spindlewood Drive and Barnhorn Road, alongside offsite highway works to make the development acceptable in highway terms;*
- a pedestrian footpath link is provided to Barnhorn Road and footpath improvements are made at the Spindlewood Drive access;*
- improvements are made to existing local bus stop infrastructure and a financial contribution towards improving local bus services;*
- provision is made for the retention and enhancement of existing boundary planting, particularly in relation to the existing Tree Preservation Orders*

- on adjacent sites and the north and north-eastern boundaries of the site as indicated on the Detail Map;*
- vi) suitable provision is made for children's play space in the form of both a Locally Equipped Area for Play (LEAP) and a Local Area for Play (LAP);*
 - vii) a green corridor is provided through the centre of the site between two areas of existing adjacent woodland areas for ecological and public recreational use, as indicated on the Detail Map. The corridor will include the retention and enhancement of the existing pond only for ecological value and not as part of the SuDS system, which should form part of an enhanced buffer to the adjacent Ancient Woodland;*
 - viii) elsewhere, a woodland buffer to protect the Ancient Woodland to the south west of the site of at least 15m depth will be required;*
 - ix) provision is made for any significant archaeological artefacts identified through a trial trench investigation to be preserved in situ on the site;*
 - x) a connection is provided to the local sewerage system at the nearest point of adequate capacity, in collaboration with the service provider.*
 - xi) in accordance with policy DEN5 'Sustainable Drainage', at least two forms of appropriate SuDS are incorporated and an Appropriate Assessment under the Habitats Regulations demonstrates beyond reasonable scientific doubt that these can be delivered on the site without harming the integrity of the Pevensey Levels Special Area of Conservation/RAMSAR site;*
 - xii) provision is made for any protected species found to be using the site, and where necessary, includes appropriate mitigation and / or compensation for any loss of habitat, including retaining physical linkages through the central wildlife corridor as indicated on the Detail Map; and*
 - xiii) care is taken in respect of the amenity of adjoining residential properties to the north, north east and south east and to the existing character of the countryside and farm complex to the south west and west."*

1.6 Having regard to paragraph 48 of the National Planning Policy Framework varying degrees of weight can be apportioned to policies of the DaSA dependent on the stage of plan preparation, the level of unresolved objections received and the degree of consistency between the policies and the National Planning Policy Framework. The DaSA has now been submitted to the Planning Inspectorate for Examination and whilst in some cases 'significant weight' can be given to the policies of the Submission DaSA in the case of Policy BEX9 only 'some' weight can be given to it in light of the number of objections received against the allocation.

1.7 Other DaSA policies relevant and to be given weight at this outline stage are:

- DRM3: Energy Requirements
- DEN4: Biodiversity and Green Space
- DEN5: Sustainable Drainage

2.0 SITE

2.1 This application relates to 8.07 hectares (19.9 acres) area of land situated to the south of Barnhorn Road (A259T) and to the south west of Spindlewood Drive. To the south east it is bound by the rear gardens of properties on Maple Walk, Hazelwood Close and Old Harrier Close. To the west it is adjoined by a caravan park and the buildings of Barnhorne Manor farm comprising two dwellings one being GII listed, the other curtilage listed and

agricultural buildings of varying age. To the north, the site is bound by the gardens of properties on Barnhorn Road and to the north east, by properties in Spindlewood Drive and Mulberry Close.

- 2.2 The site currently comprises five agricultural fields divided by mature hedgerows and tree belts. An area of ancient woodland lies immediately adjacent to the south west of the site beyond which lie agricultural fields, interspersed with woodland areas and wooded shaws and hedgerows that take in the Pevensey Levels. The latter are designated as a European Ramsar Site and Special Area of Conservation (SAC) and as a Special Site of Scientific Interest (SSSI).
- 2.3 Physically the land lies between 19m and 4m Above Ordnance Datum (AOD) and slopes from the north, eastwards and towards an existing watercourse, the Cole Stream along the south eastern boundary.

3.0 HISTORY

- 3.1 The site has a history of refused planning applications for residential development covering all, part, or more land than the current application including land that is now developed at Spindlewood Drive. The most recent related to the largest field immediately adjacent to Spindlewood Drive (RR/1999/2270/P) that was subsequently dismissed at appeal. However, in view of the passage of time and current local and national planning policies previous decisions should not influence the determination of the current application which must be considered and determined in the context of current policy and all other material considerations.

4.0 PROPOSAL

- 4.1 The application is made in outline with all matters reserved for future approval other than access. As originally submitted the application envisaged that the only point of vehicular access to the development would be from Spindlewood Drive however, during the course of its consideration, an additional access via the existing driveway to Barnhorne Manor Farm has been added to the proposal that has also resulted in the amendment of the red line boundary.
- 4.2 The application is accompanied by a site layout, also amended in the course of the application. Since layout is not for approval at this stage this is submitted for illustrative purposes only however, it demonstrates how a scheme of this scale (approximately 23 dwellings per hectare) could be accommodated whilst incorporating a minimum 15m buffer to the ancient woodland, a central 'natural' landscaped open space corridor, ecological areas, two local areas of play (LAPS) and one centrally located equipped area of play (LEAP), incidental landscaping, sustainable drainage measures and internal roads and footways.
- 4.3 No indicative mix of dwelling types and sizes is given although the proposal is to provide 30% of all dwellings as affordable. All development is intended to be of one to two storeys with some buildings incorporating rooms in the roof. Although also not for approval now the external materials suggested

include traditional red/ brown brick elevations, clay roof tiles with vertical clay hanging tiles and off white painted timber weatherboard.

- 4.4 The application as originally submitted was accompanied by a design and access statement, planning and affordable housing statement, statement of community involvement, transport assessment, ecological assessments (Phase 1 and 2), flood risk and sustainable drainage assessment, archaeological assessment and energy statement.
- 4.5 Formal amendments to the proposal incorporating a second vehicular access from Barnhorn Road were submitted on 23 February 2018 together with an addendum to the transport assessment.
- 4.6 Further amended plans and additional information including a revised site layout, transport assessment addendum, statement of significance for the Barnhorne Manor gates and posts, and correspondence between the applicant's ecology consultant and Natural England were submitted on 21 May.
- 4.7 Further information, principally including information to enable the Council to undertake an 'Appropriate Assessment' under the Habitat Regulations was received on 27 June, 16 October and 7 December 2018 respectively.

5.0 CONSULTATIONS

5.1 Highways England

- 5.1.1 In response to the proposals as originally submitted Highways England commented, *"there is currently insufficient information provided by the applicant on which to base an informed decision in relation to the potential impacts of the development on the Strategic Road Network.* In particular concerns were raised about accident analysis, trip generation and effects, traffic surveys (out of date and undertaken in school holiday), trip distribution and assignment and impact on Little Common Roundabout.

Until such time as sufficient information has been provided to enable Highways England to obtain a clear view of the cumulative traffic impacts of this proposed development on the SRN, our informal advice is that you should not approve this application because of the potential for severe harm to the Strategic Road Network.

- 5.1.2 Following the receipt of further information on 23 February and 21 May 2018 respectively, Highways England has no objection and recommended on 7 June that *"condition[s] be attached to any planning permission that may be granted"*. The suggested conditions, which relate essentially to provide the Barnhorn Road and Spindlewood Drive accesses as shown on the drawings to be approved and to prepare a Construction Traffic Management Plan for approval before any work on the site commences, are detailed in correspondence available to view online.

5.2 Highway Authority – East Sussex County Council (ESCC)

- 5.2.1 ESCC did not comment on the application as originally submitted, choosing to defer formal comment until Highways England had confirmed that its

concerns had been satisfactorily addressed. On 13 June 2018 it commented in summary that it has no objection to the proposal subject to conditions that are specified.

- 5.2.2 The authority's comments are extensive and detailed covering the following matters; site access; trip generation and highway impacts having regard to the junctions – Spindlewood Drive/site access, Barnhorn Road/ site access, Maple Walk/Meads Road/Spindlewood Drive and Cooden Sea Road/Meads Road/Church Hill Avenue; accessibility, internal layout, parking, construction management plan and travel plan. It concludes:

“Subject to the above recommendations being taken into account I have no major concerns regarding the site access from a highway safety or capacity perspective.

With regards to the impact further afield I am satisfied that the assessment carried out confirms that the highway network and junctions in the vicinity of the site are able to accommodate the additional traffic likely to be generated by the development proposal. Highways England has also confirmed that they are satisfied with the assessments carried out on the Barnhorn Road access and the Little Common Roundabout.

As an outline application details regarding the housing mix, parking provision and internal layout are yet to be finalised and therefore cannot be assessed fully at this stage.

To conclude, with the above in mind I do not object to the proposal and include a summary of highway measures to be provided to ensure highway safety for the site and surrounding network, capacity accommodation on the network, sustainability, accessibility to local services and encouraging provision for travel modes other than the private car.

Section 106/278 Agreement

The off-site works and financial contribution that I wish to secure as part of this development via a section 106/278 agreement are:

- *The vehicular access into the site on Spindlewood Drive with appropriate width and radii (as detailed above).*
- *New access to include 2m wide footways on both sides and a crossing point with tactile paving across the site access.*
- *A pedestrian crossing on Spindlewood Drive close to the east of the site access to include dropped kerbs and tactile paving*
- *Improvements to the bus stops on Cooden Sea Road.*
- *Relocation of the westbound Barnhorn Road (The Broadwalk) bus stop.*
- *Improvements to the westbound and eastbound bus stops on Barnhorn Road (as detailed above)*
- *Financial contribution towards improved bus service on Cooden Sea Road and Barnhorn Road (as detailed above).*
- *The realignment of the Cooden Sea Road/Meads Road junction (as detailed above).*

These improvements are necessary to ensure the development site complies with government policy for accessible developments by non-car modes of travel.

The Barnhorn Road access and improvements to the bus stops on Barnhorn Road are to be agreed and secured via legal agreement with Highways England.

5.3 Sussex Police

- 5.3.1 As application is in outline have no detailed comments to make at this stage. At reserved matters stage would encouraged the applicant to update the Design and Access statement to include appropriate measures for crime prevention and community safety using the principles of Secured by Design and the attributes of safe, sustainable places.

5.4 Southern Water

- 5.4.1 Full comments are available to view on line. SW has advised that an initial desk top study indicates that it cannot accommodate the foul water disposal needs of the proposal without the development providing additional infrastructure. Without this the proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in an around the existing area contrary to paragraph 109 of the National Planning Policy Framework (2012). If the Local Planning Authority is minded to approve the application a planning condition is proposed.
- 5.4.2 Comments also refer to the presence of a foul sewer under the Spindlewood Drive access point, sustainable urban drainage and the need for oil trap gullies or petrol /oil interceptors where hard standings are proposed should be required.

5.5 County Archaeologist

- 5.5.1 *Further to our consultation letter dated 9 August 2017, where we outlined that a planning decision could not be determined as the site had not been subject to archaeological field survey; the applicant has now commissioned an archaeological geophysical survey. The results have identified a number of potential archaeological features, including features immediately adjacent to the historic (medieval) farm complex. Frustratingly this area of interest is masked by high levels of ferrous "contamination" so the character, extent and potential date of these features is unclear; as is its significance. The appropriate option to clarify the significance and any risk in relating to developing this site, should be further investigation through trial trenching. However the applicant is unprepared to explore this risk at the moment.*

In this instance, as a geophysical survey has been conducted, it would be appropriate for further fieldwork assessment to be carried out prior to the design and submission of the reserved matters application, and if necessary significant elements of archaeology excluded from the site layout / development. In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject to further archaeological assessment defined by a programme of archaeological works and the results

used to inform a sympathetic design enabling the retention in-situ of the archaeological remains within the development.

5.5.2 Conditions are proposed.

5.6 Flood Risk Management Team (ESCC)

5.6.1 Commented on 15/3/2018, no objection -The information provided is satisfactory and enables the LLFA to determine that the proposed development is capable of managing flood risk effectively. Although there will be a need for standard conditions which are outlined in this response.

5.6.2 Detailed Comments: The current proposals are for discharging surface water runoff from all rainfall events including the 1 in 100 (plus climate change) at the mean annual runoff rate, \bar{Q} (9.1 l/s in the supporting calculations). Although this reduces downstream runoff rates for extreme events, it will increase runoff rates for those rainfall events with an annual probability of occurring greater than 1 in 2.33. We request that surface water runoff from rainfall events greater than 1 in 2.33 be limited to the existing Greenfield runoff rate. The surface water storage provided while limiting at this discharge rate should incorporate a 10% increase in impermeable areas to take into account potential urban creep.

BGS data indicates that groundwater is less than 3m below ground level at the application site. Therefore the detailed design of the attenuation pond should be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the pond and the highest recorded groundwater level. If this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system should be provided with the reserved matters application, should the application be granted planning permission. The Pevensy Levels SSSI is less than 100m south-west of the site. Therefore we expect the development to incorporate at least one additional water treatment stage using sustainable drainage systems upstream of the proposed pond. This should be demonstrated in the information supporting any reserved matters or full application for this site where the layout will be fixed.

5.6.3 The watercourse discharges into the Pevensy and Cuckmere Water Level Management Board (PCWLMB) area. The PCWLMB might require surface water discharge contribution, which the applicant should discuss with the Board. Any works affecting the existing watercourse on site will require consent from the County Council as the LLFA. Ordinary watercourse consent for such works should be secured prior to construction of the works.

5.6.4 The LLFA confirmed its position with some additional condition requests in subsequent correspondence dated 8 November and 19 December 2018.

5.7 Environment Agency

5.7.1 The Environment Agency initially commented that it had no objection to the proposal on flood risk grounds as the site lies within Flood Zone 1 (low risk) however a range of environmental permits might / will be required relating to 'flood risk activities' and other works such as new bridges, resurfacing of

existing right of way, proposed trees / planting with 16m of the main river. In response to the second round of consultation on 14 March 2018 it commented again requesting that certain conditions were attached to any grant of planning permission.

5.7.2 On 5 July 2018 the EA commented further as follows:

"We have received additional information in regards the above proposal and wish to review our position in relation to this new information. Please note this response of July 2018 supersedes all previous responses on this application. Please update your records. Objection ... Please be aware that a recent (April 2108) court ruling - Court of Justice of the European Union (CJEU) in the matter of People Over Wind and Sweetman v Coillte Teoranta (C-323/17) - has potentially altered the current UK position in relation to Appropriate Assessments under the Habitats Directive 92/43/EEC.

This, essentially, says that, if risks are present, mitigation measures can no longer be used at the likely significant effect stage of the Habitats Regulations Assessment (HRA) process when deciding whether an Appropriate Assessment of the plan or project is required. In the light of this recent case law, reliance on mitigation measures designed to avoid or reduce harmful effects at the likely significant stage is now vulnerable to legal challenge. In this case (RR/2017/1705/P), the applicant has proposed mitigation measures to address potential impacts on the Pevensey Levels SAC & Ramsar as set out in Aspect Ecology's Ecological Appraisal (2016) excerpt above. It is Natural England's view that the proposal is likely to have a significant effect on the Pevensey Levels SAC and Ramsar site (Natural England, 2018). We do not believe that precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the proposed works on the Pevensey Levels SAC & Ramsar have been presented in the Aspect Ecology Report. Therefore we defer to Natural England's opinion and echo their advice in recommending they proceed to the Appropriate Assessment stage to ensure there is no likely adverse effect on the integrity of the site. We therefore object to the proposed development, as submitted, because the assessment of the risks to nature conservation are inadequate...

Overcoming our objection: An Appropriate Assessment is required prior to the development of detailed plans, to enable an assessment of the level of risk posed by the development.

- The Appropriate Assessment should identify the risks from water quality (Sustainable Drainage Systems) and foul water (Sewage) on the Pevensey Levels SAC & Ramsar features and demonstrate how the development will avoid adverse impacts.*
- It should propose mitigation for any adverse ecological impacts or compensation for loss and include wildlife/ habitat enhancement measures.*
- It should also propose post-project appraisal, management plans and management responsibilities with details of how biodiversity enhancement will be incorporated into the development and maintained over the long term."*

- 5.7.3 Further to the submission of further information by the Applicant in October 2018 and a report by a local resident in response to that information, the EA wrote on 20 November 2018 maintaining its objection.
- 5.7.4 Further to the submission of further and revised information by the Applicant on 6 December and the preparation of a draft Appropriate Assessment by the Council for EA and Natural England's comments and agreement on 19 December 2018, the EA provided further comment on 2 January 2019;

"Thank you for consulting us on the above details. We have reviewed the letter report and detailed revised design of the surface water management system produced by Herrington Consulting Limited; and the draft Habitats Regulation Assessment Appropriate Assessment provided by Rother District Council. We previously recommended an objection, but the proposed development will now be acceptable, providing the conditions set out under 'Biodiversity' are imposed on any permission granted.

Groundwater *The revised assessment and design scheme is satisfactory. The revised approach is to develop a pond that is above ground so that groundwater is not intercepted. However this will still be lined and will provide some protection against hydrostatic upwelling if groundwater levels rise. In addition to this, as requested a Simple Index Approach calculation has been produced and we find the pollution mitigation measures acceptable.*

We previously recommended that groundwater levels are monitored through different seasonal periods, particularly during recharge events in spring. This has not been undertaken and we recommend that this is completed and any groundwater level monitoring data is used to assess against the current design and provide any necessary changes that are appropriate.

Biodiversity *As outlined above, we have reviewed the submitted reports and can remove our objection providing the following conditions are imposed on any planning permission granted..."*

5.8 Natural England

- 5.8.1 Natural England (NE) has provided a number of responses to the proposal initially on 21 August 2017 seeking further information to inform a substantive response and specifically:

- to determine if likely significant effects of the development of the Penvensey Levels SAC/Ramsar Site can be ruled out. In this regard it requested full drainage scheme details to be provided; and
- to establish if the application site would provide 'functional land', that is providing supporting habitat for bird species (including over-wintering birds) for which the SSSI is designated, in which case the site would also be considered part of the designation.

With regard to protected species, the response referred the Local Planning Authority to NE's standing advice.

- 5.8.2 Subsequent responses from NE to additional information provided by the Applicant were received on 19 March and 15 June 2018. In the latter NE accepted that the site was unlikely to be 'functional land' but raised the matter (and additional information requirements) arising from the Court of Justice European Union (CJEU) decision on the interpretation of the Habitats

Directive in the case of 'People Over Wind and Sweetman vs Coillte Teoranta, April 2018.

- 5.8.3 Subsequent responses from NE on 27 November 2018 and lastly on 3 January 2019 provide additional comment on the Applicant's report (amended) 'Information to Inform an Appropriate Assessment'. The advice provided on 27/11 was in summary (full comments available to view online);

"Whilst NE considers that mitigation measures are available to address the issues raised by the proposal, there are still a number of uncertainties that need to be resolved, to ensure that the full set of necessary mitigation measures are secured. This is necessary for an Appropriate Assessment to be able to determine, beyond reasonable scientific doubt, that an adverse effect on Pevensey Levels will be avoided. The applicant should therefore comment on:

- The measures that will be taken to address dewatering issues during construction of the wetland, and how any silt mobilised will be prevented from entering the SAC/Ramsar.*
- The implications of a groundwater gradient for the design of the wetland, particularly in terms of any additional ballast that might be necessary, and whether this would have any additional implications for the Pevensey Levels.*
- Whether the displacement of groundwater from the construction of the wetland is likely to impact on the hydrological regime of the SAC/Ramsar, and if so whether any mitigation is necessary.*

NE recommends seeking comment on the above issues to inform the Appropriate Assessment and to confirm that the mitigation measures presented in the Information to inform an Appropriate Assessment (IIAA Report) (Aspect Ecology, October 2018) are based on the worst-case groundwater scenario, and therefore present the full set of mitigation measures necessary.

Nevertheless, NE recognises the work undertaken by the applicant and presented in the IIAA Report. Therefore, subject to clarification and comment on the above three points, NE would be able to advise that we have no objection to the proposal subject to securing appropriate mitigation."

- 5.8.4 On 3/1/2019 NE commented, in summary:

"Summary of NE's advice

No objection - subject to appropriate mitigation being secured

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Pevensey Levels Special Area of Conservation/Ramsar site; and*
- damage or destroy the interest features for which Pevensey Levels Site of Special Scientific Interest has been notified.*

NE has reviewed the additional information supplied by the applicant in response to our letter dated 13 November. Our view is that the information is sufficient to address the questions raised. Further comment is set out below. However, our view is that the mitigation measures set out in our previous letter are sufficient. For ease of reference, they are repeated below.

In order to mitigate any adverse effects on Pevensey Levels, and make the development acceptable, the following mitigation measures are required and should be secured:

- a) Fill material for land raising must be inert and free from contaminants that could potentially enter Pevensey Levels;*
- b) The Construction Environment Management Plan (CEMP) must include (but not be limited to) the measures set out at paragraph 5.2.2 of the Information to inform an Appropriate Assessment (IIAA Report) (Aspect Ecology, October 2018) (IIAA Report), and in particular, set out the measures necessary to prevent silt entering the SAC/Ramsar and avoid water quality impacts on the Pevensey Levels.*
- c) The detailed SUDS design must include permeable paving, oil interceptors, swales, filter strip and wetland. The wetland should include all the features described in the Indicative Wetland Layout drawing in the IIAA Report. Any amendments to this SUDS strategy at the detailed design stage should be subject to consultation with Natural England, and should be reassessed under the Habitats Regulation*
- d) The detailed SUDS design should be informed by groundwater level monitoring covering a full winter and into the spring.*
- e) As groundwater levels at the application site are high, an impermeable liner will be necessary. A secondary, sacrificial liner is also required to reduce the risk of leaks or accidental tearing during desilting.*
- f) A section 106 agreement should secure the option to bring in additional land for mitigation if the detailed design demonstrates it is necessary.*
- g) Specialist management of the SUDS is vital and should be secured in perpetuity.*
- h) A detailed management and maintenance schedule should be produced for all the SUDS features described above. The schedule should include the requirement to report to a suitable authority, and allow for step-in rights for the local authority should the management company fail to provide an acceptable service.*
- i) The detailed design must test the assumption that displacement of floodwater will be insignificant, and mitigate any impacts on the SAC/Ramsar if necessary*
- j) Connection to mains sewerage is necessary. The pumping station to lift effluent to the rising main must include backup pumps to secure against the event the primary pump fails.*

We advise that appropriate planning conditions or obligation are attached to any planning permission to secure these measures.

NE's advice on other natural environment issues is set out below.

Further information – Herrington Consulting's Technical Addendum (December 2018)

In our previous letter (dated 13 November) NE asked for clarification regarding groundwater levels and whether the worst-case scenario had been considered. This was to ensure that all necessary mitigation measures had been included.

The technical addendum includes a redesigned wetland and sections through the SuDS showing the predicted groundwater gradient. It also considers the implications of three groundwater level scenarios, including the groundwater being close to the surface, i.e. the worst-case scenario. If groundwater levels were this high, the Technical Addendum states that the wetland could be created at the current land level by building a higher bund. Subsequent discussion with Herringtons Consulting has clarified that, even with the base of the wetland at this higher level, there is sufficient gradient

for the SuDS features in the housing portion of the proposal to work without any further land raising being necessary. This will need to be confirmed at the detailed design stage. It is imperative that the SuDS features upstream of the wetland are included, even if the wetland is created at the current land level, as the different stages are necessary to provide sufficient water quality treatment. If your authority is minded to approve the application, NE recommends the SuDS condition is worded so that it is clear that if the necessary stages of treatment cannot be incorporated at the detailed design stage, then full planning permission cannot be granted.

The redesigned wetland and different groundwater scenarios show that, engineering solutions are possible for each eventuality without having additional impacts on the Pevensey Levels. The redesigned wetland reduces the need for excavation and so reduces the risk that additional ballast will be needed to counteract groundwater pressure. It also reduces the risk that groundwater will be encountered during construction, so reduces the amount of dewatering necessary. Therefore, NE considers that the mitigation measure at b) above is sufficient to address the risk of silt being mobilised when dewatering.

In relation to the third point raised in our previous letter, the option of constructing the wetland at ground level removes the need to consider the impact of displaced groundwater on the hydrological regime of the Pevensey Levels.

Habitats Regulations Assessment

It is not ideal to have different scenarios on which to carry out an Appropriate Assessment. However, as this is an outline application, and detailed groundwater monitoring is not yet available, it has been agreed that the worst-case groundwater scenario should be assessed. NE's view is that the Technical Addendum demonstrates that there is an engineering solution even in this worst-case, and that the mitigation measures set out above are sufficient to cover this eventuality.

However, as noted under c) and d) above, the detailed SuDS design will have to be informed by groundwater modelling over the winter and into spring, and will need to be reassessed under the Habitats Regulations. This will ensure that the assumptions made at this stage are tested, and any changes to the design are taken account of.

The groundwater scenario testing has been aimed at reducing the risk of unforeseen consequences (both for the SAC/Ramsar and the applicant) being revealed at the detailed design stage. However, full planning permission cannot be granted if the Habitats Regulations Assessment of the detailed SuDS design cannot demonstrate that an adverse effect on the integrity of the SAC/Ramsar will be avoided. NE recommends adding an informative to any permission granted to make this clear.

5.9 SGN Pipelines

- 5.9.1 The mains record indicates that there are no low/medium/ intermediate gas mains on or affecting the site. A colour plan of the attached plan and gas safety booklet should be passed to a senior person on the construction site.

5.10 ESCC – Ecology

- 5.10.1 In summary the County Ecologist advises that the information provided by the Applicant is satisfactory and enables the Local Planning Authority to determine that whilst the proposed development is likely to have an impact

on biodiversity, those impacts can be mitigated through the application of planning conditions.

- 5.10.2 Surveys carried out are broadly in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement. They will need updating at Reserved Matters stage given their date (2015) to ensure the agreed measures remain appropriate.
- 5.10.3 The site is not subject to any nature conservation designation. Pevensey levels SAC, Ramsar and SSSI lies to the south west, c. 60m from the proposed attenuation pond and c. 150m from the main development. As such, the Conservation of Habitats and Species Regulations 2017 apply / *concur with the view of Rother District Council that with the proposed mitigation, the development will not have an adverse effect on the integrity of the SAC.*
- 5.10.4 The commitment to provide a minimum 15m buffer between the development and the ancient woodland, to be planted as semi-natural habitat is in line with Natural England's standing advice, and is sufficient to protect the woodland. The nature of the buffer zone should be detailed in an Ecological Design Strategy (EDS) and its long term management should be detailed in a Landscape and Ecological Management Plan (LEMP), both of which should be required by condition.
- 5.10.5 The majority of the site is improved grassland with tall ruderal vegetation, trees and tree lines, hedgerows, a pond, ditches and spoil piles. The grassland supports limited grassland flora and is of homogenous structure and is of relatively low ecological value. The habitats of greatest value are the hedgerows, trees and onsite pond and ditches. The outline application proposes the retention of the majority of these features. Their protection, and management should be addressed through the EDS and LEMP and through a Construction Environmental Management Plan (CEMP: Biodiversity).
- 5.10.6 All species of bats are European Protected Species. The site, most notably the linear features (trees and hedgerows), offsite woodland and onsite pond, provide moderate foraging potential for bats, and several trees on site have been assessed as offering bat roost potential. Within the outline application, those trees with potential are scheduled for retention. If the layout changes at the reserved matters stage such that trees with bat roost potential may be lost, further surveys will be required. Artificial light can negatively impact on bats behaviour. It is recommended all lighting design should take account of national guidance, and a lighting design strategy for light-sensitive biodiversity should be required.
- 5.10.7 Badgers are protected under the Protection of Badgers Act 1992. Badger setts have been identified on site, and the site is likely to be used for foraging and commuting. All setts are to be retained with a minimum buffer zone of 20m. Given the highly mobile nature of badgers, pre-construction surveys should be undertaken to assess any change in use of the site and to inform appropriate mitigation, compensation and enhancement. General safeguards should be put in place during construction to avoid harm to badgers, which should be detailed in a CEMP. It is also recommended that boundaries and fences within the site are made permeable to badgers to allow their movement through the site and to maintain access to sufficient foraging and watering areas.

- 5.10.8 The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation.
- 5.10.9 The hazel dormouse is a European Protected Species. The presence of dormice should be assumed likely in areas of woody habitat (including plantations, hedgerow and scrub) within their range, particularly in the south of England. The majority of habitats within the site (improved grassland) are of limited value to dormice, but the hedgerows and boundary woodland have the potential to support the species. As these habitats are to be retained, protected and enhanced through the outline application, no surveys have been undertaken. If the reserved matters application requires creation of breaks in these hedgerows, surveys will be required to inform appropriate mitigation, including the need for a European Protected Species licence. Natural England's standing advice is that surveys can be limited to visual searches for nests and nuts if the work involves only losing a small amount of habitat, e.g. gaps in hedgerows or removing a small amount of bramble scrub.
- 5.10.10 The great crested newt is a European Protected Species. Great crested newts are present in the pond onsite and in an offsite pond to the northwest of the site (within 250m). These are likely to be part of the same metapopulation. As such, a European Protected Species licence will be required, for which updated surveys must be carried out. The mitigation strategy outlined in the Ecological Appraisal report is appropriate and should be incorporated into the detailed design for the site at the reserved matters stage. The onsite pond should be retained with a 50m buffer of semi-natural habitat which should be enhanced for great crested newts, with connectivity to boundary habitats and offsite ponds. Gully pots should not be used within the development, but dropped kerbs should be provided and consideration should be given to the provision of newt culverts/tunnels.
- 5.10.11 The site supports a low population of slow worms. Slow worms, grass snakes, common lizards and adders are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. Given the size of the population likely to be present, and the proposals for the retention of boundary habitats and the provision of an Ecological Enhancement Area, the population can be retained on site. The proposal to protect reptiles through careful habitat manipulation and clearance is acceptable. A method statement for habitat clearance should be provided in either the EDS or the CEMP. The Ecological Enhancement Area should include enhancements for reptiles.
- 5.10.12 The site has the potential to support hedgehogs. The hedgehog is listed as a Species of Principal Importance under Section 41 of the NERC Act and populations have shown a significant decline. A precautionary approach should be taken to site clearance and property boundaries should be made permeable to hedgehogs. The site is unlikely to support any other protected

species. If protected species are encountered during development, works should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.

5.10.13 The invasive non-native species Himalayan Balsam is present on site; this should be removed following best practice guidance.

5.10.14 In addition to the mitigation measures discussed above, the site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and National Planning Policy Framework. Opportunities include, but are not limited to, the provision of SUDs features, new hedgerow, tree and shrub planting, the creation of wildflower grassland, and the provision of bird, bat, insect and hedgehog boxes. The landscape scheme, particularly the hedgerow enhancements and semi-natural planting within the ancient woodland buffer zone, should use appropriate native species of local provenance. Wildlife boxes should be woodcrete if possible and should target species of local conservation concern. The long term management of new and retained habitats should be detailed in a LEMP. Appropriate conditions are recommended.

5.11 Community and Economy – Housing and Asset Development Officer

5.11.1 In summary has commented, the scheme is not an allocated site under the current local plan; however, it has been put forward as a preferred site for delivery under the Development and Site Allocations Local Plan. In principle this scheme is supported by Housing Development subject to planning approval. The application is policy compliant with LHN2 with 30% onsite provision of the 160 dwellings proposed, totalling 48 affordable dwellings. A policy compliant tenure mix (65% affordable rent: 35% intermediate) is referred to in the Planning and Affordable Housing Statement (page 10). This will be included in the section 106 agreement. The type and size of affordable housing units is to be determined as part of the Reserved Matters application. An indicative housing mix that would be sought based on current needs at this time is included in the table below.

Property type	Affordable Rented (65% minimum)	Intermediate Housing (35% minimum)	Total
1 Bedroom apartment and bungalow	4	0	4
2 Bedroom apartment and chalet bungalow	4	3	7
2 Bed House	9	4	13
3 Bed House	10	8	18
4 Bed House	4	2	6
Total number of Affordable Rented units	31	17	48

5.11.2 The applicant will be required to enter into a section 106 agreement to secure the affordable housing provision to include the affordable housing number, tenure mix and dwelling type, as well as design and space standards. The Council will expect to secure nominations rights on 100% of

the first lets and 75% of all re-lets thereafter through the Choice Based Letting system or its replacement scheme. As part of the Reserved Matters application, the applicant will be expected to comply with Policy LHN1 (vi) and paragraph 15.30 of the Rother Local Plan Core Strategy, ensuring the affordable housing dwellings are pepper potted in accordance with this policy. Based on current need the Affordable Housing Development team requires 5% of dwellings to be built to M4 (3) standards, totalling two affordable homes. All of the affordable homes must be built in accordance with the Nationally Described Space Standards (2015) and designed in accordance with the Building Regulations 2010. It is recommended that a proportion of market housing should be allocated as smaller dwellings (primarily two beds) to enable a greater number of local residents to access the market to include first time buyers and downsizers.

5.12 Planning Notice

- 5.12.1 The application has been subject to three separate periods of statutory / public consultation in August 2017, February and May 2018.
- 5.12.2 Four separate petitions against the proposal have been received from: Maple Walk (North) Residents Association; Spindlewood Development Action Group (SPINDAG); Hazelwood Close residents and Maple Walk (South) Road Management Scheme respectively. In accordance with the Planning Committee's procedure for public speaking the lead petitioners have liaised with each other and a joint representative for all of those petitions will address the Committee.
- 5.12.3 In excess of 1,500 individual or household representations against the proposal have been received. Those objections have predominantly been received from the local Little Common, Cooden and Collington areas of Bexhill. A few have been received from further afield including some from the permanent addresses of people having caravans at the adjacent park. Some respondents have commented on numerous occasions and a number of duplicate representations have been received.
- 5.12.4 Amongst the representations received very detailed comments have been made by immediate neighbours to the proposed development on Barnhorn Road, Maple Walk and Spindlewood Drive and by the Spindlewood Drive Action Group (SPINDAG) established to resist the development of the land. Representations have also been received from the Sussex Ornithological Society, Sussex Wildlife Trust, the Woodland Trust, Campaign to Protect Rural England and Bexhill Heritage.
- 5.12.5 Given the volume of comment received the following represents a summary of matters raised. Notwithstanding that there are relatively few principal areas of concern under which comments have been grouped below. A summary of consultation responses to the third and final consultation period is provided separately below at paragraphs 5.12.5 – 5.12.7.

Traffic

- Further increases of road traffic with resultant increases of congestion and delays coming into Little Common and going out of the town is the primary area of concern for most respondents. There is a concern that the Transport Assessment as originally submitted and as amended following further traffic surveys and modelling in autumn 2017

underestimates the cumulative amount of traffic and congestion that will be caused on the A259 at Barnhorn Road and at Little Common roundabout, by the development on top of the Barnhorn Green (Rosewood Park) development that is now being built. Respondents point to the fact that there are already delays on the A259 during extended periods of the day and consider that the situation can only get worse if the proposal is allowed.

- The increase in traffic on the A259 will cause additional noise and air pollution to the detriment of the health of local residents.
- There are concerns that Meads Road / Spindlewood Drive cannot cope with the amount of traffic that would be generated being parked up and therefore effectively a single carriageway and exiting onto Cooden Sea Road that is congested itself with traffic travelling towards the roundabout.
- The proposed second access from Barnhorn Road has not allayed concerns; it is considered that this will cause further delays and congestion on Barnhorn Road and that through traffic will use the development as a rat run to avoid hold ups at the roundabout.
- The proposed Barnhorn Road access design is considered dangerous by many.
- Residents of Maple Walk consider that the development will result in an increase of vehicular traffic through their private road as people either using it as a rat run or from the proposed development seeking to avoid hold ups at the roundabout or on Barnhorn Road use it to travel west. The applicant's proposal to install signs at the Spindlewood / Maple Walk junction to warn drivers against this is not considered adequate. Respondents point out that there are no pavements on this road and therefore road safety is a concern. There is a retaining wall near to some of the dwellings that is already showing signs of stress; additional traffic would damage it further. Damage from unrelated through traffic would cause increased maintenance costs for frontagers.

Environmental and Ecological Impacts

- The principal concern is that the site's proximity to the Pevensey Levels Special Area of Conservation (SAC), Ramsar Site and Site of Special Scientific Interest (SSSI) will harm the ecology of the area and the rare species that are present within it.
- It is considered that the applicant (and therefore the Council in its consultation documentation) hasn't provided sufficient information to Natural England to rule out any significant adverse impacts on the Ramsar Site and SSSI such that it can be confirmed that an Appropriate Assessment under the Habitat Regulations is not required.
- Site may be functional land to the Ramsar Site – i.e. land that provides supporting habitat for birds and therefore to be treated as part of the Ramsar site.
- In accordance with the National Planning Policy Framework the presumption in favour of development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.
- There is insufficient infrastructure available to deal with foul water drainage. Uncontrolled outfall of foul sewage could irreparably harm the ecology of the levels by pollution of water quality and potential for flooding on adjoining sites and properties.

- Development would harm the ecology of the Levels through air, noise and light pollution.
- Development would result in the loss of 'best and most versatile' agricultural land and threaten the future viability of the farm.
- Proposal is contrary to principal of directing development to land of least environmental or amenity value.
- Maintenance of sustainable surface drainage measures cannot be guaranteed.
- The presence and extent of any protected species on the site should be established before any permission is granted – site is a haven for wildlife.
- Impact on ancient woodland – Natural England standing advice buffer of 15m should be extended to 30m depth.
- Use of Barnhorn Road access will mean more major development activity in vicinity of 'Pond 4' where there are Great Crested Newts present.
- Proposal doesn't support opportunities for management, restoration and creation of habitats in line with the opportunities identified for the Biodiversity Opportunity Areas (BOAs) and targets set out in the Sussex Biodiversity Action Plan and therefore is contrary to Rother Local Plan Core Strategy Policy EN5(v).

Heritage Impacts

- The loss of these fields to development would strip the Grade II listed Barnhorne Manor and the dairy farm of its historic context *"that would represent the total loss of significance of this important local heritage asset"*.
- The curved walls and gateposts at the entrance would need to be demolished to provide the increased entry width required from Barnhorn Road. These may be / are curtilage listed.
- The plan should show how the design of the road through the site and footpaths would reduce impact on the setting of the listed buildings.
- Application has been made to Heritage England to amend category of listing of Barnhorne Manor from GII to GII* in view of age of asset that has medieval origins (772AD) with Tudor, and later Georgian and Victorian additions.
- Archaeological assessment carried out so far is not sufficient.
- The application has been made without any appreciation of the De la Warr estate (Maple Walk / Maple Avenue).

Local Infrastructure

- The local infrastructure available – schools, doctor's surgery, parking etc. is not sufficient to accommodate further residential development in the area.
- Land should be used for a new school.
- Unreasonable increase to the local population will ruin the character of the village.
- No mention in energy statement to total renewable energy strategy as required by draft DaSA.
- Does not propose provision for public art and therefore is contrary to saved policy CF6 of the 2006 Local Plan.
- There are no jobs in Little Common. New residential should be built near to jobs.

Miscellaneous

- Land is Green Belt – Government says should not be developed.

- Shouldn't be considered in advance of adoption of the Development and Site Allocation Plan.
- Will cause water shortages affecting Little Common residents.
- Houses will only be for the well off.
- Village will become a ghost town.
- Development should be directed to Sidley and around the new link road.
- Public consultation prior to the application wasn't sufficient.
- No demand for houses, will be holiday and rental homes.
- Not fair to build small houses here that will downgrade the value of ours
- Applications to develop the land have previously been refused and appeals dismissed.
- The outlook and views enjoyed by existing residents over agricultural land and towards the South Downs /Beachy Head will be harmed.

5.12.6 In response to the third planning notice (27 May) additional comments made to date are summarised as follows.

5.12.7 Bexhill Heritage has commented that the *amended plans are fanciful and misleading so far as the Barnhorn Road junction walls and piers are concerned. The Highway Authority will not accept such a configuration on highway safety and adoption criteria grounds. It appears there is insufficient space available to retain a meaningful part of the existing gateway heritage feature and associated trees and shrubs. The plans do not deal with our objection regarding the setting of the listed buildings. The additional landscaped areas now proposed do not fall within the application site boundary or within any blue line definition. They cannot therefore be relied on to be carried out.*

The Woodland Trust *maintains an objection on basis of deterioration and disturbance of adjoining un-named ancient woodland.*

5.12.8 Other comments received concern:

Ecology

- Correspondence between Aspect Ecology and Natural England date 8 February and 27 April 2018 should be disregarded as the golf course does not provide a buffer between the site and the Pevensey Levels. Over 25% of the course is unimproved scrub, grassland, woodland and a large meadow which in aggregate covers more than 30ha. More than 70 species of bird have been observed on the course: far from being a buffer the course is a host and provides a rich source of food for many wild birds.

Drainage

- Due to the high water table the surface water attenuation pond proposed will require substantial engineering works to be delivered. These in themselves would have a seriously detrimental impact on the quantity of ground water over a large area of the Levels during the construction phase.
- The application must be refused because it has not been demonstrated the development will not adversely affect the Pevensey Levels.
- There is no defined / funded method of maintaining the SUDs.
- The proposed SUDs will result in increased flooding to the gardens of properties on Old Harrier Close.

- There are numerous inaccuracies in the report.
- Cooden Beach Golf Club has made comments of objection to the SUDs scheme.
- A local resident and member of SPINDAG has provided a detailed critique in a series of illustrated reports of the applicant's evolving surface water drainage strategy required to address the requirements of the Habitats Regulations Appropriate Assessment. These are available to read on the website and are specifically referenced. The reports received 20 December 2018, 2 & 16 January 2019 maintain fundamental concerns regarding the level of winter groundwater levels in relation to the proposed SUDs features base levels; the potential for contaminants to enter into the water environment of the Levels, the need to 'de-water' a large part of the area to construct the basins and the impact of any upward ground water pressure on the long term structural integrity of the SUDs. The report of 2 January specifically concerns the variability of rainfall and objections to the 'worst case' scenario solution proposed by the applicant's consultant. A final report dated 16th January dismisses the Council's Appropriate Assessment agreed by both Natural England and the Environment Agency as incomplete and revisits a number of concerns including the variability in the amount of winter rainfall over a number of years and the rate at which ground water levels can rise after individual heavy rainfall events.
- Other local residents have subsequently written in to support the conclusions of these reports.

Traffic and Highways

- The amended TA based on traffic survey at Little Common between 27 & 29 September 2017 is inaccurate because the survey was carried out during road works; therefore the TA is seriously flawed.
- The comments supporting the proposal from Highways England and ESCC are wrong, based on this flawed work and also on a relaxation of normal standards for trunk roads and should be disregarded.
- The type of housing intended will generate more trips than estimated (young people, families in employment). The trip generation figures are unbelievable and derived from inappropriate comparators (selected sites in Crewe, Lincoln and Hartlepool containing large components of bungalows therefore a more elderly, economically inactive population). The applicant has had an opportunity to rectify these but hasn't. Other recent housing development in East Sussex would suggest a peak trip generation to be significantly more.
- The proposed Barnhorn Road enlarged entrance is substandard and fundamentally dangerous and would encroach onto private land (there has also been a significant amount of correspondence between local residents and Highways England on this matter some of which is available to view on the webpage (18/7/2018)).
- Meads Road and Spindlewood Drive cannot cope with vehicles arising from an additional 160-170 dwellings. The junction from Meads Road onto Cooden Sea Road is on a rising 4.5% gradient and sightlines are poor. The developer has not provided vehicular swept path analysis for the Cooden Sea Road junction or for the Spindlewood Drive access.
- The development will create an undesirable 'rat run' and lead to more traffic using Maple Walk and Maple Avenue (both un-adopted). There will be a substantial and dangerous increase in the amount of traffic using

Maple Walk that along a significant length is no more than 3.2m in width and without footways along most of its length.

- The information in both highway authority responses is wrong / inaccurate and should be disregarded by the Local Planning Authority.

Miscellaneous

- The value of 160 houses is not worth the risk to the Levels.
- Council should consider Pestalozzi Village in Sedlescombe as an alternative location.
- The time to determine the application should not have been extended to allow the applicant further time to consider these matters.
- The proposal could adversely impact on archaeology associated with Cooden Moat and its setting.

5.12.9 While the application has been under consideration the Council's Proposed Submission DaSA was published for final representations between 26 October and 7 December 2018. During that period a number of detailed representations of objection to the proposed site allocation for residential development were received. The Plan was submitted to the Planning Inspectorate for Public Examination on 18 January 2019, the main areas of outstanding concern are:

- Potential impact of the development on the integrity of the Pevensy levels SAC/ Ramsar Site and SSSI in relation to SUDS drainage.
- The design, functioning and safety of the proposed enlarged access on Barnhorn Road, and resulting increase in traffic generally.
- Potential for rat running between Barnhorn Road and Spindlewood Drive.
- Impact of development on the setting of the historic medieval farm complex; and the Barnhorne Manor Farm gate posts and walls.
- The site is not required to be developed to meet the Council's housing targets.
- The development would cause unacceptable harm to the amenities of existing, neighbouring residents.

6.0 APPRAISAL

6.1 The principal issues to be considered concern those of planning policy in relation to sites subject to Appropriate Assessment under the Habitats Regulations, residential development and housing supply, along with; the management of potential significant impacts on the Pevensy Levels Special Area of Conservation / Ramsar Site in relation to drainage and flood risk; sustainability and accessibility; highway and access matters; landscape, ecological and tree implications; impacts on heritage assets (archaeology and designated and undesignated building and structures); and the residential amenity of the occupiers of existing residential properties. Other material considerations include affordable housing, financial implications and planning contributions.

6.2 Habitat Regulations, Planning Policy and Five Year Housing Supply

6.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that

planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

6.2.2 It is well established in planning law that the Habitat Regulations carry more weight than National Planning Policy and outweigh any other consideration where it is a factor. The Regulations effectively forbid a council from permitting any plan or project that may adversely affect a Special Area of Conservation (SAC) or Ramsar Site (European Sites). Where the council is satisfied that a plan or project may affect a European Site the Council as the 'competent authority' must undertake an Appropriate Assessment (AA) in consultation with the 'appropriate nature conservation body' – that in England is Natural England – and other 'relevant bodies' such as the Environment Agency. The Applicant must provide sufficient information to enable the Council to undertake the AA, demonstrating what factors can be introduced to mitigate and negate the likely effects. Paragraph 70(3) of the Regulations says; Where the assessment provisions apply, outline planning permission must not be granted unless the Council is satisfied (whether by reason of the conditions and limitations to which the outline planning permission is to be made subject, or otherwise) that no development likely adversely to affect the integrity of a European site or a European offshore marine site could be carried out under the permission, whether before or after obtaining approval of any reserved matters.

6.2.3 Paragraph 11 of the National Planning Policy Framework sets out the application of the '*presumption in favour of sustainable development*'. For decision making this requires

- c) *approving development proposals that accord with an up to date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless;*
 - i) *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
 - ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.*

6.2.4 Footnote 6, which states: "*The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change*" is relevant in this case as such policies include those relating to habitats sites.

6.2.5 In respect of the five-year supply issue at 1 October 2018, the latest date for which figures are available, the Council could only demonstrate a 3.9 year

supply of available housing sites including a 20% buffer. This means that the 2006 Development Boundaries and the Council's other policies for the supply of housing must be viewed at present as being 'out-of-date' for the purposes of paragraph 11 of the National Planning Policy Framework (footnote 7 refers). As a consequence, planning applications fall to be considered in the context of paragraph 11 d) Notwithstanding which, the proposal is subject to Appropriate Assessment under the Habitat Regulations so that part 11 d) i) applies together with the current wording of Paragraph 177. This means that in this case the National Planning Policy Framework's presumption in favour of development does not apply. However, this does not mean that planning permission should be refused: the scheme should be considered first and foremost in accordance with the Habitat Regulations requirement for an Appropriate Assessment and if that is satisfied, thereafter in accordance with the development plan and all other material considerations.

- 6.2.6 The Rother Local Plan Core Strategy development strategy (Policy OSS1) is to plan for at least 5,700 dwellings (net) in the district over the plan period 2011-2028 OSS1 (a) identifies Bexhill as the focus for new development in the district where approximately 3,100 new dwellings are to be provided over this period. Policy OSS2 acknowledges that in order to deliver the additional housing required that existing development boundaries will need to be reviewed and extended. Policy BX3 (iii) states that over and above development opportunities within the existing urban area new housing and business development will be focussed on the strategic site at NE Bexhill as well as further sites to the north and west of the town. Supporting text paragraph 8.56 says, *"Development to the west of Little Common, both north and south of Barnhorn Road (A259), will also be considered. Again, the area enjoys an attractive pastoral character, but without impacting on the wider landscape for the greater part. It also benefits from reasonable access to shops and services at the Little Common district centre. Access would need to be created directly off the A259, supplemented by existing estate roads"*.
- 6.2.7 The suitability of the application site for future development was assessed within the Council's Strategic Housing Land Availability Assessment (SHLAA) Review 2013. The SHLAA was an initial assessment prepared to support the Rother Local Plan Core Strategy as an 'evidence base' document. It did not allocate land for housing or pre-empt or prejudice any Council decisions about particular sites but in the context of this application it is of relevance. Within the SHLAA the application site, excluding the most southerly field was identified as a 'broad location' for future housing development within 6 – 10 years together with the adjoining caravan park.
- 6.2.8 Following on from the SHLAA, the application site is shown lying within the scope of a 'potential broad location for future development' in West Bexhill identified in the Rother Local Plan Core Strategy key diagram on page 216 that illustrates the main elements of the strategic spatial strategy set out in Policy OSS1.
- 6.2.9 Subsequently, and following further assessment and pre-application discussions to the current planning application, the application site (excluding the southernmost field) but not the caravan site was identified as a preferred site for development (Ref: BX116) within the 'Development and Site Allocations Local Plan Options and Preferred Options for Public

Consultation' (PODaSA), consulted on between December 2016 and February 2017. Within the PODaSA the land is identified as being adjacent to the existing development boundary and relatively well located in terms of access to services and bus services on Barnhorn Road and with a viable vehicular access point from Spindlewood Drive alone, based on advice from both highway authorities at that time. This proposed allocation now including the southernmost field for SuDs and a second vehicular access from Barnhorn Road has been brought forward into the Council's Submission DaSA.

6.2.10 Having regard to paragraph 48 of the National Planning Policy Framework varying degrees of weight can be apportioned to the policies of the Submission DaSA dependent on the amount of unresolved objection to them. As set out in paragraph 1.6 above, while in some cases 'significant weight' can be given, in the case of policy BEX9 only 'some weight' can be given to it in light of the number of representations against the allocation received. However, at paragraph 49 the Framework warns that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in limited circumstances where a proposal *is so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the plan making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan* and the plan is at an advanced stage but not yet formally adopted. This is not the case here as the Key Diagram shown in the adopted Rother Local Plan Core Strategy already identifies Bexhill and more specifically this western part as a location where a significant amount of new residential development is expected to be provided.

6.2.11 Given the current lack of five year supply of housing sites and adopted Local Plan policies that identify this part of west Bexhill for further housing growth, the contribution that development here would make to housing supply should be given significant weight in the 'planning balance' to be made if the Habitat Regulation requirements are first satisfied.

6.3 Appropriate Assessment of Likely Significant Effects on Pevensey Levels Special Area of Conservation, Ramsar Site and SSSI - Surface and Foul Water Drainage and Flood Risk

6.3.1 The application site, in common with a significant part of west Bexhill, other western parts of the district and extensive parts of Wealden district extending towards Hailsham and Eastbourne, lies within the Pevensey Levels hydrological catchment area that drains into the Pevensey Levels Special Area of Conservation (SAC), Ramsar Site and SSSI.

6.3.2 As required by the Habitats Regulations the Council's adopted Rother Local Plan Core Strategy and Submission DaSA have been the subject of 'screening' and where necessary, Appropriate Assessment (AA), in relation to the potential significant likely effects of proposed policies and allocations contained therein on the integrity of the European Sites (SAC and Ramsar) in consultation with Natural England and the Environment Agency. The Habitats Regulation Assessment (September 2018) which supports the Development Policies and Site Allocations within the DaSA, identified at the screening stage that Policy BEX9 could have a 'likely significant effect, meaning that surface water quality and disturbance issues could arise in the

absence of migration. Therefore further consideration, including of mitigation measures built into the DaSA or Rother Local Plan Core Strategy policy during AA was required. Following that AA, it was concluded “...an adequate protective framework exists (from policy DEN5) to ensure that the development site would not lead to an adverse effect on the integrity of any internationally designated sites.” The full HRA (September 2018) can be viewed at <http://www.rother.gov.uk/CHttpHandler.ashx?id=30715&p=0>

- 6.3.3 Arising from Policy SRM2 (iii) of the Rother Local Plan Core Strategy and Policy DEN5 (vi) of the Submission DaSA these policies require appropriate sustainable drainage measures to be incorporated within schemes within the hydrological catchment area to mitigate the potential of adverse effects on the habitats sites. Prior to April 2018 and notwithstanding that sufficient detail of the proposed SUDS would be required at outline stage, a proposal providing at least two stages of SUDs in this area in accordance with Policy DEN5 (vi) would be sufficient to enable a proposal to be ‘screened out’ of a requirement for a full AA. The ‘People Over Wind and Sweetman v Coillte Teoranta’ Court of Justice of the European Union (CJUE) judgement in April 2018 fundamentally alters the position, meaning that measures proposed to satisfactorily mitigate any likely significant effects can now only be taken into account at AA stage and not in screening out a development from this requirement.
- 6.3.4 As a consequence, the Applicant has had to provide a significant amount of additional information to inform an AA by the Council. The scope of that information was established with the Local Planning Authority, NE, EA and Local Lead Flood Authority (LLFA) / Pevensey and Cuckmere Drainage Board in September 2018 and the results were thereafter presented in the Applicant’s report, ‘*Information to Inform an Appropriate Assessment*’ (IIAA) dated 2 November 2018. Subsequently in response to specific concerns being raised by a local resident regarding the potential for very high winter groundwater levels on the site that hadn’t been considered, the Applicant was asked to address the ‘worst case’ scenario whereby groundwater level meets ground level in an amended IIAA report received 6 December. On the basis of this amended report the Council carried out its Appropriate Assessment in consultation with Natural England and the Environment Agency that concludes that any likely significant effects of the proposal on the Pevensey levels SAC and Ramar Site can be avoided through mitigation. The Council’s Appropriate Assessment is contained in the Committee appendix document.
- 6.3.5 On the basis of the revised IIAA and in consultation with both NE and the EA, the Council through the AA, is now satisfied that subject to conditions and / or planning obligations there are without reasonable doubt technical/ engineering means by which a SUDs and foul water drainage scheme can be satisfactorily delivered on the site without any likely significant effects of the habitats sites. In accordance with paragraph 70(3) of the Habitat Regulations the conditions that would be attached to an outline permission if it is granted and other limitations secured through the required section 106 legal agreement would ensure that no development likely to adversely affect the integrity of the habitat sites could be carried out under the permission, either before or after obtaining approval of any reserved matters. The full details of the SUDs scheme to be approved at reserved matters stage and based on a full winter / spring groundwater level monitoring would also be required to be appropriately assessed separately.

- 6.3.6 While local objectors maintain that the Council's AA is not complete and this matter has not been adequately addressed the Council's solicitor has advised that case law confirms that whether this is accepted by other parties or not, in reaching a decision on this matter the Council is entitled to take the view of NE as being authoritative.
- 6.3.7 In terms of the disposal of foul water, Southern Water commented early in the application that its initial assessment identified that existing infrastructure would not be able to accommodate the development and requested a condition for a scheme to provide this to be submitted for approval with the reserved matters. Taking account of the low lying character of the application site and its close proximity to the SAC/Ramsar the Applicant has provided an undertaking that foul water will be directed to the mains network and in the event that outline permission is forthcoming is prepared to make this an obligation through the s.106 legal agreement.
- 6.3.8 In terms of flood risk, the County Council as LLFA having initially sought further information is satisfied that subject to a detailed scheme the content of which would be specified by a condition, the proposed development is capable of managing flood risk on site effectively through the system of swales and attenuation basin proposed that will collect, slow down and store surface water for controlled release into the adjoining watercourses at existing greenfield rates and provide sufficient capacity to deal with storm events.
- 6.3.9 To conclude on this matter, the Council's Appropriate Assessment under the Habitat Regulations (included in the appendix) establishes that the development, subject to appropriate mitigation to be secured by conditions and other obligations under a legal agreement, can avoid any likely significant effects on the Pevensey Levels SAC and Ramsar and that conclusion is supported by Natural England. The application can now therefore be determined in accordance with the development plan and other material considerations.

6.4 Sustainability and Accessibility

- 6.4.1 In relative terms the application site is sustainably located as it is in reasonably close walking distance to the day to day shops and services that are found in and close to the Little Common District Centre and the local bus services on Cooden Sea Road and Barnhorn Road. The location of development here is in accordance with the Council's development strategy as set out in Policies OSS1, OSS2, OSS3 and BX3 of the Rother Local Plan Core Strategy that seek to direct the required new residential development to, and amend development boundaries to accommodate that growth, in those locations where there is capacity and access to existing infrastructure and services, and any planned or necessary improvements to them and where the landscape impacts of development are minimised.
- 6.4.2 There are concerns by many local residents regarding the capacity or lack of existing local services including GP and dental facilities. Regarding GP services although this is an increasing problem nationally, officers regularly consult with the Clinical Commissioning Group to identify any additional requirements to meet growing local medical needs in the district as a whole. Dental practices are private enterprises and therefore their provision is largely dependent on individual practitioners identifying and seeking to meet

a gap in the local 'market'. In overall terms however, Little Common is well placed to accommodate such facilities including on the site identified at the Barnhorn Green (Rosewood Park) development for a GP surgery with up to ten practitioners that remains available should an operator be found and a funding stream identified. The planned growth in population of the area in walking distance would be expected to help maintain and enhance the good range of local shops, restaurants and other services existing in the district centre.

- 6.4.3 There remains a particular concern locally that the existing Little Common Primary School cannot cope with any further growth in population and it has been suggested by some respondents that the application site should be alternatively used to provide for a new one. The Planning Committee will recall however that this matter was considered in detail in connection with planning application RR/2015/3115/P relating to the replacement of the proposed school site within Rosewood Park with an additional 67 dwellings that was considered by Committee in December 2016. In connection with that application the County Council as the Local Education Authority (LEA) commented;

"Provision of additional Primary and Secondary school places in Bexhill

Page 49 of the Education Commissioning Plan 2015-2019 (ECP)

<https://new.eastsussex.gov.uk/educationandlearning/management/download> sets out the position in Bexhill in terms of primary places. For primary admissions purposes Bexhill is considered one community area and therefore Children's Services' place planning strategy covers the whole town. Children's Services strategy for the town is that planned additional provision will be at the new school on land within the Worsham Farm development site. Forecasts show that this will provide sufficient primary places in the town to cover the Core Strategy period to 2028. Children's Services confirm that the proposed site is not required for education purpose and that they do not believe any further education provision is required in the west of Bexhill before 2028. Little Common School the closest existing school to the development site currently admits children from all over the town. Over time they expect there to be a push back of children to schools closer to their home address thereby freeing up space at Little Common for children living more locally. They do not believe there is any justification for providing more primary school places in the Little Common area at this time."

- 6.4.4 The LEA's position is based on a full understanding of the Council's overall housing requirement and its proposed distribution over the Rother Local Plan Core Strategy period and therefore is considered to remain current unless otherwise advised by it. In summary, it is expected that over time, the local school will be increasingly populated by children living locally and that pupils currently travelling into Little Common will be placed in other schools, existing and proposed, closer to their place of residence. School placements are determined by the LEA and / or individual schools in accordance with published criteria.
- 6.4.5 The local highway authority has specified a suite of local walking and bus service improvements that it requires in order to fully integrate and enhance the accessibility of the proposed development within the locality. These are set out in its comments at paragraph 5.2.2 above and are considered further in section 8.0 below.

6.5 Highway and Traffic Impacts

- 6.5.1 Prior to submitting this application the Applicant engaged in extensive pre-application discussions with officers and also with both highway authorities (HAs), ESCC and Highways England (HE) from 2015 onwards. Notwithstanding that some concerns were raised by the Local Planning Authority, at that time both HAs agreed that they were satisfied with the proposal then to gain vehicular access to the site solely from Spindlewood Drive and with the predicted impacts of a development of this scale on the local and strategic road network in the vicinity derived from work undertaken using the County's 'Saturn' model. That model takes account of the impact on the highway network of all planned development within the Rother Local Plan Core Strategy period (2011 to 2028) and traffic volume and distribution resulting from it. The application was submitted in July 2017 on that basis and the modeling used was set out in the Transport Assessment as originally submitted.
- 6.5.2 Subsequent to the application being submitted however, HE raised a number of concerns with the detailed content of the submitted proposals and Transport Statement and subsequently the Applicant engaged with HE to undertake new traffic surveys in September 2017 and re-analysis, that in February 2018 led to a fundamental amendment to the proposal supported by HE to provide a second access to the development via the existing access from Barnhorn Road at Barnhorne Manor Farm. Subsequently this access and the one proposed at Spindlewood Drive have been the subject of an independent road safety audit carried out on the instruction of HE and under its supervision to test the draft highway access arrangements. HE raise no objection to the proposal as now amended. Throughout the application process ESCC as local highway authority has raised no concern about the proposal subject to the imposition of conditions, highway improvements and planning obligations secured by legal agreements.
- 6.5.3 Data obtained from TRICS suggests the proposed development of 160 dwellings would generate approximately 93 two-way trips during the AM peak period and 106 two-way trips during the PM peak. Whilst ESCC considers this a robust indication of the vehicle movements likely to be associated with the proposed development a sensitivity test of impacts on the Little Common Roundabout was also carried out using a trip rate suggested by HE of 0.7 two way trips per dwelling. This results in an increased predicted overall trip generation equating to 119 two-way trips during the AM (85 departures, 34 arrivals) and 119 two-way trips during the PM peak period (85 arrivals, 34 departures). In terms of distribution, the traffic model assigns traffic from the site on the basis of two determining factors; proximity to the Barnhorn Road junction and the deterrence factor relating to delays at the Little Common Roundabout. All traffic travelling from or to the west would be expected to use the Barnhorn Road junction together with a total of 10% of vehicles from the development travelling north, east and south. All remaining traffic generated by the site would be expected to use the Spindlewood Drive access. The HAs are satisfied that the additional trips resulting from the development distributed between the two accesses proposed can be satisfactorily assimilated into the local and strategic road network within their existing capacities and safely. However, HE would not accept a scenario that put more traffic than modelled travelling eastwards through the Barnhorn Road access / egress because that would require a far more substantial highway intervention, involving traffic light controls. HE

doubt that the highway has the physical capacity at this point to accommodate such improvements here.

- 6.5.4 The HAs are both satisfied with the proposed access designs that on Spindlewood Drive would comprise a simple priority access junction and on Barnhorn Road, a modification of the existing access to the farm to provide a dedicated right hand turn lane and ghost island with junction radii formalised and the width of the access road, currently approximately 4m, increased to 6m. An existing bus stop on the south side of Barnhorn Road outside of No. 73 would need to be relocated away from the junction. The application also proposes off-site improvements (widening) of the Meads Road / Cooden Sea Road junction to improve its functionality.
- 6.5.5 Both HAs' are satisfied that the proposed access arrangements can be delivered within land within the public highway or on land under the control of the Applicant; that the proposed junctions will operate safely and without unacceptable detriment to the local road network. A number of off-site improvements in terms of signage and footway improvements are proposed in this respect. The HA's do not consider that there is a significant likelihood of rat running through the site due to the two access solution principally for the reasons that the route can be made substantially longer both physically and in terms of the time it would take to travel through it, more obstructed and convoluted in the detailed internal design than the direct route available along Barnhorn Road and that the route would not be visible to through traffic. These are matters reserved for future consideration and approval in the event that outline planning permission is granted.
- 6.5.6 To conclude on these matters, the Local Planning Authority is advised by the County Council as the local highway authority responsible for the local road network and Highways England as the strategic highway authority responsible for the A259 Barnhorn Road and the Little Common roundabout that the traffic and highway impacts of the proposed development can be satisfactorily accommodated by the local and strategic road networks both in terms of safety and capacity subject to necessary highway improvements, conditions and planning obligations relating particularly to improving access to the development by sustainable means of transport including walking, cycling and bus. Paragraph 109 of the National Planning Policy Framework is clear that development '*should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'. This is not considered by the HAs to be the case here and therefore notwithstanding the objections maintained by local objectors and residents to numerous aspects of the proposal in this respect, the advice of the statutory consultees is that the proposal is satisfactory in these respects and that permission should not be refused on these grounds.

6.6 Landscape, Ecology and Tree including Ancient Woodland Impacts

- 6.6.1 The landscape capacity of the application site to accommodate development was assessed within the Council's Landscape Assessment 2008 to inform the Rother Local Plan Core Strategy. Within that document the site comprises the major part of location "Barnhorn Manor 5A" described as an area of mixed grazing and recreation (caravans) enclosed by treed hedges and a block of woodland. The site is considered in the assessment to have a strong urban fringe character, with relationship to urban edge and flavour of

countryside but very much transitional in character. The well-being of ancient woodland is important to the integrity of 5A, so caravans will need to be removed in woods. The landscape condition of the area is assessed as being poor but there is scope to strengthen the landscape structure provided by the tree belts and hedges. Overall the study concluded that this area has high capacity to accept change (i.e. development) mainly residential of medium to high density, 30 – 40+ dwellings per hectare. The outline proposal seeks to work with the natural attributes of the site, enhancing the existing tree belts and hedgelines and significantly enhancing the local landscape value of the central open field and in this respect is considered acceptable subject to detailed proposals that should be tested in a specific landscape and visual assessment once the detailed site layout and site levels are established.

- 6.6.2 The application as originally submitted was accompanied by an Ecology report that includes the results of a Phase 1 desk top /site walkover survey undertaken April 2015 and extended Phase 2 (on site survey) carried out in to particular aspects between May and October 2015. In addition more detailed surveys of badger setts, tree features suitable for bat habitat, Great Crested Newts (GCN) on site habitat and on and off site presence and reptiles were carried out within this period. The report provides a detailed analysis of the findings and recommendations for mitigation and enhancement that are summarised in the County Ecologist's response set out at section 5.10 to this report and includes the retention and enhancement of all existing tree lines and hedgerows other than to create essential openings for vehicles and SUDs features including swales and ponds. The County Ecologist is satisfied that the information provided enables the Local Planning Authority to assess the likely ecological impacts and to conclude that the proposed mitigation is sufficient to meet its responsibilities and the objectives of the Rother Local Plan Core Strategy Policy EN5 and DaSA Policy DEN4. Specifically there is potential to achieve ecological enhancements in the central field that is to be retained, in the buffer areas to the ancient woodland and in the existing tree lines and hedgerows and in connection with the proposed SUDs features.

6.7 Impact on Heritage Assets

Archaeology

- 6.7.1 The application site lies immediately north of the site of Cooden Moat, a medieval moated site and Scheduled Ancient Monument with 13th century origins. An Archaeological Notification Area encompassing the suggested location of a former medieval village and a possible Roman bloomery extends across the extreme north-western corner of the application site. The County Archaeologist therefore advised that the site had potential to contain significant important remains not picked by the initial desktop report prepared in support of the application. A subsequent geophysical (magnometer) survey in late 2017 identified a number of linear anomalies, potentially being archaeological features in that part of the site adjoining the historic (medieval) farm complex. However, this area is currently masked by high levels of ferrous 'contamination' and so the character, extent and potential significance of these features is not known. The County Archaeologist considers that if archaeological remains are present here they could be of such significance to warrant preservation in situ and therefore recommends that if outline permission is granted that conditions are attached requiring

further investigation to be carried out prior to the reserved matters application, so that archaeologically significant areas are removed from the final proposed development layout. The magnometer survey identified no anomalies in the two application site fields closest to Cooden Moat.

Heritage assets

- 6.7.2 The application site comprises a small proportion of the grazed agricultural land historically associated with the medieval farmstead at Barnhorne Manor Farm. The grade II listed designated heritage asset of Barnhorne Manor lies approximately 100m from the western edge of the proposed developed area and 75m south of the existing road access from Barnhorn Road where it would turn into the development site. The listing entry contains the following description; *“There are two houses now using the name Barnhorne or Barnhorn Manor. This is the eastern most one of the two which is marked on the map as Barnhorn Farm but was the original house of the Manor of Barnhorn. Timber framed building refaced with flints with dressings and quoins of red brick. Tiled roof. Casement windows. Two storeys. Four windows”*.
- 6.7.3 There is a second house within the curtilage of Barnhorne Manor Farm, lying a little way to the west of the Manor house, and converted in the 1960s from a historic agricultural building. For the avoidance of doubt, this is not the other house using the name Barnhorn Manor. (The other Barnhorn Manor was originally known as “Nutbrowns” and lies approximately 1km away, to the west of Ashridge Court care home.) Nevertheless the second house at the farmstead would be considered to be curtilage listed and therefore is subject to the same statutory and policy considerations as the main house. A small agricultural farm building forms part of the eastern wall to the Manor house garden and would also be considered to be curtilage listed. A group of other historic farm buildings lie outside of the garden walls of the Manor house to the east. Despite the separation of these buildings from the core farmstead complex by the track running north/south, the Council considers these would still be considered to be curtilage listed, due to their proximity and functional relationship with the Manor house. The gates, walls and gate-posts marking the entrance to the Barnhorne Manor Farm complex on Barnhorn Road are located some 150m or so to the north of the Manor House. Though it is quite possible that they may have replaced an older structure, the statement of significance submitted with the amendments of February 2018 provides evidence to date the gates to the mid 1980’s, having been brought in from elsewhere. There is no evidence to suggest that the existing walls and gate posts pre-date this time and they are very clearly of relatively recent construction albeit in the style of the curtilage walls and gate posts to the Manor. Thus while these have local interest in signifying the entrance to the historic farm they are not considered to be heritage assets, either designated or non-designated.
- 6.7.4 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 confers a statutory duty to Local Planning Authority when considering whether to grant planning permission, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.7.5 Paragraph 193 of the National Planning Policy Framework states that *when considering the impact of a proposed development on the significance of a*

designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be) This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Substantial harm to or loss of; a) grade II listed buildings...should be exceptional..."

- 6.7.6 Paragraph 195 goes onto say *"where a proposed development will lead to substantial harm to (or cause total loss of significance of) a designated asset, local planning authorities should refuse consent..."*
- 6.7.7 In terms of impact on the setting of the heritage assets by way of views, the present character of the setting of the Manor house and the curtilage listed is very much an enclosed, contained setting, with the backdrop of suburban rear gardens to the north, and the recreational use of the caravan site to the south and south-east. The historic buildings are presently screened in almost every direction by its historic walls and mature tree cover, particularly when seen from the direction of the farm / caravan site access, while the outlying historic farm buildings are currently visually screened from the application site by the surrounding modern farm buildings. The heritage assets are therefore presently not seen or appreciated in the same visual setting as the application site, including the access road leading to it from Barnhorn Road. The only open view to the Manor house and the curtilage listed buildings from the countryside is from the south-west, from a small field between two densely treed hedgerows. Other than that, the top of the roof of the Manor can be seen from within the caravan site and oblique views are available a short distance to the west from the private farm track that runs along the south side of two houses (the Manor house and the curtilage listed house).
- 6.7.8 National Planning Policy Guidance makes clear that although views of or from a heritage asset will play an important part in its setting, the way in which we experience an asset in its setting is also influenced by other environmental factors, including the historic relationship between places. In the case of a farmstead, the setting could in principle be informed by the historical and functional composition of immediate farmland, pasture and other landscape features with the built heritage assets of a farmstead. However, that is not considered to be the case in this instance; the existing caravan site immediately adjacent has already compromised that historic functional relationship with the application site to the east to some degree, whilst the location and lack of visual connection between the application site and the heritage assets to the west means it contributes negligibly as open agricultural land to the compositional aspect of the character of the setting of the heritage assets. It is therefore not considered that the historic functional compositional relationship of the application site with the heritage assets contributes to their significance. Of greater contribution to the setting of the farmstead is the agricultural land that flows to the south and south-west of the Manor house and its curtilage listed buildings, and with which the heritage assets are more immediately compositionally connected, though still with limited views, as described above. That relationship will not be affected by the proposed development.
- 6.7.9 Given the very limited visibility of the heritage assets within the wider landscape, particularly from the application site, and the lack of legible historic functional compositional relationship of the application site with the heritage assets, officers do not consider that the application site is significant

in the character of setting of the various identified heritage assets. It is not considered that the significance of the various identified heritage assets is dependent on the retention of the application site as open agricultural land. These considerations, along with the fact that the more immediate physical and functional connection of the farmstead with the farmland to the south-west is retained, mean that the character of the setting of the heritage assets is not considered to be adversely affected by the proposed development, and the proposal for outline permission would not harm the significance of the designated or non-designated assets. Therefore, having regard to section 66 of the planning (Listed Building and Conservation Areas) Act 1990, it is considered that the proposed development would preserve the setting of the listed buildings. It should be noted that matters of layout and scale fall to be considered under a future reserved matters application, and consideration will be given at that stage to the impact on the setting of the heritage assets of the location and scale of buildings proposed.

- 6.7.10 Notwithstanding this assessment, in the event that planning permission is granted, the Applicant has indicated that they are prepared to enter into a legal obligation to direct some of the proceeds of the sale of the land towards the renovation of the designated / undesignated farm assets and to retain the remaining land associated with the farm in agricultural use. However, it should be noted that the proposed development is not proposed as 'Enabling Development' under the Historic England policy statement "Enabling Development and the Conservation of Significant Places" (2nd ed, 2008) or as referred to in paragraph 202 of the National Planning Policy Framework.
- 6.7.11 With regard to the Barnhorn Road walls, gate posts and gates, it is considered desirable that they are retained within the completed development in some coherent form due to their local interest. If outline planning permission is granted a condition would be required to ensure their careful dismantling, storage and reinstatement post completion of the development, in a similar position as far as is practicable within the completed scheme.

6.8 Impact on adjacent properties

- 6.8.1 Policy OSS4 (ii) requires that all development should not unreasonably harm the amenities of adjoining properties.
- 6.8.2 The properties most likely to be affected by the proposal are those immediately adjacent to the Barnhorn Road access (Nos. 73 and 77 Barnhorn Road) and two large 'backland' houses at 55a and 55b Barnhorn Road.
- 6.8.3 The development would lead to a significant increase in the amount of traffic passing over the access road adjacent to the rear gardens of Nos. 73 and 77. While No. 73 is already fairly well screened both visually and in terms of noise impact by fencing and mature tree and shrub planting, No. 77 has a lightweight post and wire fenceline facing onto the road. The Applicant has undertaken to enter into a planning obligation to provide an appropriate noise attenuation barrier and additional landscaping along this boundary and this would be secured through the section 106 legal agreement. The details of road surfacing, traffic management measures including speed to limit the potential for noise nuisance in connection with the more intensive use of the

road would be addressed through the reserved matters details if outline permission is granted.

- 6.8.4 The houses at No. 55a and 55b Barnhorn Road are sited close to the northern boundary of the application site and the newly completed 55b in particular borrows heavily from the open agricultural land it overlooks for visual amenity. In the course of the application amendments have been made to the indicative site layout to show the internal road redirected away from the site boundary in the vicinity of the houses and to provide an appropriate landscaped buffer between the existing and proposed uses. Subject to design detail, disposition and orientation of buildings, roads and open spaces within the development that would be established at reserved matters stage, notwithstanding that the outlook for these properties would inevitably change, it would be expected that an acceptable level of amenity could be retained.

6.9 Affordable Housing and other S106 Matters

- 6.9.1 In the event that outline planning permission is granted this would need to be subject to the satisfactory completion of a s106 planning obligation. The CIL Regulations 2010 provide three tests for Section 106 Planning Obligations. Obligations should be:

- *Necessary to make the development acceptable in planning term*
- *Directly related to the development*
- *Fairly and reasonably related in scale and kind to the development.*

Any matter included with a section 106 Agreement must meet all of these tests.

- 6.9.2 The following matters are considered at this time for inclusion within a section 106 Agreement and are considered to be related to the development, proportionate and necessary:
- Affordable housing at 30% in accordance with the mixed set out by the Affordable Housing Development Officer and nominations agreement.
 - Surface Water Drainage – provision for any additional land required.
 - SUDS maintenance – water company or public organisation to adopt with step in rights (with mechanism to recoup costs).
 - Foul water – only to mains sewer.
 - Noise attenuation to neighbours on Barnhorn Road (nos. 73 and 77 adjoining farm access).
 - Provision and management of landscape, ecological areas and public open spaces and play areas.
 - Use and (re) development of farm buildings / restoration of historic buildings.
 - No further development on farm land.
 - Vehicular access into the site on Spindlewood Drive with appropriate width and radii.
 - New access to include 2m wide footways on both sides and a crossing point with tactile paving across the site access.
 - A pedestrian crossing on Spindlewood Drive close to the east of the site access to include dropped kerbs and tactile paving.
 - Improvements to the bus stops on Cooden Sea Road.
 - Relocation of the westbound Barnhorn Road (The Broadwalk) bus stop.
 - The realignment of the Cooden Sea Road/Meads Road junction.

- Financial contribution towards improved bus service on Cooden Sea Road and Barnhorn Road – £50k.
- Green Travel Plan initiatives – including bus passes / discounted season tickets (on request) for residents on first occupation for a specified period to be agreed.

6.9.3 In addition to the section 106 the off-site highway works will also require section 278 Highway Agreements with Highways England (A259) and ESCC for the local roads network.

7.0 COMMUNITY INFRASTRUCTURE LEVY (CIL)

7.1 The proposal is development where CIL will be chargeable. CIL is, however, calculated at the Reserved Matters (rather than the outline) stage, as where CIL is chargeable the amount can only be calculated when precise floor areas of properties are known. In the event that outline planning consent is granted this would therefore need to be assessed at the detailed application stage.

8.0 SUMMARY

8.1 The Council cannot currently demonstrate five year supply of deliverable housing sites including a 20% buffer and therefore its policies for the supply of housing cannot be considered to be up to date. Paragraph 11 of the National Planning Policy Framework generally requires that housing development proposals are to be considered in terms of the presumption in favour of sustainable development however, following the 'People Over Wind' CJEU decision in April 2018 that ruled that measures to mitigate any significant likely impacts on a European Habitat Site can only be considered at Appropriate Assessment stage, in accordance with the current wording of 177 of the National Planning Policy Framework the presumption in favour of sustainable development does not apply here. That does not mean that planning permission should be refused. While the requirements of the Habitat Regulations carry the upmost weight, where their requirements are satisfied, the planning decision should then be made in accordance with the development plan and all other material considerations.

8.2 In undertaking its Appropriate Assessment under the Habitat Regulations and determining that any likely potential significant effects on the habitat sites can be effectively mitigated the Council is entitled to rely on the advice it receives from Natural England that is the relevant Nature Conservation body. Natural England and the Environment Agency are satisfied that subject to conditions and legal obligations and also subject to further appropriate assessment at detailed design stage that is necessary in any event, that the likely potential significant effects of the development can be satisfactorily mitigated.

8.3 The County Council as LLFA and working in partnership with the Pevensey and Cuckmere Water Level Management Board is satisfied subject to conditions and obligations that the development can satisfactorily manage on site surface water drainage without increasing the likelihood of flooding elsewhere. Southern Water requires that the applicant make provision to connect into the existing foul drainage network.

- 8.4 The application site is shown lying within the scope of a 'potential broad location for future development' in West Bexhill identified in the adopted Rother Local Plan Core Strategy key diagram that illustrates the main elements of the strategic spatial strategy set out in Policy OSS1. It is also a proposed site allocation for housing development within the Council's Submission Development and Sites Allocation Plan (DaSA). Development here would make a significant contribution towards the district meeting its housing delivery requirement of at least 5,700 new dwellings net during the Local plan period (2011-2028) in a sustainable location for new housing provision.
- 8.5 Following amendments to the proposal to include a second vehicular access to the development site from Barnhorn Road, the highway authorities are satisfied that the local and strategic road networks will continue to operate safely and within existing capacity subject to conditions, all necessary highway improvements and measures to promote sustainable forms of transport including walking and bus use.
- 8.6 The development can be satisfactorily accommodated within the existing, enhanced landscape structure of the site without detriment to the landscape character of the wider open countryside. On site trees and hedgerows will be predominantly retained and enhanced for landscape and biodiversity value. Subject to conditions the existing ecological value of the site and adjoining ancient woodland can be protected and enhanced including for the protected species that use it.
- 8.7 The proposal would not harm the setting or significance of the designated / non-designated heritage assets at Barnhome Manor Farm. The retention of any potential significant archaeology in situ can be ensured by condition.
- 8.8 The proposed development would not cause unacceptable harm to the residential amenities of neighbouring properties subject to detailed design and measures to be secured through a legal agreement.
- 8.9 It is necessary for a section 106 legal agreement to be entered into in respect of the matters identified at paragraph 6.8.2 above in order to make the development acceptable. Subject to ongoing discussions with the Applicant these are considered to be directly related to the development and reasonable in scale and kind.

RECOMMENDATION: GRANT (OUTLINE PLANNING) DELEGATED FOR COMPLETION OF A SECTION 106 AGREEMENT RELATING TO:

- **Affordable housing at 30% in accordance with the mixed set out by the Affordable Housing Development Officer and nominations agreement.**
- **Surface Water Drainage- provision for any additional land required.**
- **SUDS maintenance – water company or public organisation to adopt with step in rights (with mechanism to recoup costs) .**
- **Foul water – only to mains sewer.**
- **Noise attenuation to neighbours on Barnhorn Road (Nos. 73 and 77 adjoining farm access).**
- **Management of landscape, ecological areas and public open spaces and play areas not otherwise covered by conditions.**

- **Use and (re) development of farm buildings / restoration of historic buildings.**
 - **No further development on farm land.**
 - **Vehicular access into the site on Spindlewood Drive with appropriate width and radii.**
 - **New access to include 2m wide footways on both sides and a crossing point with tactile paving across the site access.**
 - **A pedestrian crossing on Spindlewood Drive close to the east of the site access to include dropped kerbs and tactile paving.**
 - **Improvements to the bus stops on Cooden Sea Road.**
 - **Relocation of the westbound Barnhorn Road (The Broadwalk) bus stop.**
 - **The realignment of the Cooden Sea Road/Meads Road junction.**
 - **Financial contribution towards improved bus service on Cooden Sea Road and Barnhorn Road – £50k.**
 - **Green Travel Plan initiatives – including bus passes / discounted season tickets for a specified period to be agreed.**
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CONDITIONS

1. Before any part of the approved development is commenced approval of the details of the appearance, landscaping, layout and scale of the site, (hereinafter called "the reserved matters"), shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out only as approved.
Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
4. The development hereby permitted shall be carried out in accordance with the following approved plans and particulars: Drawing 1743-SK-P-204 D received 20/12/2018 with regard to access only, T277_37A dwg Rev A and T277_38 dwg (June 2018) both as contained within the 'Designer's Response to Stage 1 Safety Audit dated 6/6/2018.
Reason: For the avoidance of doubt and in the interests of proper planning, as advised in Planning Practice Guidance Paragraph: 022 Reference ID: 21a-022-20140306.

5. The landscaping details to be submitted pursuant to Condition 1 shall include the following:

- a) Details of all hard landscaping.
- b) Details of all trees to be retained.
- c) Design, layout and appearance of structural and amenity green space, including verges.
- d) Planting plans, including landscape, ancient woodland buffer areas, ecological mitigation areas and proposals to maximise the ecological and habitat value of the SUDs wetland.
- e) Written specifications (including cultivation and other operations associated with plant and grass establishment).
- f) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- g) Details for implementation.

The development shall thereafter be carried out in accordance with the details as approved in writing by the Local Planning Authority and in accordance with an agreed implementation programme.

Reason: To ensure the creation of a high quality public realm and landscape setting that protects and enhances the character and appearance of the locality in accordance with Policies OSS4(iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

6. The Reserved Matters shall be accompanied by full details of existing and finished ground levels within the development and a landscape and visual assessment of the detailed scheme that together demonstrate how the completed development will sit within the wider built and open landscape.

Reason: To ensure the satisfactory development of the site in accordance with Policy OSS4 (ii) and (iii) of the Rother Local Plan Core Strategy.

7. The Reserved Matters application shall be accompanied by a report containing the results of a programme of archaeological works that have been undertaken in accordance with a Written Scheme of Investigation that has first been submitted to and approved in writing by the Local Planning Authority. The Reserved Matters details shall take account of the findings of the archaeological works and make provision for the retention of any significant archaeological remains in situ unless otherwise agreed in writing by the Local Planning Authority. The development shall thereafter not be brought into use for its permitted use until provision is made for analysis, publication and dissemination of results and archive deposition has been secured, unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground is safeguarded in the development or otherwise recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.

8. The Reserved Matters shall be accompanied by a fully detailed scheme for the careful dismantling of the existing boundary walls and gate posts to Barnhorne Manor Farm access between Nos. 173 and 177 Barnhorn Road and their storage and thereafter re-siting and reconstruction in accordance with a method statement to be approved in writing by the Local Planning Authority. The walls and gate posts shall thereafter be dismantled and stored

prior to the commencement of any other development including the approved improvements to this access and rebuilt prior to the first occupation of any dwelling only in accordance with the approved scheme and thereafter be permanently retained.

Reason: To ensure the creation of a high quality public realm and landscape setting that protects and enhances the character and appearance of the locality in accordance with Policies OSS4(iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

9. No other part of the development hereby permitted shall commence until the highway improvements to the A259 Barnhorn Road junction with Barnhorne Manor Farm access as shown on Exigo Drawing No. T277-37A.DWG Rev A attached to the Designer's Response to Stage 1 Safety Audit dated 6/6/2018 (or such other works substantially to the same effect as may be approved in writing by the Local Planning Authority) have first been completed and opened for use.

Reason: A pre development condition is required to provide suitable and safe construction traffic access to the site and for existing users of the farm complex and caravan site during the construction period and thereafter in the operational phase in accordance with Policy TR3 of the Rother Local Plan Core Strategy and to ensure that the A259 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980.

10. No development shall take place, including the site access improvements referred to in Condition 9, any ground works or works of demolition, until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:

- a) the anticipated number, frequency and types of vehicles to be used during construction, including a restriction on HGV movements to and from the site during network peak hour periods of 8.00 – 9.00 am and 5.00pm – 6pm on all days;
- b) the method of access and egress and routeing of vehicles during construction, that will be from the Barnhorn Road access only;
- c) the parking of vehicles by site operatives and visitors, the loading and unloading of plant, materials and waste;
- d) the storage of plant and materials used in construction of the development;
- e) the erection and maintenance of security hoarding;
- f) the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders); and
- g) details of public engagement both prior to and during construction works.

Reason: The CTMP is required before any development is commenced in the interests of road safety in accordance with Policy TR3 of the Rother Local Plan Core Strategy, to ensure that the construction of the development does not result in avoidable congestion on the A259, and to ensure that the A259 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980.

11. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP will include the following details:
- a) Results of a full site investigation that has been carried out to identify any potential sources of contamination and proposals for appropriate safeguards to ensure that no contamination is transferred, to be implemented throughout the construction works.
 - b) Details of the source of any inert fill material for land raising including evidence to demonstrate that it is free from contaminants that could potentially enter the Pevensey Levels.
 - c) Include, but not be limited to, the measures set out in paragraph 5.2.2 of the Aspect Ecology report, *"Information to inform an Appropriate Assessment Under the Habitat Regulations"* October 2018 and in particular, set out the measures necessary to prevent silt entering the SAC/Ramsar and avoid water quality impacts on the Pevensey Levels during the construction phase.
 - d) Detailed measures to manage flood risk, both on and off the site, during the construction phase.
 - e) Risk assessment of potentially damaging construction activities.
 - f) In accordance with section 7.4.3 of the Aspect Ecology Ecological Appraisal a method statement to prevent the spread of Himalayan Balsam during any operations and measures to be taken to ensure that any soils brought to the site are free of the seeds, root or stem of any invasive plant listed under the Wildlife and Countryside Act 1981, as amended.
 - g) Complaints and public consultation procedure.

Thereafter the construction of the development shall be carried out strictly in accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority.

Reason: The CEMP is required before any development is commenced to protect the Pevensey Levels SAC/Ramsar/SSSI from any accidental contamination or damage in accordance with Policies EN1 and EN5 of the Rother Local Plan Core Strategy and paragraph 170 of the National Planning Policy Framework.

12. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:
- a) risk assessment of potentially damaging construction activities;
 - b) identification of "biodiversity protection zones";
 - c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction that may be provided as a set of method statements);
 - d) the location and timing of sensitive works to avoid harm to biodiversity features;
 - e) the times during construction when specialist ecologists need to be present on site to oversee works;
 - f) responsible persons and lines of communication;
 - g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
 - h) use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities on the existing biodiversity value of the site are mitigated in accordance with Policy EN5 (viii) and (ix) of the Rother Local Plan Core Strategy and Policy DEN4 (ii) and (iii) of the Rother Submission Development and Site Allocations Local Plan October 2018.

13. No development shall take place until an ecological design strategy (EDS) in general accordance with part 7 of Aspect Ecology's Ecological Appraisal dated October 2016 ref: ECO3510 EcoApp. Vf and addressing reptile capture and relocation; retention and protection of existing species and habitats during construction, and the creation, restoration and enhancements of semi-natural habitats has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance;
 - i) details for monitoring and remedial measures; and
 - j) details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: A pre-commencement condition is required to ensure that any adverse environmental impacts from any stage of the development can be mitigated, and compensated to properly ensure the protection of protected species and their habitats identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Rother Local Plan Core Strategy and Policy DEN4 of the Submission Development and Site Allocation Local Plan October 2016.

14. The measures contained within the CEMP Biodiversity, EDS and LEMP required by Conditions 12, 13 and 20 to be submitted to and approved in writing by the Local Planning Authority are to be informed by further ecological surveys commissioned to:
- i) establish if there have been any changes in the presence and/or abundance of protected species including badgers, great crested newts, reptiles, dormouse and bat unless otherwise agreed in writing by the Local Planning Authority; and
 - ii) identify any likely new ecological impacts that might arise from any changes in that regard.

Reason: As species are mobile and habitats can change and become more or less suitable, it is important that the surveys reflect the situation at the time of any given impact occurring to ensure adequate mitigation and compensation can be put in place and to ensure no offences and to properly ensure the protection of protected species and their habitats identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Rother Local Plan Core

15. No development shall commence until details for the protection of existing trees on the site and adjacent to it to be retained have been submitted to and approved in writing by the Local Planning Authority. The details shall include indications of all existing trees and hedgerows on the land and adjacent to it including details of those to be retained, together with a scheme for protection, which shall include locations for protective fencing, ground protection and no dig surface construction methods.
- The approved scheme shall be put in place before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
- a) No fire shall be lit within 10m from the outside of the crown spread of any tree which is to be retained.
 - b) No equipment, machinery or structure shall be attached to or supported by a retained tree.
 - c) No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area.
- No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the Local Planning Authority.
- Reason: These details are required prior to commencement of works to ensure that retained trees are not damaged or otherwise adversely affected by building operations and soil compaction and to enhance the appearance of the development in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.
16. The Reserved Matters application shall be accompanied by a drainage strategy and implementation timetable detailing the proposed means of foul water disposal to the main sewer network for approval in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved scheme and none of the dwellings shall be occupied until the drainage works to serve the development have been provided. The scheme shall thereafter be retained as approved for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
- Reason: These details are integral to the whole development to ensure the satisfactory drainage of the site and to prevent pollution in accordance with Policies OSS4 (iii) and EN7 of the Rother Local Plan Core Strategy.
17. The Reserved matters application shall be accompanied by a detailed surface water drainage scheme design including the timing of its implementation for the approval in writing of the Local Planning Authority. The scheme details shall:
- a) Unless otherwise agreed in writing by the Local Planning Authority, include permeable paving, oil interceptors, swales, filter strip and wetland and the wetland shall include all of the features described in the SUDs

- b) Limit surface water runoff from the proposed development to the greenfield runoff rates for rainfall events with an annual probability of occurring greater than 1 in 2.33 and 9.1 l/s for rainfall events with an annual probability of occurrence less than 1 in 2.33, including those with a 1 in 100 (plus 40%) annual probability of occurrence. Evidence of this (in the form hydraulic calculations) must be submitted with the detailed drainage drawings and should take into account the connectivity of the different surface water drainage features proposed.
- c) Show the details of the outfalls and how they connect to watercourses including cross sections and invert levels. The detailed design should also include information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely and test the assumption that displacement of floodwater will be insignificant, proposing mitigation for any impacts on the SAC / Ramsar if necessary.
- d) Contain the results of investigations into the condition of the ordinary watercourses which will take surface water runoff from the development and identify any improvements to those watercourses required. Any required improvements to the condition of the watercourse shall be carried out prior to construction of the outfall.
- e) Show the detailed design of the SuDs system informed by the findings of continuous groundwater monitoring between autumn and spring as a minimum at the proposed locations of the wetland, filter strip, swales and any other SuDs feature. The design should leave at least 1m unsaturated zone between the base of the ponds and the highest recorded groundwater level. If groundwater is found to encroach into the proposed drainage features, measures to manage the impact of high groundwater on hydraulic capacity and structural integrity must be incorporated into the design and any impacts of the displacement of groundwater on the Pevensey Levels identified and mitigated. These measures are expected to include amongst other features a suitable impermeable liner and sacrificial liner to reduce the risk of leaks or accidental tearing during de-silting.
- f) Include a detailed assessment through 2D hydrodynamic modelling, of the impact of any proposed raising of ground levels on surface water runoff rates and patterns and incorporate any measures necessary to ensure that there is no resulting overland surface water runoff to existing development or increased runoff downstream.
- g) Include a maintenance and management plan for the entire drainage system to ensure that the designed system as proposed takes into account the design standards of those who will be responsible for maintenance. The management plan must:
 - i) Clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and provide evidence that the appropriate authority is satisfied with the submitted details.
 - ii) Provide evidence that these responsibility arrangements will remain in

place throughout the lifetime of the development.

Thereafter the development shall only be completed in accordance with the approved scheme and evidence (including photographs) to show that the surface water drainage system has been constructed in accordance with the final approved scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any part of the development.

Reason: These details are integral to the whole development and are therefore required prior to commencement of works to inform the layout and quantum of development, prevent the increased risk of flooding elsewhere, to protect water quality and levels in the Pevensey Levels Ramsar Site / Special Area of Conservation and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 155 and 165 of the National Planning Policy Framework with accompanying ministerial statement of December 2014.

18. Before any works hereby permitted are begun, details of the foundations, piling configurations, drainage and services, to include a detailed design and method statement shall be submitted to and approved in writing by the Local Planning Authority, such details to show where necessary, the preservation of surviving archaeological remains which are to remain in situ.

Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground to remain in situ is safeguarded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.

19. Unless alternative times are specifically agreed in writing construction activities associated with the development hereby permitted shall not be carried out other than between the hours of 08:00 and 18:00 hours on Mondays to Fridays inclusive and 08:00 and 13.00 on Saturdays and not at any time on Sundays, Bank and Public Holidays.

Reason: So as not to unreasonably harm the amenities of adjoining occupiers in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy and the National Planning Policy Framework.

20. Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP) for all landscaped areas (except for private domestic gardens) shall be submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

- a) description and evaluation of features to be managed;
- b) ecological trends and constraints on site that might influence management;
- c) aims and objectives of management;
- d) appropriate management options for achieving aims and objectives;
- e) prescriptions for management actions, together with a plan of management compartments;
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period;
- g) details of the body or organisation responsible for implementation of the plan;
- h) on-going monitoring and remedial measures;

- i) details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery; and
- j) how contingencies and / or remedial action will be identified, agreed and implemented in the event where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The LEMP shall thereafter be implemented in accordance with the approved details.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features to properly ensure the protection of protected species and their habitats identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5 (ii), (v) and (viii) of the Rother Local Plan Core Strategy and Policy DEN4 of the Submission Development and Site Allocation Local Plan October 2016.

21. Prior to any occupation, a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding site and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local planning Authority.

Reason: To ensure the protection of rare and protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Rother Local Plan Core Strategy.

22. Prior to the first occupation of the residential development hereby permitted the highway access to Spindlewood Drive shall be provided and opened to the traffic in accordance with drawing no. T277-38 DWG dated June 2018 or other such scheme to the same effect as may be approved in writing by the Local Planning Authority.

Reason: To provide adequate and safe vehicular and pedestrian access to the completed development in accordance with policy TR3 of the Rother Local Plan Core Strategy and to ensure that the A259 Barnhorn Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980.

23. No part of the development shall be first occupied until visibility splays of 2.4m by 43m have been provided at the proposed site vehicular access onto

Spindlewood Drive. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 600mm.

Reason: To provide adequate and safe vehicular and pedestrian access to the completed development in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

24. No part of the development shall be occupied until the car parking spaces and all turning areas have been constructed and provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority as part of the Reserved Matters application. The areas shall thereafter be retained for those uses and shall not be used other than for the parking or turning of motor vehicles.

Reason: To provide on-site parking and turning areas to ensure that the proposed development does not prejudice the free flow of traffic including refuse and emergency vehicles and conditions of general safety within the development in accordance with Policy TR4 of the Rother Local Plan Core Strategy.

25. No part of the development shall be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority as part of the Reserved Matters application. The areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

26. No part of the development shall be occupied until the road(s), footways and parking areas serving the development have been constructed, surfaced, drained and lit in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. as part of the Reserved Matters application.

Reason: In the interests of highway safety and for the benefit and convenience of the public at large in accordance with Policies TR3 and OSS4 of the Rother Local Plan Core Strategy.

27. Prior to the occupation of the development, a landscape management plan, including management responsibilities and maintenance schedules for the communal hard and soft landscape/open space areas, including any street furniture and minor artefacts therein, shall be submitted to and approved by the Local Planning Authority. The landscape management plan shall be carried out as approved.

Reason: To ensure a high quality public realm taking account of the characteristics of the locality in accordance with Policies OSS4 (iii), and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

28. If within a period of five years from the date of occupation any retained tree, planted tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, [or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective] it shall be replaced with another tree of such size and species as may be agreed with the Local Planning Authority.

Reason: To enhance the appearance of the development within the local landscape in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

NOTES:

1. This planning permission is the subject of an obligation under Section 106 of the Town and Country Planning Act 1990.
2. Highways England advises that the improvement to the A259 Barnhorn Road access as shown on Drawing No. T277_37A dwg. Rev A has been accepted by Highways England only on the basis of the proposed development plus existing uses. Any further intensification of use of this access by further development would require a more substantial upgrade of this junction in line with the relevant requirements of the Design Manual for Roads and bridges.
3. The applicant is reminded of the need to enter into section 278 agreements with Highways England and the Local Highway Authority.
4. The applicant's attention is drawn to the content of Southern Water's correspondence dated 24/8/2017.
5. The applicant's attention is drawing to the content of correspondence from SGN Pipelines dated 28 July 2017.
6. Pursuant to Condition 16 the pumping station required to lift effluent to the rising main must include back up pumps to secure against the event of primary pump fails.
7. The applicant is advised that the application site drains surface water run off to the Pevensey and Cuckmere Water Level Management Board's drainage district, which starts at the south eastern corner of the application site. Therefore the applicant should apply for consent to discharge surface water runoff into the Management Board's area as required by Byelaw 3, which is the process by which the Board agrees the proposed discharge. The development shall be subject to the payment of a Surface Water Development Contribution fee, calculated in line with the Board's charging policy. This policy is available at:
[https://www.wlma.org.uk/uploads/WMA Table of Charges and Fees.pdf](https://www.wlma.org.uk/uploads/WMA%20Table%20of%20Charges%20and%20Fees.pdf)
Although the consenting process as set out under the Board's Byelaws is separate from the planning system, the ability to implement a planning permission may be dependent on the granting of these consents. As such it is strongly recommend that the application to discharge surface water runoff into the Board's watercourses is made to the Board prior to submission of the reserved matters planning application.
8. Any amendment to the surface water drainage strategy set out in condition 17 i) or v) at the design stage should be subject to consultation with Natural England and will be required to be reassessed under the Habitats Regulations.
9. The applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning permission for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
10. Non-compliance with a Himalayan control scheme as part of the CEMP condition could render the applicant liable to criminal prosecution under the

Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

11. The Applicant is referred to the full content of the Environment Agency's correspondence dated 2 January 2019.
12. This development will be subject to the Community Infrastructure Levy (CIL) and all interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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