

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78

TOWN AND COUNTRY PLANNING APPEALS (DETERMINATION BY INSPECTORS) (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

STATEMENT OF CASE

APPEAL by Gladman Developments Ltd. against the non-determination by Rother District Council of an outline planning application for up to 210 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space and children’s play area, surface water mitigation, vehicular access point and associated ancillary works at Land off Fryatts Way, Bexhill. All matters to be reserved with the exception of the main site access.

Planning Inspectorate Reference : APP/U1430/W/22/3304805

Rother District Council Reference : RR/2021/1656/P

1.0 INTRODUCTION

1.1 Rother District Council submits this pre-inquiry Statement of Case in respect of the forthcoming Public Inquiry into the appeal by Gladman Developments Ltd against the Council’s non-determination of the outline application for the *‘up to 210 residential dwellings (including up to 30% affordable housing), instruction of structural planting and landscaping, informal public open space and children’s play area, surface water flood mitigation, vehicular access point and associated ancillary works. All matters to be reserved with the exception of the main site access’* on a greenfield site off Fryatts Way.

1.2 The Council’s putative reasons for refusal are as follows:

Reason 1 - The site is located beyond the defined settlement boundary for Bexhill and so falls within the countryside for planning purposes, where new development is carefully controlled to protect its intrinsic character and beauty. The site comprises a natural environment of wildlife, open fields

and mature trees and hedgerows that are highly visible from public viewpoints. The intrusion of the quantum and location of built form in this location would adversely impact the quality of this part of the rural and open landscape and green network created by the site along with Broad Oak park and Highwood Golf Course. The development would result in a built up area that would close the gap between the settlements of Little Common and Bexhill. These adverse impacts on the environment of this location would therefore be contrary to policies OSS2, OSS3, OSS4, RA3, EN1, EN3 and EN5 of the Core Strategy, policies DEN1 and DEN4 of the DaSA and paragraphs 130 and 170 of the National Planning Policy Framework.

Reason 2 - The site lies outside any development boundary and at the fringe of Bexhill in an area with inadequate pedestrian routes and poorly served by public transport as well as being some distance from local services or facilities. Due to its location, form and scale the proposed development would result in a reliance on the private motor vehicle to be able to access a sufficient range of services, facilities and employment and more sustainable modes of transport would not be readily available. The reliance on the private motor vehicle and only one access into and out of the site would have an adverse impact on the amenity of neighbouring residential occupiers, particularly no. 11 and 15 Fryatts Way and raise issues of conflict between different users. Therefore, the development would result in identified environmental harm and not constitute sustainable development as defined within the National Planning Policy Framework. This environmental harm outweighs the economic and social benefits of providing proposed housing in this location. Accordingly, the proposal fails to comply with policies OSS2, OSS3, RA3, SRM1, TR2 and TR3 of the Core Strategy, policies DIM2 of the DaSA and paragraphs 85, 104 and 105 of the National Planning Policy Framework.

Reason 3 - Insufficient information has been submitted to determine or agree the impact of the proposed development on the strategic road network. The proposal is therefore unable to demonstrate compliance with policies TR2 and TR3 and paragraphs 110 and 111 of the National Planning Policy Framework 2021.

Reason 4 - The developer has not entered into a Section 106 agreement to secure the following: a) 30% on site affordable housing provision, b) the provision of and future management of amenity space/children's playground, c) Provisions for the management and maintenance for the lifetime of the development of the SUDs features by a specialist water company, d) Off-site highway works e) Contribution to promote modal shift/improve pedestrian connectivity f) an employment and skills plan and g) S106 monitoring costs. It has not been demonstrated that the development would be acceptable in planning terms without the obligations listed and as a result the application does not comply with Policies TR3, EN7 and IM2 of the Rother Local Plan Core Strategy and DHG1, DHG6 and DEN5 of the Rother Development and Sites Allocations Local Plan.

1.3 This Statement sets out the case to be presented by the Council at the Public Inquiry and sets out the grounds why planning permission should not be granted.

2.0 THE APPEAL PROPOSAL

2.1 The appeal proposal is for outline planning permission with all matters reserved for future consideration with the exception of the main site access. The application was registered on 31 August 2021 and then advertised in the local press and by way of a site notice as well as notification being sent to statutory consultees. The Council and appellant agreed extensions of time for the determination of the application to enable the appellant to address responses from statutory consultees, most notably National Highways. The last of these extensions of time expired on 30 May 2022 and this appeal was submitted on 10 August 2022.

2.2 The appeal proposal involves the provision of up to 210 dwellings with all matters reserved for future consideration other than for the means of the main site access. An illustrative ‘Development Framework Plan¹’ has been submitted with the application that indicates a red arrow with the annotation ‘potential vehicular access location’ between nos. 11 and 15 Fryatts Way. The same drawing has a blue arrow annotated ‘potential access from adjacent land’ that would involve creating an access road through agricultural land and presumably out onto the public highway. No details of that access have been provided and it is not within the red line boundary. The proposed access is taken to be the one indicated by the red arrow as described in the Planning Statement and Transport Assessment accompanying the application. For the sake of clarity, no consideration has been given to the ‘potential access from adjacent land’ indicated by the blue arrow. The Planning Statement², at paragraph 1.4.4, indicates that *‘it is proposed that the site will be accessed*

¹ Development Framework, drawing number 9309-L-02/G.

² Planning Statement, by Gladman dated June 2021.

from Fryatts Way, via a simple priority 'T' junction' and this is reflected in the description of paragraph 5.2.3 of the Transport Assessment³ that goes on to describe the access road as being 5.5m wide with 2m footways on both sides of the carriageway. Appendix D of the Transport Assessment contains a layout showing part of the access road that would be 5.5m in width with 2m footpaths either side that would be positioned between the residential properties known as nos. 11 and 15 Fryatts Way. The existing driveways of these neighbouring properties would be immediately adjacent to the proposed access.

- 2.3 This single point of access into and out of the site would serve the proposed development of up to 210 residential units as well as providing vehicular access for private motor vehicles. It would also serve pedestrians, cyclists, delivery vehicles and emergency service vehicles.
- 2.4 The illustrative masterplan accompanying the application also gives an indicative layout of key elements.
- 2.5 The application was accompanied by the following documents:

Planning Statement
Transport Assessment
Travel Plan
Statement of Community Involvement
Noise Assessment
Air Quality Screening Assessment
Utilities Statement
Flood Risk Assessment
Preliminary Risk Assessment
Archaeological and Heritage Appraisal
Arboricultural Statement
Shadow Habitats Regulations Assessment

³ Transport Assessment (rev. 02), by Tetra Tech dated June 2021.

Ecological Appraisal
Landscape & Visual Assessment
Design & Access Statement
Affordable Housing Statement
Economic Recovery
Badger Report (confidential)

3.0 APPEAL SITE AND SURROUNDING AREA

3.1 The application site is located on the north western side of Bexhill, behind residential properties on the western side of Fryatts Way. It comprises an area of 11.29ha that is currently in agricultural use with mature hedgerows and a band of mature trees bisecting the site. There is currently a gap between the residential properties at nos. 11 and 15 Fryatts Way where the access to and from the development of up to 210 residential units is proposed.

3.2 No. 11 Fryatts Way is a bungalow and no. 15 Fryatts Way comprises a bungalow that has been extended to provide a two-side extension. These properties were developed in the 1980s (see history). Fryatts Way comprises predominantly single and two storey dwellinghouses of varying architectural designs and ages.

3.3 To the west is open parkland comprising 'Broad Oak Park' and to the north is Highwoods Golf Course. Both of these amenity/recreation areas have public footpaths running through them. The site lies outside but adjacent to the development boundary for Bexhill and within the Pevensey Levels Hydrological Catchment Area.

4.0 PLANNING HISTORY

4.1 RR/80/2190 – Eilerslie Lane – Land west of extension of Fryatts Way – Outline application for erection of 40 dwellings with roads and sewers – APPEAL DISMISSED

4.2 RR/80/2191 – Eilerslie Lane – Land west of extension to Fryatts Way – Outline application for erection of 15 dwellings with roads and sewers –
CONDITIONAL APPROVAL

4.3 RR/82/1750 – 9/11/15/17 Fryatts Way – Approval of reserved matters to erect 4 detached bungalows and garages pursuant to outline permission RR/80/2181 – CONDIITONAL APPROVAL

5.0 PLANNING LEGISLATION AND POLICY

5.1 Paragraph 177 of the National Planning Policy Statement (NPPF) states that 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 the plan or project will not adversely affect the integrity of the habitats site'*. Furthermore, in accordance with paragraph 11(d)(i) of the NPPF, the application of this policy provides a clear reason for refusing the development proposed if there is no positive appropriate assessment.

5.2 If the Habitats Regulations are satisfied, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications and appeals to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

5.3 The adopted development plan for Rother District Council comprises the following documents:

- The Rother Local Plan Core Strategy 2014 (Core Strategy) and
- The Development and Site Allocations Local Plan 2019 (DaSA).

5.4 The relevant development plan policies in this appeal include the following:

- Policies OSS1, OSS2, OSS3, OSS4, OSS5, BX1, BX3, SRM1, SRM2, EN1, EN3, EN5, RA2, RA3, SRM1, LHN2, TR2, TR3 and IM2 of the Core Strategy.
- Policies DHG1, DEN1, DEN4, DEN5, DEN7, DIM1, DIM2 of the DaSA.

6.0. CASE FOR THE LOCAL PLANNING AUTHORITY

6.1 This appeal is made against the non-determination of the application by the Council. Following the lodging of the appeal, the Council confirms its view that planning permission should be refused. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the development plan unless material considerations indicate otherwise. The appeal scheme is not in accordance with the adopted development plan and there are no other material considerations that outweigh this in favour of granting planning permission. The Council acknowledges that it is unable to demonstrate a five year housing supply⁴, however, in this case the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

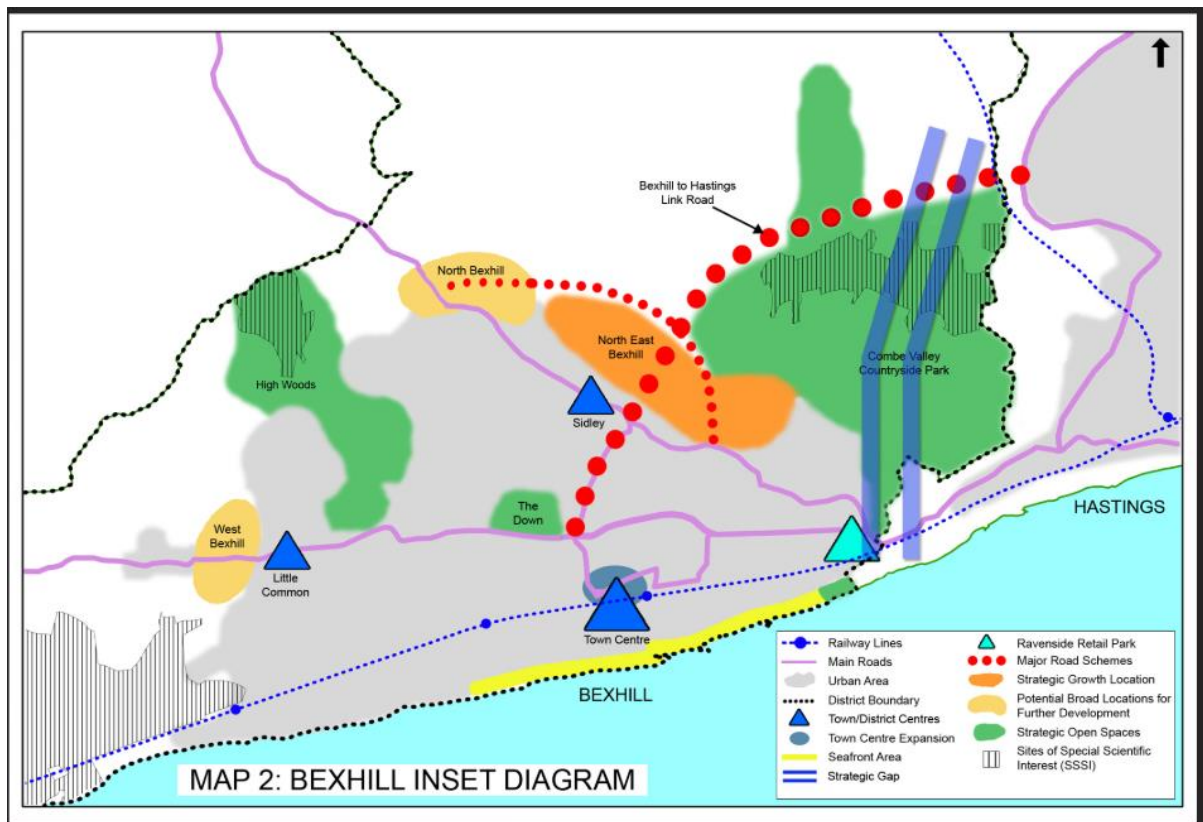
6.2 One of the key roles of the development plan is to set the '*overall strategy for the pattern, scale and design quality of places*⁵'. Rother's Core Strategy (2014) sets the overall vision and objectives for development for the district up to 2028 and includes policies relating to the scale and distribution of development and across towns and rural areas. The Development and Site Allocations (DaSA) Local Plan (2019) contains development and site allocation policies.

6.3 Policy OSS2 of the Core Strategy states that development boundaries around

⁴ Housing Land Supply incorporating Housing Trajectory (April 2021 position statement) published November 2021.

⁵ Paragraph 20 of the National Planning Policy Framework 2021.

settlements will continue to differentiate between areas where most forms of new development would be acceptable and where they would not. The appeal site does not fall within the development boundary defined in the Core Strategy and map 2 indicates that the site as part of a green network (see extract below).



6.4 The application site is not allocated for development in the Development and Site Allocations Local Plan (DaSA) (2019) and falls outside albeit adjacent to the development boundary. Policy DIM2 of the DaSA states that new development shall be focused within defined settlement boundaries, principally on already committed and allocated sites and that in the countryside, development shall be normally limited. The supporting text to policy DIM2 of the DaSA, sets out that the purpose of development boundaries is to differentiate between the substantially built-up areas where development would be acceptable and outside where it would not. Paragraph 7.13 of the supporting text sets out that the two main principles for making this distinction is to *'recognise the intrinsic character and beauty of the countryside'* and the

need to manage patterns of growth to realise opportunities for walking, cycling and use of public transport, with significant development focused on locations which are or can be made sustainable'. The proposal represents a sizeable suburban extension (up to 210 residential dwellings) and raises issues in respect of both these guiding principles.

Impact on the character and beauty of the countryside

- 6.5 Policy OSS4 (iii) of the Core Strategy requires that all development respects and does not detract from the character and appearance of the locality.
- 6.6 Policy EN1 of the Core Strategy seeks to manage the historic, built and natural landscape character by ensuring the protection and wherever possible enhancement of the district's nationally designated and locally distinctive landscapes and landscape features, including (v) open landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes.
- 6.7 Policy EN5 of the Core Strategy seeks to (i) maintain and develop a district-wide network of green infrastructure where possible linking areas of natural green space and (vii) increased accessibility to the countryside from urban areas, especially in the Hastings and Bexhill fringes.
- 6.8 Policy DEN1 of the DaSA requires the siting layout and design of development should maintain and reinforce the natural and built landscape character of the area in which it is located, based on a clear understanding of the distinctive local landscape characteristics.
- 6.9 Paragraph 170 of the NPPF refers to decisions protecting and enhancing valued landscapes. Paragraph 174 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with*

their statutory status or identified quality in the development plan, b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland’.

6.10 The site does not lie within the High Weald Area of Outstanding Natural Beauty or another nationally designated landscape and as such is not considered part of the most valued landscape referred in the NPPF. Nevertheless, it does make a positive contribution to the countryside setting of Bexhill, which is undulating and attractive and rich in wildlife habitats (as described in paragraph 9.3 of the DaSA). The site is outside but adjacent to the defined development boundary and settlement of Bexhill, including Fryatts Way and Concorde Close. Therefore, falls within the countryside between the edge of Bexhill and Little Common (which incorporates High Woods Golf Course, Broad Oak Park and the site area) is the largest area of open landscape within the urban area of Bexhill, This countryside area is contiguous with the woodland of the Highwoods, which lies to the northwest. The Ashdown brickworks forms the northern boundary to the green gap. The southern edge of the brickworks is well wooded and this woodland reinforces the connection between the golf course and the wider countryside. In the longer term (the conditions state by 2051) the quarry will be restored⁶ and landscaped which

⁶ The officer’s report for RR/811/CM noted the following with regard to restoration:

On cessation of extraction the brickworks, building and apparatus is to be demolished and the land cleared to make way for a visitor centre and car park. The concept restoration for the remainder of the site is based on a central waterbody surrounded by grassland and woodland habitat linked by a network of footpaths and this remains the intention. The site would be approximately divided into habitats / afteruses as follows;

- 15.5 hectares water feature including reedbed margins
- 5.5 ha tree planting
- 8.4 ha grassland
- 0.4 ha visitor centre and car parking area

The difference with the current restoration is that upper extraction faces and slopes of the pits are to be retained for geological interest and the upper bench retained in order to provide a level area for access and inspection. The original concept restoration completely covered all faces and benches. The latest approach also allows for earlier restoration comprising vegetation, tree planting and natural regeneration as soon as the upper slopes are formed. A further change is

will strengthen this connection. In this context the site and surrounding area form an important gap in the residential area of north Bexhill, which is contiguous with the countryside to the north. This typical Wealden character washes over the landscape to the north of the town and up to the urban edges. Much of this character area between the coast and the countryside to the north has disappeared under development masking the characteristics of the underlying south slopes of the High Weald. As an undeveloped area of land which extends into the built-up area the site, the golf course and Broad Oak Park are not particularly representative of the urban area of Bexhill. The site character is in fact contiguous with the rural well treed countryside to the north of Turkey Road. Local gaps are not defined in local plans, however, in terms of local landscape character the site forms part of an important undeveloped gap. The proposed development of 210 houses would be a significant intrusion into this open landscape area.

- 6.11 The character of the site is contiguous with that of the parkland of Broad Oak Park. The structure of the site's rural landscape is intact with historic fieldscapes and well treed field boundaries. This elevates the local value and susceptibility of the area to the proposed development and increases the sensitivity of the site to development. The submitted Landscape and Visual Assessment does not assess the sensitivity of individual landscape criteria on the site. The site is assessed as having an overall sensitivity of medium. However, some of the site's landscape elements, notably topography, vegetation and sense of place would have a higher sensitivity to the proposed development.
- 6.12 The topography of the site falls from Fryatts Way ridge towards Broad Oak Park and High Wood Golf Course. This means that the site is prominent in the landscape. Whilst the existing dwellings on Fryatts Way are elevated in the landscape the proposed development would extend the developed area across a prominent spur within the site.

around the proposed lake which would now have a wider, shallower reedshelf around the southern shoreline to both enhance wildlife potential and public safety.

- 6.13 The proposed landscape scheme would retain most of the existing trees and hedgerows (which are Habitats of Principal Importance under section 41 of the NERC Act). One of the trees that would be lost may offer moderate bat roost potential (G8 in the Aboricultural Assessment) and so additional surveys would be required to inform appropriate mitigation. Compensation and enhancement, Overall, the intensity of proposed development would not allow for adequate green corridors or open space provision through the middle of the development. To simply retain the existing trees and hedges would not provide high quality green infrastructure corridors through the middle of the development.
- 6.14 The LVA suggests that the tranquillity of the site is impacted by traffic on Fryatts Way. As a residential street this effect is going to be low and would not impact on the parts of the site which are distant from the road. The site access and increase in vehicle movements associated with the quantum of development would have an adverse impact on the character and amenity of the local residential area. The impact on residential amenity is also considered further in this statement and amounts to the development not being a sustainable location. The development of the site would impact on the sense of place and tranquillity of the golf course and Broad Oak Park.
- 6.15 The conclusions of the LVS are that the long-term impacts on landscape character of the site and immediate context would be Major/Moderate adverse reducing to Moderate adverse in the longer term. These effects would be significant in the local context for the character of the site, Broad Oak Park and Highwoods Golf course.
- 6.16 The approximate visual envelope provided in the LVA indicates that there are potential views into the site from much of Broad Oak Park and the golf course including from the public footpath crossing these areas. There are views into the site from the surrounding publicly accessible areas of the golf course and Broad Oak Park.

- 6.17 The overall visual effects are assessed to be moderate adverse reducing to negligible once the proposed landscape mitigation has matured. The long-term visual effects on Broad Oak Park are assessed to be Moderate adverse in the long term. Due to the rising topography of the site the long-term effects on the public viewpoints in the park and on the golf course are likely to remain moderate adverse and significant. Whilst the proposed development may not have significant visual effects on the wider townscape or countryside, the local views from recreation and residential areas are important.
- 6.18 In conclusion, it is considered that the loss of countryside within the rural gap between the settlements of Little Common and Bexhill would have significant adverse effects on landscape and visual amenity. The proposed landscape mitigation would not compensate for the loss of open countryside or the impacts on the landscape character and views. This view is consistent with the approach taken by the Strategic Housing Land Availability Assessment (SHLAA) 2013 Review Document⁷, which was used to inform the sites included in the DaSA. The site was identified as site 'BX8' and one of the conclusions was that 'Any development at this location would constitute as a significant incursion into existing open countryside, contrary to OSS5(iii)'. The site was not taken forward as an allocation in the DaSA and the concerns about the landscape impacts remain.
- 6.19 There would be demonstrable harm to the landscape and so one of the Council's putative reasons for refusal is as follows:

Reason 1. The site is located beyond the defined settlement boundary for Bexhill and so falls within the countryside for planning purposes, where new development is carefully controlled to protect its intrinsic character and beauty. The site comprises a natural environment of

⁷ Strategic Housing Land Availability Assessment (SHLAA) 2013 Review Part 1 – Main Document and Strategic Housing Land Availability Assessment (SHLAA) 2013 Review Part 2 – Settlement Maps and Tables.

wildlife, open fields and mature trees and hedgerows that are highly visible from the public viewpoints. The intrusion of the quantum and location of built form in this location would adversely impact the quality of this part of the landscape and green network created by the site along with Broad Oak park and Highwood Golf Course. These adverse impacts on the environment of this location would therefore be contrary to policies OSS2, OSS3, OSS4, RA3, EN1, EN3 and EN5 of the Core Strategy, policies DEN1 and DEN4 of the DaSA and paragraphs 130 and 170 of the National Planning Policy Framework.

Accessibility of the site

- 6.20 Policy TR3 of the Core Strategy requires new development to minimise the need to travel and support good access to employment, services and communities facilities as well as ensure adequate, safe access arrangements. Development will be permitted where mitigation against transport impacts which may arise from the development or cumulatively with other proposals is provided.
- 6.21 Paragraph 104 of the NPPF sets out the transport issues should be considered from the earliest stages of developments proposals. Paragraph 105 states that *'The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focussed in locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solution will vary between urban and rural area and this should be taken into account in both plan-making and decision-making'*.
- 6.22 The site is located on the edge of Bexhill and its established residential area. It is approximately 2km from the town centre shopping area and approximately 9km to the west of the centre of Hastings and 15km to the northeast of the

centre of Eastbourne.

6.23 To reach these service centres by bus would involve some walking distance to the services available on Turkey Road to the north or Little Common Road to the south. The distance to Turkey Road is coupled with a difficult route to navigate with no footways available on Ellerslie Lane, which is also unlit. The narrow carriageway width and lack of highway verge available means that there is no opportunity to improve pedestrian facilities. Whilst the route along Ellerslie Lane to the south would be by a footway; this could be improved by dropped kerbs and tactile paving on either side of Ellerslie Lane at a suitable location north of Summer Hill Road. Nevertheless, the most direct route to Little Common Road would be down Broadoak Lane/Deerswood Lane, where there are no pedestrian facilities for a distance of approximately 50m. The East Sussex County Council (ESCC) Road Safety Team (part of the Highway Authority) has commented that there have been historical concerns regarding the speed of traffic and safety of pedestrians due to the lack of footway. This is reflected in the representations received from local residents in response to the application. ESCC Highway Authority considers that the proposal should improve pedestrian connectivity to facilitate sustainable/healthy transport options and reduce the dependency on use of motor vehicles but given the physical constraints there is little scope to achieve this. Therefore, the location of the site is not conducive to future occupiers either cycling or walking to access employment, local services and facilities, contrary to paragraph 85 of the NPPF.

6.24 There is a community bus service which provides an infrequent service (no.11) with four journeys a day and served by a bus stop on Courthope Drive. ESCC Highway Authority did suggest that consideration could be given to revising the route to encompass Blackfield Road and Summer Hill Road and new bus stops placed either on the new section of route in Summer Hill Road or on the existing section of route near the top of Knebworth Road. However, the ESCC Highway Authority does not consider that these infrastructure improvements would overcome the infrequency of the service and so the concerns in relation

to the accessibility of the site to public transport remains with the reliance on the private car.

6.25 ESCC as Highway Authority did suggest that to improve the accessibility of the development, a contribution could be sought to put towards a new pre-booked Demand Responsive Transport (DRT) to serve the site. This would provide a minibus to operate as part of a wider scheme for the Bexhill area. It was suggested that the contribution should be £300,000 for a DRT along with a Travel Plan to include 6 months discounted DRT travel for new residents. Despite these suggestions, there was still concern that in the longer term the service may not be viable and then residents would again be reliant solely on travel by private car.

6.26 In response to the concerns raised about the accessibility of the site, the applicant has offered the following measures that could be secured through a section 106 agreement:

- A financial contribution (at a level to be agreed) towards the increased cost for the DRT to allow its expansion to cover the application site and allow users to access a to-the-door sustainable transport system; or
- A financial contribution of £80,640 to provide an EV car club scheme on site for the use of new and existing residents. This scheme would be operated by HiyaCar or similar and provide up to 7 new vehicles. The scheme to be funded by the developer for an initial 3-year period after which it becomes a self-funding model; and
- A financial contribution towards footpath and cycleway improvements.

6.27 However, the package of measures offered by the appellant falls short of the suggestion by the local highway authority and does not adequately overcome the concerns about the sustainability of the location. The financial contributions would not guarantee implementation of the suggested measures. Likewise, the suggested car club could not be guaranteed beyond three years and would not promote a modal shift in the long term.

6.28 Moreover, the heavy reliance on the car for accessing places of employment and local services and facilities would lead to increased and sustained activity that would adversely impact on the amenity of neighbouring residents. The properties most likely to be affected by the proposed access are those that would be immediately adjacent at nos. 11 and 15 Fryatts Way. The neighbouring residential occupants would experience a level of noise and disturbance which would be harmful to their living conditions.

6.29 The application was accompanied by a Noise Screening Assessment⁸ that states that '*noise should not pose a barrier to residential in the site*'. The Council 's Environmental Health Department⁹ accepts that the absolute road traffic noise levels on Fryatts Way is unlikely to exceed the SOAEL (Significant Observed Adverse Effect Level) and that a change in traffic flow of 25% in the short term is likely to increase road traffic noise levels by approximately 1 dB and that a greater traffic increase would develop over a prolonged period rather than overnight thereby lessening its impact. Further assessment work was recommended to identify mitigation measures to mitigate the impact on the external garden areas. At this stage, it is not known what the potential mitigation measures might be and they could have a detrimental impact. For example, the provision of acoustic fencing along the boundary could be overbearing and result in a loss of light as well as potentially conflicting with the visibility splays for the driveways of these neighbouring properties. The access to the proposed site would be immediately adjacent to the driveways of the neighbouring properties and whilst this might meet technical requirements the combined effect of the crossovers and accesses could lead to a conflict between different users.

6.30 As set out above, the proposal is considered not to accord with local and national planning policies and so would have need refused on the following ground:

⁸ Noise Screening Assessment, Miller Goodall Ltd, dated 14 June 2022.

⁹ Letter dated 23 September 2021 from Environmental Health.

REASON 2. The site lies outside any development boundary and at the fringe of Bexhill in an area with inadequate pedestrian routes and poorly served by public transport as well as being some distance from local services or facilities. Due to its location, form and scale the proposed development would result in a reliance on the private motor vehicle to be able to access a sufficient range of services, facilities and employment and more sustainable modes of transport would not be readily available. The reliance on the private motor vehicle and only one access into and out of the site would have an adverse impact on the amenity of neighbouring residential occupiers, particularly no. 11 and 15 Fryatts Way and raise issues of conflict between different users. Therefore, the development would result in identified environmental harm and not constitute sustainable development as defined within the National Planning Policy Framework. This environmental harm outweighs the economic and social benefits of providing proposed housing in this location. Accordingly, the proposal fails to comply with policies OSS2, OSS3, RA3, SRM1, TR2 and TR3 of the Core Strategy, policies DIM2 of the DaSA and paragraphs 85, 104 and 105 of the National Planning Policy Framework.

Impact on the strategic road network

- 6.31 The impact of the development on the strategic road network has not been established. The latest advice from National Highways¹⁰ is that '*planning permission not be granted*' (other than a refusal) until 18 October 2022. National Highways have stated that it is currently not possible to determine whether the application would have an unacceptable impact on the safety, reliability and/or operational efficiency of the SRN (the tests set out in DfT Circular 02/2013 (particularly paras 8 to 11) and NPPF 2021 (particularly paras 110 to 113)).

¹⁰ National Highways Planning response (NHPR 21-09) dated 18 July 2022.

6.32 Accordingly, the third reason for refusal would have been:

Reason 3. Insufficient information has been submitted to determine or agree the impact of the proposed development on the strategic road network. The proposal is therefore unable to demonstrate compliance with policies TR2 and TR3 and paragraphs 110 and 111 of the National Planning Policy Framework.

Inadequate mitigation

6.33 There is no mechanism in place to secure the delivery of the requisite infrastructure, for example, off-site highway works and affordable housing. It is recognised that a draft agreement will be progressed with the appellant before the inquiry and subject to this being satisfactorily concluded by all parties, this reason for refusal would be withdrawn.

Reason 4. The developer has not entered into a Section 106 agreement to secure the following: a) 30% on site affordable housing provision, b) the provision of and future management of amenity space/children's playground, c) Provisions for the management and maintenance for the lifetime of the development of the SUDs features by a specialist water company, d) Off-site highway works e) Contribution to promote modal shift/improve pedestrian connectivity f) an employment and skills plan and g) S106 monitoring costs. It has not been demonstrated that the development would be acceptable in planning terms without the obligations listed and as a result the application does not comply with Policies TR3, EN7 and IM2 of the Rother Local Plan Core Strategy and DHG1, DHG6 and DEN5 of the Rother Development and Sites Allocations Local Plan.

7.0 COMMENTS ON APPELLANT'S STATEMENT OF CASE

- 7.1 The comments under this section will focus on issues not already covered by this statement but included in the appellant's Statement of Case. The intention is to further clarify areas of disagreement between the Council and the Appellant. The Council will respond in full written evidence but, in the meantime, comments are made on each point.
- 7.2 Paragraph 2.3.3 of the Appellant's Statement of Case indicates they consider the appeal proposals are generally compliant with all relevant development plan policies and would '*represent a logical sustainable extension to the existing urban area and in which to locate further residential development of the nature proposed*'. As outlined above, the Council considers that the development would adversely impact the quality of this part of the landscape and green network. It also considers that the proposal would represent a sustainable extension as routes to local services and facilities and public transport would be not be attractive or safe for pedestrians. This is compounded by the bus services being infrequent in this location. Therefore, it is inevitable that future occupiers of the proposed housing would be dependent on the private car. For these reasons, the proposal is effectively an urban development in the countryside and does not accord with the Council's spatial strategy.
- 7.3 Section 4 of the appellant's Statement of Case sets out the appellant's views of the main considerations. In terms of the principle of development, the appellant acknowledges that the site is not allocated for development in the Development and Site Allocations Local Plan and that it falls outside the development boundary but they consider this should be given limited weight taking account of '*five- year housing supply and other relevant planning considerations*'. As outlined in section 6 of this Statement, whilst there would be social and economic benefits from the provision of housing, these benefits would be outweighed by the environmental harm of: the quantum of development and location where future occupiers would be reliant on the

private motor vehicles; the intrusion of significant vehicle movements adversely affecting the amenity of neighbouring residential occupiers; and the introduction into the landscape of urban development that is at odds with the rural character of the area.

- 7.4 The appellant considers that the proposed development '*would be typically expected from the development of a greenfield site*' and would not have unacceptable landscape and visual effects. However, the Council is of the view that the proposal represents an intrusion of built form into the landscape, which is exacerbated by the topography of the site which raises above its surroundings.
- 7.5 The appellant indicates that they have been liaising with National Highways to overcome the outstanding issues. However, the Council received a clear indication from National Highways on 18 July 2022 that permission should not be granted (other than for a refusal) until 18 October 2022 as they determined it was '*not possible to determine whether the application would have an unacceptable impact on the safety, reliability and/or operational efficiency of the SRN (the tests set out in the DfT Circular 02/2013 (particularly paras 8 to 11) and MHCLG NPPF 2021 (particularly paras 110 to 113)*'. National Highways did indicate that this position could be reviewed before 18 October 2022 but to date the Council has not received a response to suggest otherwise.
- 7.6 The appellant has stated that they have put forward a number of measures that overcome the local highway authority's concerns about the development being poorly placed in terms of sustainable transport modes. The proposed measures are not commensurate with the suggestion of the ESCC Highways and therefore are not considered to adequately address the concerns. Moreover, in the long term the measures would not encourage non-car travel choices.
- 7.7 The appellant suggests that the additional information that they have put

forward addresses Natural England's concerns about the draft Shadow Habitats Regulations Assessment. The Council had drafted a shadow Habitats Regulations Assessment and suggested mitigation measures to ensure that the development would not have an adverse impact on the integrity of the Pevensey Levels SAC/Ramsar site. However, there was not time to adopt an appropriate assessment in consultation with Natural England. As an appeal has now been submitted, it is agreed that the Planning Inspectorate becomes the competent authority.

- 7.8 An appropriate assessment will need to be undertaken by the Planning Inspectorate. Taking into account the consultation responses of Natural England and other relevant consultees, if the Inspector assesses that there will be no harm to the integrity of the European site, the second part of paragraph 182 of the NPPF would apply.

8.0 PLANNING BALANCE AND CONCLUSION

- 8.1 The starting point is whether the proposal is consistent with planning policies and the Council will contend that for the reasons set out above, planning permission should be refused. In the absence of a 5 year housing land supply, and no conflict with the specific matters referenced in the NPPF, the Council accepts that the titled balance is engaged. This means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. The Council will contend that, for the reasons set out above, the proposal is not consistent with various planning policies. This conflict with the development plan is an important part of the balancing exercise based on planning judgement.
- 8.2 Whilst there would be social and economic benefits from providing housing in a situation where there is no 5 year housing land supply, the Council

considers that this is outweighed by the development not meeting environmental and social objectives, namely not moving to a low carbon economy, protecting and enhancing the natural environment and supporting well-being. Therefore, the development does not constitute sustainable development and the adverse impacts would significantly and demonstrably outweigh the benefits, contrary to local and national planning policies.

9.0 WHERE AND WHEN THE APPEAL DOCUMENTS CAN BE INSPECTED

- 9.1 The appeal documents are available for inspection at Rother District Council, Town Hall, Bexhill-on-Sea on Monday to Thursday between 8.30am-17.00pm and Friday between 8.30am-16.30pm. They can also be viewed by searching for the reference on the Council's website at: [Online Applications and Decisions - Rother District Council](https://www.rother.gov.uk/planning-and-building-control/viewing-applications-decisions-and-appeals-online/) (https://www.rother.gov.uk/planning-and-building-control/viewing-applications-decisions-and-appeals-online/)

LIST OF KEY APPEAL DOCUMENTS

In addition to the Core Documents identified by the Appellant, the Council has identified the following documents at this juncture:

- National Planning Policy Framework (2021)
- National Planning Practice Guidance
- Core Strategy (2014)
- Development and Site Allocations (DaSA) Local Plan (2019)
- Strategic Housing Land Availability Assessment (June 2013) Main Report and Tables
- Housing Land Supply (incorporating Housing Trajectory) (April 2021 position statement) (published November 2021)
- Department for Transport Circular 02/2013, The Strategic Road Network and the Delivery of Sustainable Development (September 2012)
- Plans and documents submitted as part of the application and subsequent appeal
- Representations received to the main application and appeal
- ESCC Local Transport Plan
- Dft/DCLG Building Sustainable Transport Infrastructure into New Development (2008)
- DfT Best Practice Guidelines on Travel Plans and the Planning Process (2009)
- East Sussex Local Cycling and Walking Infrastructure Plan (LCWIPO)
- DMRB – GG 142 – Walking, cycling and horse-riding assessment and review
- ESCC Guidelines on Travel Plans for New development (2008)
- Manual for Streets, DfT (March 2007) and Manual for Streets 2, DfT (2010)
- DfT Guidelines on Transport Assessments and Travel Plans (2007)

CONDITIONS

The following is a provisional list of conditions that Rother District Council would suggest were included if the appeal were to be allowed:

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).

4. The development hereby permitted shall be carried out in accordance with the following approved plans and particulars: Location Plan (drawing number 9309-L-01 (G) and Development Framework (drawing number 9309-L-02 (G) with regard to the main access and site boundary only.

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 satisfactory development of the site in accordance with Policy OSS4 (ii) and (iii) 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 result 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 development hereby permitted shall not begin until a scheme to deal with contamination of land, the presence of ground gas and potential contamination of controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 - i. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011+A2:2017 Investigation of potentially contaminated sites – Code of practice.
 - ii. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the result of the analysis, undertaken in accordance with BS 10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 - iii. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
 - iv. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
 - v. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with Policy OSS3 (viii) of the Rother Local Plan Core Strategy 2004 and Policy GD1 of the Rother District Local Plan 2006.

9. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme submitted to and approved in writing by the local planning authority.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with Policy OSS3(viii) of the Rother Local Plan Core Strategy 2004 and Policy GD1 of the Rother District Local Plan 2006.

10. The development hereby permitted shall not begin until an assessment of the impact of noise from road traffic on the access road to the proposed development affecting numbers 11 and 15 Fryatts Way and proposals for mitigating the effects on external garden areas of those properties have been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the amenities of existing occupiers are protected and in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014.

11. Prior to the commencement of development, an air quality assessment shall be carried out by a suitably qualified person for the proposed development. The assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment should consider the impact of the proposed development on the air quality objectives described in the National Air Quality Strategy with respect to nitrogen dioxide, PM₁₀ and PM_{2.5} particulates.

For the construction phase, an assessment should be undertaken of the potential for dust nuisance, using the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. For a quantitative assessment of the operational phase. Detailed dispersion modelling using industry standards software, such as ADMSRoads, to determine the impact of the development on existing air quality is required. This should include assessment of the cumulative impacts from the development itself and other committed developments in the vicinity, on existing air quality.

Where possible, verification of the model output should be made through a comparison of the results of any publicly available monitoring data in the study area. To inform the background concentrations used within the model, the results of local monitoring and the available Defra maps should be used. Reductions in background concentrations and emissions in future years should not be used, to reflect the findings of recent research.

The significance of impact should be described with reference to the EPUK/IAQM Land-Use Planning & Development Control: Planning for Air Quality (January 2017) document, and the 'Air quality and emissions mitigation guidance for Sussex (2021)'.

All mitigation measures deemed necessary shall be submitted to and approved in writing by the Local Planning Authority. Upon development, work should be carried out in accordance with any approved scheme.

Reason: To protect the air quality in the area having regard to 'Air quality and emissions mitigation guidance for Sussex (2021)'.

12. No development shall take place, including any site clearance or ground works, 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,
 - b) the method of access and egress and routing of vehicles during construction,
 - c) the parking of vehicles by site operatives and visitors,
 - d) the loading and unloading of plant, materials and waste,
 - e) the storage of plant and materials used in construction of the development,
 - f) the erection and maintenance of security hoarding,
 - g) 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 Regulations Orders); and
 - h) details of public engagement both prior to and during construction work.

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.

13. 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 Pevensy Levels.
 - c) Include, but not be limited to, the measures set out in the Shadow Habitats Regulations Assessment to inform an AA and in particular, set out the measures necessary to prevent silt entering the SAC/Ramsar and avoid water quality impacts on the Pevensy 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) General noise and dust control measures.
 - g) Complaints and public consultation procedure.
- Thereafter the construction of the development shall be carried out strictly in accordance with the approved CEP 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 174 of the National Planning Policy Framework.

14. 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 work (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

15. 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: To protect residential amenity, having regard to paragraphs 174 and 185 of the National Planning Policy Framework 2021.

16. Details of measures to manage flood risk, both on and off the site, during the construction phase shall be submitted to and approved in writing by the Local Planning Authority. This may take the form of a standalone document or incorporated into the Construction Management Plan for the development.

Reason: To reduce the risk of flooding in accordance with Policy EN7 of the Rother Local Plan Core Strategy.

17. 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 effected 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

18. 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.

19. The Reserved Matters application shall be accompanied by a detailed surface water drainage system including the timing of its implementation for the approval in writing of the Local Planning Authority. The surface water drainage system shall incorporate the following:
 - a. Detailed drawings and hydraulic calculations. The hydraulic calculations shall take into account the connectivity of the different surface water drainage features. The calculations shall demonstrate that surface water flows can be limited to the mean annual runoff, Q_{bar} for all rainfall events including those with a 1 in 100 (plus climate change) annual probability of occurrence. An allowance for urban creep (recommended 10% increase in impermeable area) shall be incorporated within the calculations.
 - b. The details of the outfalls of the proposed surface water attenuation structures and how they connect into the watercourses shall be submitted as part of a detailed design including cross sections and invert levels.
 - c. The detailed design of the surface water attenuation structures shall 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 drainage structures and the highest recorded groundwater level. In the event this can not 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 shall be provided.
 - d. Details of the measures proposed to manage exceedance flows shall be submitted to the Local Planning Authority. This should also include details of how the existing overland surface water flows have been retained.
 - e. Details to prevent the discharge of surface water from the proposed site onto public highway and similarly to prevent the discharge of surface water from the highway onto the site.
 - f. Evidence that the existing watercourse and culverts on site has been retained within a communally maintained space shall be provided.

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 in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 159 and 169 of the National Planning Policy Framework.

20. A maintenance and management plan for the entire drainage system shall be submitted to the planning authority before any construction commences on site to ensure the designed system takes into account design standards of those responsible for maintenance. The management plan shall cover the following:

- a) This plan should clearly state who will be responsible for managing all aspects of the surface water drainage systems, including piped drains.
- b) Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.

These details shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter remain in place for the lifetime of the development.

Reason: To ensure future maintenance of the drainage system and to protect the water quality and levels in the Pevensey Levels Ramsar Site/Special Area of Conservation in accordance with Policies SRM2 (iii) and ENV7 (iii) of the Rother Local Plan Core Strategy and paragraphs 159 and 169 of the National Planning Policy Framework.

21. Prior to occupation of the development, evidence (including as built drawings and photographs) shall be submitted showing the drainage system has been constructed as per the final agreed drainage design.

Reason: To ensure future maintenance of the drainage system and to protect the water quality and levels in the Pevensey Levels Ramsar Site/Special Area of Conservation in accordance with Policies SRM2 (iii) and ENV7 (iii) of the Rother Local Plan Core Strategy and paragraphs 159 and 169 of the National Planning Policy Framework.

22. The development shall not be occupied until details of the layout of the new access and the specification for the construction of the access have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and the development not be occupied until the construction of the access has been completed in accordance with the agreed specification.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

23. The access shall not be used until appropriate visibility splays are provided in each direction. The splays are to be cleared of all obstructions exceeding 600mm in height and kept clear thereafter.

Reason: In the interests of the safety of persons and vehicles entering and leaving the access and proceeding along the highway

24. The development shall not be occupied until parking area have been provided in accordance with the approved plans/details which have been submitted to and approved in writing by the Local Planning Authority in consultation with

the Highway Authority and the area shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

25. The development shall not be occupied until cycle parking area have been provided in accordance with the approved details which have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: In order that the development site is accessible by non car modes and to meet the objectives of sustainable development.

26. The development shall not be occupied until a turning space for vehicles has been provided and constructed in accordance with the approved plans/details which shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and the turning space shall thereafter be retained for that use and shall not be used for any other purpose.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

27. The new estate roads shall be designed and constructed to a standard approved by the Local Planning Authority in accordance with the Highway Authority's standards with a view to their subsequent adoption as a publicly maintained highway.

Reason: In the interest of highway safety and for this benefit and convenience of the public at large.

28. Prior to the commencement of development on site, detailed drawings, including levels, sections and constructional details of the proposed road(s), surface water drainage, outfall disposal and street lighting to be provided, shall be submitted to the Local Planning Authority and be subject to its approval, in consultation with the Highway Authority.

Reason: In the interests of highway safety and for the benefit and convenience of the public at large.

29. Before the development commences a written scheme shall be submitted to and agreed in writing by the Local Planning Authority that specifies the provisions to be made for the level of illumination of the site and to control light pollution. The scheme shall be implemented and maintained for the lifetime of the approved development and shall not be altered without the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of the locality, in terms of light pollution especially for people living and/or working nearby in accordance with Policies OSS4 (ii) (iii) of the Rother Local Plan Core Strategy.

30. 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.

31. 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 Development and Site Allocations Local Plan.

32. 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 circumstance 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.

33. Prior to the occupation of the development, a landscape management plan, including management responsibilities and maintenance schedules for the communal 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.

34. No part of the development shall be occupied until a Travel Plan Statement has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The Travel Plan once approved shall thereafter be implemented as specified with the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport and/or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport.

35. 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.