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**RR/2019/158/P****BATTLE Watch Oak House – Land adjacent to, Chain Lane, Battle****Outline: Erection of three dwellings, access and parking**

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**Applicant:** N. James  
**Agent:** GRF Planning  
**Case Officer:** Mrs S. Shepherd  
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**Parish:** BATTLE  
**Ward Member(s):** Councillors K.P. Dixon and K.M. Field

**Reason for Committee consideration:** Member referral Councillor K.M. Field – overdevelopment

**Statutory 8 week date:** 20 March 2019  
**Extension of time agreed to:** 24 April 2019

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This application is included in the Committee site inspection list.

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**1.0 POLICIES**

1.1.1 The following ‘saved’ policies of the adopted Rother District Local Plan 2006 are relevant to the proposal:

- 1.1.2
- DS3 – Development boundaries

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

- OSS2: Development boundaries.
- OSS3: Location of development.
- OSS4: General development consideration.
- RA2: General strategy for maintaining/protecting the countryside.
- RA3: Indicates at (iii) that new dwellings in the countryside will only be allowed in extremely limited circumstances.
- BA1: sets out the policy framework for Battle and includes the requirement that proposals for development and change in Battle will (i) maintain the essential physical form, local distinctiveness, character and setting of the town, particularly in and adjacent to the Conservation Area.
- LHN1: seeks to achieve mixed and balanced communities and states that (i) housing developments should be of a size, type and mix which reflect both current and projected housing needs.
- LHN2: covers the provision of affordable housing and at (iii) states that in Battle 35% on-site affordable housing will be expected to be provided on schemes of 10 or more dwellings (or 0.3 hectares or more).

- EN1: states that the management of the high quality historic, built and natural landscape character is to be achieved by ensuring the protection, and wherever possible enhancement, of the district's nationally designated and locally distinctive landscapes and landscape features; including (inter alia):
  - (i) The distinctive identified landscape character, ecological features and settlement pattern of the Area of Outstanding Natural Beauty (AONB).
  - (v) Open landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes.
  - (viii) Other key landscape features across the district, including native hedgerows, copses, field patterns, ancient route-ways, ditches and barrows, and ponds and water courses.
- EN3: sets the design quality standards that all new development will be expected to meet.
- EN5: covers biodiversity and green space.
- TR3: requires new development to minimise the need to travel and support good access to employment, services and community facilities.
- TR4: deals with car parking, which should normally be provided in accordance with the County Highway Authority's parking standards (the level of parking should be assessed using the on-line calculator on the East Sussex County Council website).
- SRM2: deals with the effective management of water resources.

1.3 The Development and Site Allocations Local Plan (DaSA) has now been submitted (as of January 2019) for examination. Varying degrees of weight are now afforded to the policies contained within this emerging development plan document with the following being considered relevant to the proposal:

- DHG1: affordable housing
- DHG3: residential internal space standards
- DHG7: external residential areas
- DHG11: boundary treatments
- DEN1: maintaining landscape character
- DFN2: the High Weald AONB
- DEN4: biodiversity and green space
- DEN5: sustainable drainage

1.4 The National Planning Policy and Planning Policy Guidance are also material considerations.

- Paragraphs 8, 11, 14 core planning principles for sustainable development
- Paragraphs 102, 106, 109 and 110 transport and parking
- Paragraphs 61 and 62, affordable housing
- Paragraphs 73 and 74, five-year supply of deliverable housing sites
- Paragraph 172, protection of the AONB
- Paragraphs 170 and 175, conservation and enhancement of biodiversity

1.5 Battle has resolved to undertake a Neighbourhood Plan (NP) but it remains at an early stage and can be afforded no weight. It does, however, mean that housing allocations for Battle will be made in the NP and not in the Council's DaSA document.

- 1.6 The High Weald AONB Management Plan 2014-2019 is also a material consideration.
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## **2.0 SITE**

- 2.1 The application site is 'L' shaped and comprises an area of land on the north side of Chain Lane close to the start of it being unsurfaced. To the west of the site are the Watch Oak offices and housing development, where the road is surfaced and runs eastwards to the A2100. Watch Oak House, (formerly Chain Bungalow), is a replacement chalet bungalow dating from around 2001 and occupies the south east corner of the plot, the application site having once been part of the same ownership. A further unsurfaced track runs northwards along the east side boundary of the site accessing Kelklands to the north. The track then continues westwards. The whole track is also the route of public footpath 17.
- 2.2 Chain Lane continues along the southern side of the site in a westwards direction, it remains unsurfaced up to its junction with North Trade Road, (A271). Chain Lane is also the route for public footpath 21a. The whole of Chain Lane itself lies within the development boundary for Battle, which runs along the northern side of the lane and then runs northwards along the rear garden boundaries of the adjacent housing development. Watch Oak House and Kelklands therefore lie outside the development boundary.
- 2.3 The application site also includes a section of Chain Lane and land on the southern side of the road, which are in the ownership of the applicant. The ground levels rise up from the road level into the site, which once contained a number of trees, now removed. Trees around the perimeter of the site remain, with several (inside and outside the site) now protected by a Tree Preservation Order (TPO). Levels fall away to the west with the dwelling of Stone Croft set at a slightly lower ground level. Similarly, Kelklands to the north also sits at a slightly lower ground level.
- 2.4 The whole of Battle lies within the High Weald AONB. As mentioned, there are a number of individual trees around the boundaries of the main site which are the subject of TPO No. 374. The small area of woodland on the southern side of Chain Lane is also covered by a woodland designation under TPO No. 374.
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## **3.0 HISTORY**

- 3.1 RR/2018/1249/P Outline: Erection of six dwellings, access and parking. Withdrawn.
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## **4.0 PROPOSAL**

- 4.1 The application is in outline with 'access' only to be determined at this stage. The access is shown to exit through the southern boundary onto Chain Lane, with widening of the lane to create a passing bay opposite the entrance. Illustrative plans are provided indicating a layout and floor plans proposing three dwellings, one to the front between the dwellings of Watch Oak House and Stone Croft and two set within the wider part of the site

beyond the rear boundary of Watch Oak House. Parking is indicated for each dwelling with separate visitor parking and a separate turning area. New planting is proposed to all existing and proposed boundaries.

- 4.2 The application is accompanied by: sections through the site comparing with the neighbouring dwellings; Transport Assessment; Planning Statement; Tree Survey/Impact Assessment/Protection and new planting; Sustainable Drainage System (SuDS) assessment; Ecological Report with enhancements. The red site boundary has been corrected to exclude an area of land at the entrance to Watch Oak House which is not in the applicant's ownership. The applicant has confirmed that the proposed footpath to the south side of the road is additional and would not replace the existing definitive public right of way.

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## 5.0 CONSULTATIONS

### 5.1 Battle Town Council – **OBJECTION**

- 5.1.1 Acknowledge that the application is now for fewer units but it does not address the previous objection of access issues. Concerned that there may be a legal issue regarding right of way to the east of the site.

### 5.2 Highway Authority – **NO OBJECTION**

- 5.2.1 The proposal is for the erection of three dwellings with access drive and parking. The site is served via Chain Lane which is a privately owned road joining the highway at junctions with North Trade Road to the west and London Road to the east.

The development is similar, albeit with a reduction of the number of dwellings proposed, to the previously submitted planning application (RR/2018/1249). With this in mind my comments remain relatively unchanged. I do not wish to object to the proposal; however, I would wish for any grant of consent to include conditions.

- 5.2.2 *Access:* The site will be served via new access off Chain Lane. The submitted plan indicates that the access will have a width of approximately 6.5m narrowing down to 5.5m further into the site. A minimum 4.8m radius will also be provided. The carriageway of Chain Lane will be widened to 4.5m in the vicinity of the site access and I am therefore satisfied that larger vehicles (refuse, emergency etc.) can be accommodated.

As the new access is off a privately owned road construction specification will not be condition; however, it is recommended that the access is provided in accordance with East Sussex County Council (ESCC) specification. Adequate visibility splays at the junction of the access and Chain Lane should also be provided.

- 5.2.3 *Trip Generation and the Impact on Chain Lane* – The three dwellings proposed are likely to generate in the region of 12 to 15 traffic movements per day with approximately one to two trips in the AM and PM peak hours.

The proposed development would therefore result in a relatively minor increase in traffic using Chain Lane. Chain Lane joins the highway at

junctions with North Trade Road to the west and London Road to the east. Given Battle Town Centre and services are located to the east of the site it is likely that the access onto London Road would be the preferred route for residents. However, any resident's intent on travelling westbound are likely to use the access on to North Trade Road.

With regards to the suitability of the Chain Lane/ North Trade Road and Chain Lane/London Road junctions, both have sufficient width to accommodate two-way traffic and good visibility available in either direction. With this in mind I am satisfied that both junctions could accommodate the additional traffic likely to be generated by the development proposal.

Chain Lane itself is particularly narrow in places and poorly constructed for much of its length. Approximately 43m to the east of the proposed access Chain Lane becomes a typical estate road with a 5.5m wide carriageway, footways on both sides and street lighting. To the west of the proposed access Chain Lane remains a narrow unsurfaced road with no footway/street lighting with passing traffic relying on limited passing places virtually as far as its junction with North Trade Road.

It is proposed that some improvements will be carried out to Chain Lane between the access and estate road to the east. The lane will be widened to a minimum of 3.1m to include the whole of the site frontage. Across the site frontage, it will be widened to 4.5m on the southern side to create a passing place around 20m in length. The existing road surface will be smoothed out and a no dig construction laid over to provide an improved road surface for vehicles and pedestrians.

To the west of the site frontage no works are intended to Chain Lane and it will remain as existing.

Given the restricted visibility into Chain Lane from Watch Oak business park, the incorporation of a passing area and widened access would benefit both existing residents and help accommodate the greater traffic flow resulting from the development proposal; however, as some of the traffic generated by the development proposal is likely to travel westbound I am concerned that the road in this direction will be left in its existing condition. Despite this concern it is acknowledged that leaving this section of the road in a poor state of repair is likely to have the desirable effect of discouraging traffic using Chain Lane as a 'rat run' from North Trade Road through to London Road.

With this in mind the provision of improvements to only the eastern route from the site is acceptable. However, if possible it is recommended that the initial stretch of Chain Lane (approximately 6m from the junction with the estate road) is also widened to 4.5m rather than the 3.1m width proposed. This is to improve the link to the estate road and to provide a passing area where vehicles turning into Chain Lane would have good forward visibility up to the site access. This would require further investigation.

Despite the improvements proposed it is acknowledged that a large stretch of Chain Lane will remain in a very poor state of repair. With this in mind any increase in its use would be less than ideal; however, as the road is privately owned an objection on this basis could not be justified whilst further

improvements to the surface and alignment of road as part of the proposal could also not be insisted on.

5.2.4 *Internal layout:* This is an outline application and therefore the internal layout will be finalised at reserved matter stage. Despite this, I would like to make the following comments and observations based on the submitted plans:

- A 6m maneuvering space is required behind all parking spaces. The parking spaces serving Plot 3 should be set further back to provide this distance.
- With regards to waste collection it should be noted that residents should not be required to carry waste more than 30m whilst waste collection vehicles should be able to get within 25m of the storage point. As refuse vehicles are unlikely to be able to turn within the site a communal waste storage/collection area should be provided in a location which takes into account the above carry distances.
- Tracking drawings have been provided to demonstrate that a larger vehicle is able to turn within the site; however, the type and dimensions of the vehicle used have not been provided.

5.2.5 *Parking:* The East Sussex Residential Parking Demand Calculator has been designed to calculate the number of parking spaces required at new residential development on a site specific basis. The calculator predicts levels of car ownership using information relating to the site location (ward), unit type, size and the number of allocated spaces.

My own use of the parking demand calculator indicates that three 3 No. bed dwellings require seven parking spaces (two allocated per dwelling and one visitor spaces).

The submitted plan indicates that a total of eight parking spaces are proposed (two allocated per dwelling and two visitor spaces). The parking provision is therefore acceptable; however, it should be noted that each parking space requires minimum dimensions of 2.5m x 5.0m (an addition 0.5m should be added to the width where the parking space abuts a wall or fence). A 6m distance should also be provided to the rear of the parking spaces to enable vehicles to maneuver in a safe and convenient manner.

Cycle Parking – Safe, secure and covered cycle parking facilities need to be provided at new developments. The level of cycle parking will need to meet the requirements of the ESCC standards which are one space per unit for one and two bedroom dwellings and two spaces per dwelling with three bedrooms or more.

5.2.6 *Accessibility:* A number of local services and facilities are within walking distance of the site and with this in mind I have no major concerns regarding the site from an accessibility perspective.

5.2.7 *Construction Traffic Management Plan:* This highway authority is keen to ensure that this development does not have an adverse effect on the existing highway infrastructure and therefore request that a Construction Traffic Management Plan is submitted to and agreed with ESCC prior to the commencement of works to be secured by a relevant planning condition. This would include a construction traffic routing agreement, hours of

working, wheel washing, and secured compounds for materials storage, machinery and contractor parking.

#### 5.2.8 *Conclusion*

The road serving the site (Chain Lane) is in a poor state of repair and although some improvements are proposed any increase in its use is considered less than ideal. However, the road is privately owned and therefore an objection on this basis could not be justified whilst further improvements to the road as part of the proposal could not be insisted on.

The Chain Lane/ North Trade Road and Chain Lane/London Road junctions are considered to be acceptable in terms of their width and the visibility available to drivers and with this in mind I have no major concerns regarding the developments impact on the highway from a safety or capacity perspective.

As an outline application details regarding the housing mix, parking provision and internal layout are yet to be finalised; however, in principle these aspects of the proposal are, subject to some alterations at reserved matters stage, acceptable in principle.

To conclude, with the above in mind I do not object to the proposal, subject to conditions.

#### 5.3 Rights of Way Officer (ESCC) – NO OBJECTION

5.3.1 Notes that even a reduced number of properties could generate increased use of the unmade western section of Chain Lane with likely increased deterioration of the surface and problems potentially in respect to the lane's maintenance.

5.3.2 Equally, any significant improvements of the lane would be likely to increase use and speeds which would lead to more obvious conflict with the use of the lane as a footpath. For that reason we are minded *not to object* to this application, provided that the easterly access towards the A2100 is improved as proposed.

5.3.3 A footpath is shown on the layout plans along the wooded verge to the south of the section of lane proposed for improvement. It is taken that this is intended to be an informal permissive path. The intention in this respect should be made clear. The diversion of the public footpath to this route would not be supported and it would not be incumbent on the applicant to continue to provide that path, unless it is otherwise formalised by condition.

#### 5.4 Environment Agency – NO OBJECTION

5.4.1 Advise that foul drainage will be required to connect to mains drainage and only roof and small parking areas to drain to soakaways.

#### 5.5 Forestry Commission – GENERAL COMMENT

5.5.1 The Forestry Commission investigated a case of alleged illegal felling on the land in February 2017. It appeared that a felling licence ought to have been required for the works undertaken and as such a Restocking Notice (RN) was served on the owner on 22 June 2017. The site was inspected in



October 2018 and natural regeneration of the site is currently underway. There is a maintenance period on the land under the RN for 10 years - therefore the Local Planning Authority should be aware that a "do nothing" option in their decision will result in the land returning to woodland. A further inspection is scheduled for autumn 2019.

5.6 SGN (gas pipelines) – **NO OBJECTION**

- 5.6.1 Plans provided indicate the presence of electricity runs to the front section of the site.

5.7 Southern Water – **NO OBJECTION**

- 5.7.1 Advise that a formal application is required for connection to the public sewer, which lies to the west, rear of Stone Croft.

5.8 Housing & Asset Officer – **NO OBJECTION**

- 5.8.1 Subject to planning approval would support the application and makes the following comments:

- 5.8.2 Housing Development will not require an onsite contribution of affordable housing on this scheme of three dwellings, in view of this being a small scale development and the difficulties securing a registered provider to deliver this number of dwellings.

- 5.8.3 In view of the developable area exceeding the policy threshold of 0.3 hectares or more, we will instead require a small in-lieu payment based on 35% of the total housing scheme. In this case the financial sum will be equivalent to 1.05 affordable dwellings. This will be calculated in accordance with our adopted policy for small sites contributions in the AONB and will be secured as part of a section 106 agreement.

5.9 Ramblers Association – **OBJECTION**

- 5.9.1 Did not object subject to conditions on the previous withdrawn application. This time raise objection to any realignment of the footpath to the southern side of the lane, as it would necessitate the loss of vegetation which would erode the country scene.

- 5.9.2 Chain Lane to the west has been maintained by local owners to provide a distinctly country scene. Given the Lane surfaces, poor drainage and appropriately narrow width for pedestrian use with very occasional light traffic associated with current properties, there has been a satisfactory and reasonably safe mix for this Public Right of Way footpath (FP21a). A change to partially on and partially off the centre line of the Lane (if the path is rerouted) would lead to vehicle/pedestrian conflicts.

- 5.9.3 If to be approved conditions are requested in respect of: "pedestrians in roadway" warning signs; protection of the bank, trees and hedge to the site to maintain visual amenity and countryside character; ensure the public footpaths remain open and fully accessible at all times during and after development.

## 5.10 Planning Notice

5.10.1 12 letters of **objection** have been received (several from the same property). Additionally there are two petitions of objection, one with 245 signatures and the other with 65 signatures. The following issues are raised:

- Chain lane is a footpath – unmade private road not suitable for vehicles.
- Lane gets flooded in wet weather.
- It was an original Drivers track – and this would be out of character for it.
- Used by lots of pedestrians – especially school children.
- There is a pinch point with low visibility at junction of Chain Lane, Kelkland Drive and the entrance to Watch Oak House, partly outside the application site and which cannot be altered.
- No right of access over lane to the east.
- Construction traffic will be problematic.
- Refuse collection is a problem.
- Increase traffic increased dangers for pedestrians plus harm to verges, vegetation etc.
- Access in to site is too narrow.
- The transport report is flawed.
- Moving of footpath would require a separate diversion order.
- Loss of habitat and trees.
- Restocking order not to date complied with – this is a legal requirement.
- Outside development boundary.
- Is within the AONB.
- Would impact upon fauna and flora.
- Are protected species in the borders to the site.
- Battle already has housing allocations and this site is not needed to reach quota.
- Inadequate elevations.
- New will dominate and overlook existing houses – Watch Oak and Stonecroft.
- Design out of keeping (too high should be only 1½ storey).
- Prominent in views from AONB.
- Not garden area – Watch Oak House was a straight replacement for Chain Bungalow using same curtilage.
- Low density area.
- Dwelling on plot one would be too small and thus out of character with others on the north side of Chain Lane.
- No garages proposed.
- Drainage issues – tarmac not permeable, SuDS may not be suitable.
- Should be hedge and not fence.
- Would be further pressures to remove more trees to improve sunlight.
- Works will impact root protection zones.
- Loss of privacy and view for Wellington Gardens.
- Notices not put up sufficient time before Battle TC meeting.

5.10.2 One letter of **support** has been received making the following points:

- Well designed.
- Low density.
- Convenient location.
- Houses all sides.

## **6.0 APPRAISAL**

- 6.1 With exception of the access and improvements to Chain Lane, the site lies outside but immediately adjacent to the Development Boundary for Battle as defined by the Rother District Local Plan 2006 and shown on the Proposals Map (Inset Map No. 2). Houses to the east and south are located within the development boundary. The ribbon development along Chain Lane to the west and Kelklands to the north lie outside the current development boundary. However, the need for additional housing in the district and in the Town specifically is recognised by the Core Strategy; moreover it is accepted that there is insufficient land within existing development boundaries to accommodate the amount of new housing required and consequently development boundaries are being reviewed.
- 6.2 Development boundaries within the district are being reviewed in the DaSA and NPs where these are being made. Battle has resolved to undertake a NP. Battle Civil Parish was designated by the District Council by resolution CB14/80 on the 13 April 2015. The NP area is that of the Parish boundary. Whilst Battle NP is in the early stages, it does mean that allocations for housing and employment land etc. for the Battle neighbourhood area will be made in the NP and not the Council's DaSA Local Plan. Because the NP is still at a very early stage it can only be given minimum weight in planning decisions. In the meantime, it is appropriate, taking development plan policies as the starting point, and also having regard to the Council's present lack of a five year's housing supply and the presumption in favour of sustainable development in the National Planning Policy Framework and the Core Strategy, to consider the specific impacts of proposals such as this one that are brought forward for sites adjacent to existing settlements.
- 6.3 The principal issues for consideration in this application are the impact of the proposed development on the setting of the town in this location and on the landscape and natural beauty of this part of the High Weald AONB, having particular regard to planning policies for the provision of new housing, including the Council's housing supply position. Other issues that will need to be considered are: housing mix and affordable housing; highway safety and traffic management; drainage (including SuDS); biodiversity; impact on the living conditions of any neighbouring properties; and Community Infrastructure Levy.
- 6.4 Policy Position
- 6.4.1 The Government requires that all local planning authorities identify annually a supply of specific deliverable sites sufficient to provide a five-year supply of housing against their housing requirements with an additional appropriate buffer to ensure choice and competition in the market for land. Policy OSS1 of the Core Strategy (CS) that sets out the overall spatial development strategy includes a requirement to plan for at least 5,700 additional dwellings (net) in the district over the Plan period. Policy BA1 of the Core Strategy states that proposals for development and change in Battle will (iii) provide for 475 – 500 net additional dwellings in Battle over the Plan period 2011 – 2028, by developing new housing via opportunities both within the development boundary, and modest peripheral expansion opportunities that

respect the setting of Battle within the High Weald AONB and supports community facilities. The development boundary for Battle is out of date.

*Allocations:*

- 6.4.2 In terms of allocations, the Blackfriars site (Policy BT2 of the Local Plan 2006) is expected to be the main component of further supply, around 220 dwellings being allocated in the 2006 Local Plan, although ecological and other factors may reduce this to c200 dwellings. The eventual capacity is yet to be established. Another site at North Trade Road (Policy BT3 of the Local Plan 2006) is expected to deliver 14 units. These two sites are expected to be delivered within the Plan period but are not expected within the next five years.

*Commitments:*

- 6.4.3 As at April 2016, there was a residual requirement of 425 additional dwellings (of the 475 minimum in Policy BA1), as identified in the DaSA Local Plan. Since then, the target has been reduced by:

- 50 dwellings approved on land to the west of Lillybank Farm (outline permission RR/2016/725/P and subsequent reserved matters (RR/2017/1136/P) approved in September 2017) but no start date has been provided.
- 63 dwellings on land at Tollgates (outline permission RR/2017/1259/P and subsequent reserved matters (RR/2018/2985/P) approved March 2019).
- 25 dwellings on land south of North Trade Road (outline permission RR/2017/2390/P approved March 2019).
- 20 dwellings on land north of North Trade Road (outline RR/2018/2666/P with all matters reserved except access, subject to completion of s106).

- 6.4.4 This takes the outstanding requirement down to 267 dwellings (i.e.  $425 - 50 - 63 - 25 - 29 = 267$  dwellings). In addition, completions, small site commitments or small site windfalls have increased by 18 dwellings, giving an outstanding large sites requirement of 249 dwellings. With the main component of this being met by around 200-220 dwellings being allocated on the Blackfriars site the outstanding requirement for Battle during the Plan period would be at least 29 dwellings.

- 6.4.5 It will be for the Battle NP to allocate the required sites. However, Battle Town Council has not yet produced a draft NP (under regulation 14), so there is no indication of how the outstanding requirement may be met.

*Progress:*

- 6.4.6 Whilst housing permissions have recently been made in Battle (see commitments above) neither of the extant 2006 Local Plan allocations currently have planning permission. Battle has seen the lowest levels of completions to date, with only 32 dwellings, 6% of its overall housing requirement built by 31 September 2018. The need for an additional release at this time is therefore balanced, but weight must also be given to the lack of a five-year housing land supply (currently 3.9 years) in the “planning balance”, as should the significance of any impacts on the High Weald AONB.

- 6.4.7 In light of the above it is considered that the Local Planning Authority should only refuse the proposal if, having regard to the National Planning Policy

Framework paragraph 11, there is a 'clear reason' in terms of impacts on AONB interests or there are other adverse impacts that would significantly and demonstrably outweigh the benefits.

6.4.8 Paragraph 11 of National Planning Policy Framework states:

*"For decision-taking this means:*

- approving development proposals that accord with an up-to-date development plan without delay; or*
- 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 proposed;*
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

6.5 AONB Impacts, town character and setting

The key paragraph of the National Planning Policy Framework in this respect is 172 which states:

*"Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONB, which have the highest status of protection in relation to these issues."*

6.5.1 Section 85 of the Countryside and Rights of Way Act 2000 provides that, in exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The essential landscape character of the High Weald AONB that makes it special is described within the Statement of Significance within the AONB Management Plan 2014-2019. This document is also a necessary consideration. The Plan is focused on delivering the statutory purpose of AONB designation: conserving and enhancing natural beauty. There are a series of objectives relating to geology, landform, water systems and climate; settlement; routeways; woodland; and field and heath. Objective S2 aims to protect the historic pattern of settlement. The rationale behind this is to protect the distinctive character of towns, villages, hamlets and farmsteads and to maintain the hinterlands and other relationships (including separation) between such settlements that contribute to local identity. The objective of FH2 is to maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands.

6.5.2 The site, as Battle itself, is wholly within the High Weald AONB. Indeed, it lies astride the ridge-top of one of the principal ridgelines. It therefore has the potential for significant impact. However, the site is visually contained by the significant trees around the boundaries as well as being surrounded by existing development. While regard must also be given to the historic character of the site, in this case, the site is not identified as being bounded by historic field boundaries and is not part of a medieval field pattern, which are most sensitive in AONB terms. It is noted that Chain Lane from the entrance to Watch Oak House, running westwards is an historic routeway. While some alteration is proposed to widen at the access point into the site,

the lane would otherwise not be significantly altered with much of it remaining in the ownership of others.

- 6.5.3 The protected trees around the site are to be retained with some minor safety works. The tree survey identifies a number of dead elms and a pine within the woodland on the southern side of the road, which can be removed without consent but replanting would be required. It also identifies the loss of two small roadside hawthorn to create the passing bay and some crown works but otherwise the woodland area would remain.
- 6.5.4 The main site is argued by neighbours to have been a woodland. The site did not contain ancient woodland and it is evident on aerial photographs that the site was not completely covered in trees but contained areas of grassland too, prior to its clearance. While some of the larger trees have been removed, prompting the restocking notice by the Forestry Commission, there is no evidence of other notable trees within the site which currently now shows signs of being colonised by sycamore, an invasive species. Proposed planting and management of planting around and within the site utilising native species would be eminently more beneficial to the landscape and biodiversity of the site and surroundings. It is also noted, contrary to neighbour contentions, that the granting of planning permission would not be illegal in the face of the restocking notice. As is the case where a TPO exists, the Local Planning Authority may grant planning permission for development which then overrides the TPO, accepting that trees identified to be retained would still be protected by the TPO.
- 6.5.5 A proposal to accommodate three dwellings within the site could thus be accommodated without significant impacts to the wider visual appearance of the site, which would still remain verdant given the existing and proposed planting to the boundaries. Given the proximity of the site to adjacent development, the presence of Kelklands to the north and other ribbon development along Chain Lane to the east, with gardens encroaching further north than Watch Oak House, development of this site would easily assimilate with the existing edge of town character. As such the proposal would not result in harm to the landscape or scenic beauty of the AONB.

*Other impacts*

- 6.5.6 As set out in the Strategic Housing Land Availability Assessment (SHLAA) 2013 (site ref. BA2 – North West Battle Borad Location), this is an area comprising some areas of ad-hoc, low density development accessed by poorly maintained private roads. It is acknowledged that there is potential for redevelopment alongside highways improvements. It identifies two areas in particular, (i) Land off Chain Lane and states:  
*Residential possibility. Site comprising very low density residential and backlands. Adjacent to development boundary and has advantage of good proximity to town centre, schools and shops. However it is constrained by groundwater source protection zone (north side only) and landscape and landscape constraints, particularly on west side (although neighbouring Isherwood has already set a precedent). The area specifically highlighted as having some capacity in ESCC Landscape Assessment, which stated "Some capacity close to the urban edge. Possibly in large gardens and plots south of Kelklands. Not in open fields beyond which are part of the Brede Valley"*

6.5.7 The site is directly south of Kelklands and as highlighted by the ESCC Landscape Assessment, there is capacity for some development here. The presence of the ground water protection zone would not preclude development and as set out by the Highway Authority the low level of development proposed is not considered to represent a highway constraint.

6.6 Design issues (including density)

6.6.1 The application is in outline with the details of access only to be determined at this stage. Layout, scale, external appearance and landscaping would all fall to be considered at reserved matters stage. The application seeks permission for three dwellings equating to a density of 8.5 per hectares. Whilst this maybe slightly higher than that for the substantial properties and plots to the west, it is substantially lower than the neighbouring development to the east and falls way below the figures promoted by central Government who seek in excess of 30 dwellings to the hectare.

6.6.2 An indicative layout plan has been provided to indicate that three units could be accommodated on the site while utilizing the proposed access and maintaining the treed boundaries. The indicative layout provides ample external space to meet the standards of the new DaSA policy and provides parking spaces, while also providing space for additional native species planting.

6.6.3 The application has been called to committee amid concerns that the proposals represent an overdevelopment of the site. As referenced above, a density of 8.5 dwellings per hectare is low and as per the indicative layout the site can accommodate the number of units, including provisions for amenity, parking and turning space. The verdant character of the site, street scene and wider landscape can also be retained with provisions for enhancement. As such the proposals do not represent an over development of the site.

6.6.4 Comments have been made that any new dwellings should be chalet bungalows. However, there is a mix in size and design of properties in the surrounding area and subject to impacts on neighbours, there is no reason to insist on chalet bungalows for the site. Nonetheless, external appearance and scale are reserved matters to be considered at a later date.

6.7 Highway considerations (including access)

6.7.1 The proposed development would utilize an existing unsurfaced road with a new access. The Highway Authority (HA) has no objection subject to the imposition of conditions. Their comments are set out at paragraph 5.2 above.

6.7.2 As set out by the HA this edge of town location is accessible with close access to services, facilities and alternative transport connections. They also confirm that there are no highway objections to either access point with the highway at the A2100 or North Trade Road. While other highway improvements are desirable, they are not enforceable and retention of the unsurfaced nature of the lane to the west would act as a natural deterrent to restrict the speed and amount of vehicular use. Some improvements are

proposed to slightly widen the width of the lane adjacent the access, affording access in to the site by refuse and other larger vehicles. Contrary to the contentions of objectors, the width of the site access and internal driveway can accommodate two-way traffic and larger vehicles and has a turning area. The absence of garages is deliberate as they are not counted as parking spaces by the East Sussex Parking Demand Calculator, as garages are seldom used for parking. Parking spaces are thus required to be open or as open carports.

- 6.7.3 It is noted that while Chain Lane may be privately owned, it is an un-adopted public highway. It has highway rights which have been established over time, so the public have a right to use it. This could be challenged but that would have consequences for all users of the lane. The level of increase in traffic would not be significant and as such would not have detrimental impacts on the highway network.

## 6.8 Biodiversity

- 6.8.1 A phase 1 habitats survey has been undertaken and proposed enhancements have been suggested. While noting the comments of neighbours, there are no protected species recorded on this site and none have been noted by the survey, primarily because the site characteristics are not suitable to support many species. It is noted that badgers are in the area and may pass through the site; that bats are in the area and may forage or even roost in surrounding trees; and that reptiles and snakes may be found on adjacent land. However, their presence in the surrounding area does not preclude development of this site and the proposed development of the site does not represent significant harm to biodiversity. The proposals for precautions pre and during development and for post development enhancements are considered to be acceptable and would be conditioned in the event of a permission.

- 6.8.2 It is noted that other than the AONB there are no statutory or non-statutory designated sites affected by the proposals, nor within close proximity to it. There is no evidence that the land has been in agricultural use, although the photographs submitted by the applicant do show a variety of fruit trees on the site and a vegetable patch back in the 1980s. Since then the land appears to have been left to naturalise and hence the previously overgrown nature of the site prior to its clearance in 2017.

## 6.9 Impact on the living conditions of neighbouring properties

- 6.9.1 The site is bordered on all sides by existing residential properties. Watch Oak House sits at a slightly higher ground level in the south east corner and is a sizeable chalet bungalow built around 2001 replacing the smaller Chain Bungalow. 14-26 Chain Lane lie to the east of Kirkland Drive and Watch Oak House. Stone Croft is a larger property sitting within a large plot at a lower ground level to the west with outbuildings and trees to the shared side boundary. Kirklands lies to the north, the other side of the track/public footpath at a lower level screened by planting to both sides of the track. Wellington Gardens lie to the south separated from the site by Chain Lane and the small area of preserved woodland.

- 6.9.2 While the application is in outline only, the indicative sections do illustrate two-storey houses, which have a shared ridge height with Watch Oak



House. The indicative layout proposes two houses to the wider north section of the site, well separated from Kirklands to the north, by the track, planting and a distance of around 25m at the closest corners, and from 14 Chain Lane to the east, by the track, trees and around 28m, side to rear. Plot 2 to the rear of Watch Oak House can be set at an angle and designed to avoid any direct overlooking between the two properties, which are separated by a preserved tree and a distance of around 23m at the closest point.

- 6.9.3 Plot 1 is illustrated between Watch Oak House and Stone Croft with the dwelling positioned closer to the lane with protected trees to the side boundary with Stone Croft and new planting to the driveway on the side boundary of Watch Oak House. It can be designed to avoid windows within the side elevations, which in any event would face the front gardens/access/parking of the existing dwellings which are already open to view from Chain Lane. Given the separation distances, boundary treatments and orientation of dwellings, there are no sound planning reasons why three new dwellings could not be accommodated on the site, without harm to the residential amenities of neighbours. And, as mentioned above, scale and external appearance, which would inform the relationship with neighbouring properties, are reserved matters.

## 6.10 Drainage

- 6.10.1 It is noted that the application form refers to the use of SuDS for surface water drainage. However, from the SuDS document submitted, this may be restricted by virtue of the soil conditions. If this is the case, alternative surface water drainage would be required. It is noted that the Environment Agency have assumed the use of soakaways. Drainage can be provided and as such this is not a reason for refusal of the proposals.

## 6.11 Housing mix and affordable housing

- 6.11.1 The indicative layout proposes only three detached family dwellings which would reflect the nature of surrounding development. Ordinarily affordable housing would not be sought where only three dwellings are proposed, but it is noted that the main part of the site has an area of 0.35 hectares and as such Policy LHN2 is invoked. In this particular situation the Housing Development Officer advises that a contribution should be sought for off-site provision of affordable housing. Any such payments would be the subject of a section 106 agreement.

## 6.12 Section 106 Contributions

- 6.12.1 In the event that planning permission is granted this would need to be subject to the satisfactory completion of a section 106 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; and
- 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.

6.12.2 In this case the following requirements would be necessary under a section 106 Agreement, being considered to be related to the development, proportionate and necessary:

- **A financial contribution for the off-site provision of affordable housing.**
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## **7.0 SUMMARY AND PLANNING BALANCE**

7.1 The site lies outside but adjacent to the current development boundary of Battle and within the High Weald AONB. Development boundaries have to be considered out-of-date and can only be given limited weight in view of the Council's lack of five-year housing supply. In any event, it is recognised within the Rother Local Plan Core Strategy that in order for the district to meet its housing requirement over the plan period that development boundaries will need to be reviewed and that certain settlements, including Battle will need to accommodate some of that housing growth.

7.2 As at April 2016, there was a residual requirement of 425 additional dwellings (of the 475 minimum in Policy BA1), as identified in the DaSA Local Plan. Since then, the target has been reduced by the approval of schemes at Lillybank (50), Tollgates (63), North Trade Road (25) and north of North Trade Road (subject to s106 – 20) taking the outstanding requirement down to 267 dwellings. In addition completions of small sites and windfall sites have further reduced the outstanding requirement to 249. Of this Blackfriars site is expected to provide 220 dwellings as allocated in the 2006 Local Plan but eventual capacity has yet to be established and could be less. In the absence of a NP for Battle and deducting the two site allocations in the 2006 Local Plan, there remains an outstanding requirement of at least 29 dwellings for Battle.

7.3 Most of the housing requirement for the plan period for Battle has therefore been already identified. However, set against this, it is significant that Battle has seen the lowest levels of completions to date, with only 6% of its overall housing requirement built by September 2018. The need for an additional release at this time is therefore balanced, but weight must also be given to the lack of a five-year housing land supply (currently 3.9 years) in the "planning balance", as should the significance of any impacts on the High Weald AONB.

7.4 The National Planning Policy Framework (paragraph 11) and Policy PC1 of the Core Strategy require that planning decisions are made in accordance with a presumption in favour of sustainable development. Paragraph 11(d) and Footnote 7 of the National Planning Policy Framework says that where a Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites including appropriate buffer, that its policies for housing supply must be considered out of date. Decisions in that case should be made in accordance with paragraph 11 (c) and (d), which requires that proposals for sustainable development are permitted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the National Planning Policy Framework taken as a whole (ii), or the application of policies in the National Planning Policy Framework that protect areas or assets of particular importance provides a clear reason for refusal (Footnote 9). i.e.

paragraph 172 concerning AONBs suggests that development should be restricted. Within the AONB the principal consideration in the planning balance to be made is that great weight should be given to conserving and enhancing the landscape and natural beauty of the AONB, which has the highest status of protection in relation to landscape and scenic beauty.

- 7.5 The whole of Battle is within the designated AONB. As previously stated, there will be a need to adjust development boundaries in Battle to accommodate further housing need and this will result in the development of green-field land at the edge of the town – within the AONB. The proposed development would introduce built development on a green-field site, but one which is already surrounded by residential properties. As such it is considered that the impact would be limited, given the contained nature of the site, relationship with surrounding development, it is not part of the medieval field pattern and as part of landscape enhancement a substantial amount of native species planting is proposed. Subject to this, and further details that would be negotiated and agreed as reserved matters, it is considered that the proposed development would cause limited harm to the landscape of the AONB with little impact on the setting or character of the town within it.
- 7.6 In terms of the location of the site and access to services and community facilities, the site is closely located to the town centre, being within walking distance and where alternative modes of transport are located. In this regard the sustainability requirement is also met.
- 7.7 The proposal by providing three dwellings would make a contribution towards the additional 29 (or more) dwellings that the Rother Local Plan Core Strategy requires are delivered in Battle over the plan period and therefore meets the economic dimension. In light of the Council not currently being able to demonstrate a five year supply of deliverable housing sites this consideration weighs heavily in favour of the proposal within the planning balance to be made. The development would result in very limited harm to the AONB. However, the proposal would also increase the supply of housing land and this can be given significant weight. In exercising the planning balance therefore it is considered that the material planning considerations weigh in favour of granting the planning application.
- 7.8 There are no ecological matters that would preclude the potential development of this site, subject to controls of the nature of construction and appropriate mitigation.
- 7.9 Having regard to the indicative layout and the density of 8.5 dwellings per hectare, the proposal does not constitute over development of the site.
- 7.10 Subject to conditions and the prior completion of a section 106 the proposal may be regarded as acceptable in principle in the context of the development plan and National Planning Policy Framework paragraphs 11 and 14 in particular.

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## **8.0 LOCAL FINANCE CONSIDERATIONS**

- 8.1 The proposal is for a type of development that is CIL liable. However, this is an outline application where the size of the houses, which will dictate the

CIL contribution, is not being determined. That said, and although the total amount of CIL money to be received is subject to change, including a possible exemption, the development (based on the floorspace indicatively shown for plot 1) could generate approximately £116,836.36.

- 8.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could be approximately £20,052 over four years.

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**RECOMMENDATION: GRANT (OUTLINE PLANNING) DELEGATED SUBJECT TO A SECTION 106 PLANNING OBLIGATION RELATING TO:**

- **A financial contribution for the off-site provision of affordable housing.**
- 

**CONDITIONS:**

1. Approval of the details of layout, appearance, landscaping and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development commences on each phase of the development.  
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.
2. Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.  
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.
3. Application for approval of all 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).
4. 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).
5. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Location plan: Drawing No. BA1785.01 Rev.A, dated Feb. 2019  
Block Plan: Drawing No. BA1785.02 rev.A, dated Feb. 2019  
Proposed site access as shown on 'illustrative block plan': Drawing No. BA1785.28 rev.A, dated Feb. 2019  
For the avoidance of doubt the 'illustrative layout' is not hereby approved.  
Phase 1 Habitats Survey and Enhancement Proposals, by Wildlife Matters, dated 24 October 2018.

Tree Survey and Arboricultural Impact Assessment Report by The Living Forest, dated 31 October 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.

6. Pursuant to Condition 1, details shall be submitted of the finished ground floor levels for any building(s) on the site in relation to existing and proposed site levels, the adjacent highway and adjacent properties, together with details of levels of all accesses, to include pathways, driveways, steps and ramps. Any development shall subsequently be carried out in accordance with the approved details.

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 soft landscaping details to be submitted pursuant to Condition 1 shall include the following:

- a) Indications of all existing trees and hedgerows on the land including details of those to be retained, together with measures for their protection in the course of development.
- b) Design, layout and appearance of structural and amenity green space, including verges.
- c) Planting plans, including landscape and ecological mitigation (buffer planting and green buffers).
- d) Written specifications (including cultivation and other operations associated with plant and grass establishment).
- e) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- f) Details for implementation.

The development shall thereafter be carried out as approved and in accordance with an agreed implementation programme.

Reason: To ensure the creation of a high quality public realm and landscape setting that enhances the landscape and scenic quality of the High Weald AONB in accordance with Policies EN1 and EN3 of the Rother District Local Plan Core Strategy.

8. 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] another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To enhance the appearance of the development and the landscape of the High Weald AONB in accordance with Policies EN1 and EN3 of the Rother Local Plan Core Strategy.

9. Prior to the occupation of the development, a landscape management plan, including management responsibilities and maintenance schedules for the site including any communal hard and soft landscape/open space areas, 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 and enhancing the landscape character and quality of the High Weald AONB in accordance with Policies OSS4 (iii), EN1 and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

10. No development shall take place, including any ground works or works of demolition, until a Construction Management Plan 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 method of access and egress and routeing of vehicles during construction;
  - b) the parking of vehicles by site operatives and visitors;
  - c) 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);
  - g) details of public engagement both prior to and during construction works; and
  - h) details of the management of the public footpaths during construction to allow pedestrian use.
- Reason: In the interests of highway safety and the amenities of the area in accordance with Policies OSS4 (ii) and TR3 of the Rother Local Plan Core Strategy.
11. No development shall be occupied until such time as the vehicular access serving the development has been constructed in accordance with plans and details first submitted to and approved in writing by the Local Planning Authority.
- Reason: In the interests of road safety in accordance with Policy TR3 of the Rother Local Plan Core Strategy.
12. Within the details required under Condition 1, a scheme for the provision of foul water drainage works and surface water drainage shall be submitted for the consideration and subsequent approval of the Local Planning Authority and none of the dwellings shall be occupied until the drainage works to serve the development have been provided in accordance with the approved details.
- Reason: These details are integral to the whole development and are therefore required as part of the design and layout for the site and prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, 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 100 and 103 of the National Planning Policy Framework with accompanying ministerial statement of December 2014.
13. Within the details required under Condition 1, proposals for the siting and form of bins for the storage and recycling of refuse within the site (internally or externally), and a collection point, shall be submitted for the consideration and subsequent approval of the Local Planning Authority. The approved details shall be implemented prior to the occupation of any dwellings and thereafter continued, with all bins and containers available for use, maintained and replaced as need be.
- Reason: In the interests of providing sustainable development and protect and safeguard the residential and visual amenities of the locality in

accordance with Policy OSS4 (i), (ii) and (iii) of the Rother Local Plan Core Strategy.

**NOTES:**

1. This permission is the subject of an obligation under section 106 of the Town and Country Planning Act 1990.
2. The applicant/developer is advised that the submitted illustrative layout is not approved.
3. The ESCC Highway Authority would wish to see full details as part of condition 1 for the provision of car parking, cycle parking, turning space and layout of the internal road.
4. The proposed development will be subject to the Community Infrastructure Levy (CIL) at the reserved matters stage.
5. Southern Water has indicated that an application for connection to the public sewer is required.

**NATIONAL PLANNING POLICY FRAMEWORK:** In accordance with the requirements of the Framework (paragraphs 186 and 187) 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.