

Planning Committee

- Date and Time - **Thursday 11 March 2021**
9:30am – 1:00pm and 2:00pm until close of business
(At the discretion of the Chairman, the timing of lunch may be varied)
- Venue - **Remote Meeting**
-

Councillors appointed to the Committee:

J. Vine-Hall (Chairman), S.M. Prochak, MBE (Vice-Chairman), Mrs M.L. Barnes, S.J. Coleman, G.C. Curtis, B.J. Drayson (ex-officio), S.J. Errington, A.E. Ganly, K.M. Harmer, J.M. Johnson, C.A. Madeley, A.S. Mier, Rev. H.J. Norton, G.F. Stevens and H.L. Timpe.

Substitute Members: J. Barnes, P.C. Courtel, L.M. Langlands and R.B. Thomas.

AGENDA

1. **MINUTES**

To authorise the Chairman to sign the minutes of the meeting of the Planning Committee held on the 18 February 2021 as a correct record of the proceedings.

2. **APOLOGIES FOR ABSENCE AND SUBSTITUTES**

3. **ADDITIONAL AGENDA ITEMS**

To consider such other items as the Chairman decides are urgent and due notice of which has been given to the Head of Paid Service by 12 noon on the day preceding the meeting.

4. **WITHDRAWN APPLICATIONS**

The Head of Service Strategy and Planning to advise Members of those planning applications on the agenda which have been withdrawn.

NOTE: Representations on any items on the Agenda must be received in writing by 9:00am on the Monday preceding the meeting.

All Planning Committee meetings are recorded.

This agenda can be made available in large print, Braille, audiotape/CD or in another language upon request. For all enquiries please contact julie.hollands@rother.gov.uk

Tel: 01424 787811

**Rother District Council aspiring to deliver...
an Efficient, Flexible and Effective Council, Sustainable Economic Prosperity,
Stronger, Safer Communities and a Quality Physical Environment**

5. **DISCLOSURE OF INTEREST**

To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.

6. **PLANNING APPLICATIONS - INDEX** (Pages 1 - 2)

7. **RR/2019/1659/P - PGL FORMER PESTALOZZI, LADYBIRD LANE** (Pages 3 - 60)

8. **RR/2020/151/P - PETT LEVEL ROAD - LAND SOUTH OF, FAIRLIGHT COVE** (Pages 61 - 94)

9. **RR/2020/1410/P - SOUTH OF BARNHORN ROAD AND WEST OF ASHRIDGE COURT** (Pages 95 - 122)

10. **RR/2020/2285/P - THE HURST, NETHERFIELD HILL** (Pages 123 - 128)

11. **RR/2020/2373/P - UNIT 12, THE COLONNADE, THE PROMENADE** (Pages 129 - 134)

12. **IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 12, CONSIDERATION BE GIVEN TO THE FOLLOWING MOTION SUBMITTED BY THE CHAIRMAN**

‘That where decisions of the Planning Committee vary from an officer recommendation the decision notice will not be issued until it agrees with the draft minutes approved by the Chairman. Alignment of the two documents will take place within two clear working days of the receipt of the draft minutes. Should any issue be unresolved at the end of those two days it will be referred to the Head of Paid Service for final resolution’.

13. **UNDETERMINED MAJOR PLANNING APPLICATIONS** (Pages 135 - 138)

14. **PLANNING STATISTICS FOR THE QUARTER OCTOBER – DECEMBER 2020 (INCLUDING SUMMARY OF PLANNING STATISTICS FOR 2020-2021)** (Pages 139 - 148)

15. **APPEALS** (Pages 149 - 152)

16. **TO NOTE THE DATE AND TIME FOR FUTURE SITE INSPECTIONS**

Tuesday 13 April 2021 at 8:30am departing from the Town Hall, Bexhill - TBC.

Malcolm Johnston
Chief Executive

Agenda Despatch Date: 3 March 2021

NOTE: Representations on any items on the Agenda must be received in writing by 9:00am on the Monday preceding the meeting.

Enquiries – please ask for Julie Hollands (Tel: 01424 787811)
For details of the Council, its elected representatives and meetings, visit the Rother District Council website www.rother.gov.uk

NOTE:

Due to the Government restrictions imposed as a result of COVID-19 pandemic in the United Kingdom, certain changes have been made to the arrangements for the Planning Committee meetings.

As a temporary measure, the Planning Committee will be meeting remotely and may meet more frequently than the usual four weekly cycle. However, prior notice of any additional meetings will be shown on the Council's website and in the calendar of meeting dates. The meetings will be live streamed via YouTube and viewable by the public on the website at the following link

<https://rother.moderngov.co.uk/ieListDocuments.aspx?CId=135&MId=541&Ver=4>

It is possible to still register to speak on planning applications that come to the Planning Committee, however our speaking rules have been slightly amended during this pandemic, please check the website for further details <https://www.rother.gov.uk/planning-and-building-control/planning-committee/public-speaking-at-planning-committee/>

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Rother District Council

Report to	-	Planning Committee
Date	-	11 March 2021
Report of the	-	Head of Strategy and Planning
Subject	-	Planning Applications – Index

Head of Service: Tim Hickling

Planning Committee Procedures

Background Papers

These are planning applications, forms and plans as presented in the agenda, pertinent correspondence between the applicant, agents, consultees and other representatives in respect of the application, previous planning applications and correspondence where relevant, reports to Committee, decision notices and appeal decisions which are specifically referred to in the reports. Planning applications can be viewed on the planning website <http://www.rother.gov.uk/planning>

Planning Committee Reports

If you are viewing the electronic copy of the Planning Applications report to Planning Committee then you can access individual reported applications by clicking on the link ([View application/correspondence](#)) at the end of each report.

Consultations

Relevant statutory and non-statutory consultation replies that have been received after the report has been printed and before the Committee meeting will normally be reported orally in a summary form.

Late Representations

Unless representations relate to an item which is still subject to further consultation (and appears on the agenda as a matter to be delegated subject to the expiry of the consultation period) any further representations in respect of planning applications on the Planning Committee agenda must be received by the Head of Service Strategy and Planning in writing by 9am on the Monday before the meeting at the latest. Any representation received after this time cannot be considered.

Delegated Applications

In certain circumstances the Planning Committee will indicate that it is only prepared to grant/refuse planning permission if/unless certain amendments to a proposal are undertaken or the application is subject to the completion of outstanding or further consultations. In these circumstances the Head of Service Strategy and Planning can be delegated the authority to issue the decision of the Planning Committee once the requirements of the Committee has been satisfactorily complied with. A delegated decision does not mean that planning permission or refusal will automatically be issued. If there are consultation objections, difficulties, or negotiations which cannot be satisfactorily concluded, then the application will be reported back to the Planning Committee. This delegation also allows the Head of Service Strategy and Planning to negotiate and amend applications, conditions, reasons for refusal and notes commensurate with the instructions of the Committee.

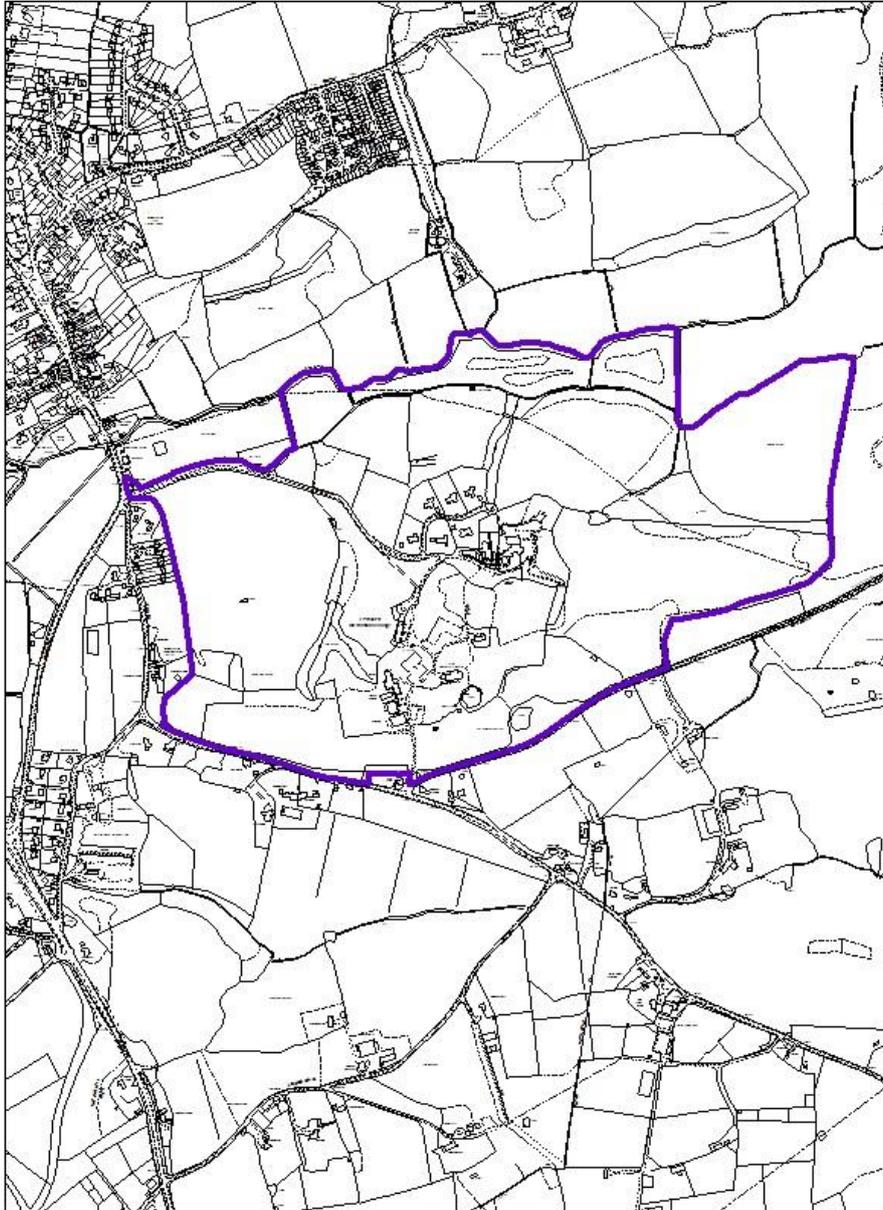
Applications requiring the applicant entering into an obligation under section 106 of the Town & Country Planning Act 1990 (as amended) are also delegated.

Order of Presentation

The report on planning applications is presented in the following order as shown below:

Agenda Item	Reference	Parish	Site Address	Page No.
7	RR/2019/1659/P	SEDLSCOMBE	PGL Pestalozzi Ladybird Lane Sedlescombe TN33 0UF	3
8	RR/2020/151/P	FAIRLIGHT	Pett Level Road – Land South of Fairlight Cove Fairlight	61
9	RR/2020/1410/P	BEXHILL	South of Barnhorn Road & West of Ashridge Court Barnhorn Road Bexhill TN49 4QL	95
10	RR/2020/2285/P	BATTLE	The Hurst Netherfield Hill Battle TN33 0LA	123
11	RR/2020/2373/P	BEXHILL	The Colonnade – Unit 12 The Promenade Bexhill TN40 1FH	129

SITE PLAN	SEDLSCOMBE
RR/2019/1659/P	PGL Pestalozzi, Ladybird Lane



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Not To Scale

Rother District Council

Report to	-	Planning Committee
Date	-	11 March 2021
Report of the	-	Head of Strategy and Planning
Subject	-	Application RR/2019/1659/P
Address	-	PGL, former Pestalozzi, Ladybird Lane, SEDLSCOMBE
Proposal	-	Change of use of site from a use comprising conference, dining, administration & education facilities with associated accommodation, to a use comprising a residential training and educational activity centre; together with operational development including kitchen extension to existing building, extension to existing accommodation block, new accommodation blocks, tenting area, car and coach park, site access improvements and new coach passing places, outdoor activities structures, new activity pond, living acoustic fencing and parkland tree planting.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT (FULL PLANNING) DELEGATED SUBJECT TO CONDITIONS AND COMPLETION OF A SECTION 106 AGREEMENT**

Head of Service: Tim Hickling

Applicant: PGL Travel Limited
Agent: Avison Young (Mr Oliver Collins)
Case Officer: Mr M. Cathcart
(Email: mark.cathcart@rother.gov.uk)
Parish: SEDLSCOMBE
Ward Members: Councillors C.R. Maynard and J. Vine-Hall

Reason for Committee consideration: Head of Service referral: Significant public interest.

Statutory 13-week date: 25 October 2019
Extension of time agreed to 13 November 2020

1.0 UPDATE AND SUMMARY

- 1.1 This planning application was previously reported to the Planning Committee in August 2020. Following late representations received the application was withdrawn from the agenda for further consideration and is now reported back to the Planning Committee for determination.

1.2 The application as originally submitted has been amended and the description of the development being applied for has been changed to that referenced above. The key amendments relate principally to:

- Reduction in the number of activity structures and repositioning.
- Reduction in the size of the activity pond.
- Reduction in the number of tents.
- Erecting natural green willow acoustic fencing.
- Deleting the proposed toilet and shower block.
- Re-design to the proposed accommodation blocks.
- Green (living) roofs to the accommodation blocks.
- Widening of the entrance.
- Reducing the size of the proposed car park.
- Parkland tree planting.

The revised scheme is reported here for determination.

1.3 The application relates to a large site at the edge of the village of Sedlescombe that was formerly occupied as the Pestalozzi International Children's Village but was recently acquired by the Applicants, PGL Travel Ltd. PGL operate several sites throughout the UK (and France) and specialise in educational activity courses, school trips, French language courses, children's activity holidays, summer camps and ski trips.

1.4 PGL are seeking to use the site and the application seeks planning permission for the proposed developments set out in the application description.

1.5 In summary, the application site lies within the countryside at the edge of the village. Parts of the site are previously developed land having been used since the 1950s by the Pestalozzi to provide residential accommodation and training to young people from overseas. The scope of this use was expanded by the granting of an earlier planning permission in 2008 (application ref: RR/2007/397/P) to the Pestalozzi, which introduced conference and other facilities on the site, including further accommodation blocks, so that external individuals and groups could experience residential training courses on the site to run along-side the Pestalozzi business model. This permission has been partly implemented.

1.6 In this regard: (i) development has commenced under the earlier planning permission for the purposes of s56 of the Town and Country Planning Act 1990 ("TCPA 1990"); (ii) because development has commenced, the earlier planning permission has not lapsed and is extant: (iii) the development permitted by the earlier planning permission has been partly undertaken, but not completed in its entirety.

1.7 Also, at that time, the Council granted planning permission (RR/2007/378/P) for 6 dwellings within the Pestalozzi estate as enabling development to help fund the improvements to the Pestalozzi (full details approved under RR/2010/1671/P). This residential development has been fully implemented and is now known as Oaklands Park. However, the Pestalozzi's occupation was not able to continue, and it has now vacated the site, having sold it to the current applicants. The site still contains some of the original Pestalozzi buildings – though others have been demolished.

- 1.8 The 2008 planning permission, being partly implemented, remains a live (extant) planning permission. Additional buildings approved under that planning permission that have not been built, can still be built. The 2008 planning permission is a material consideration in the determination of the current planning application.
- 1.9 There are some similarities between the proposed PGL use of the site and the format Pestalozzi use – as expanded by the 2008 planning permission – in that they aim to provide residential training courses for young people; however, in the case of PGL the use would be seasonal and the nature of the training experience based rather more on outside activity, including the use of specially constructed activity bases. The current application proposal has merit in that it utilises a vacant and partly previously developed site. Moreover, the application has been amended from that originally submitted to reduce the scale of the development and to introduce mitigation measures in respect of the main areas of concern.
- 1.10 The main issues for consideration are the impact of the development on the character and appearance of the landscape, including the High Weald Area of Outstanding Natural Beauty (AONB); the impact of the development on the amenities of local residents; the highway implications; and any impacts on biodiversity.
- 1.11 The application has generated a large volume of objections in response to the planning notice; however, the application must be judged on its individual planning merits and with due regard to planning policies and taking into account all material planning considerations (not the volume of objection).
- 1.12 Consultations have been carried out with statutory and advisory bodies and having assessed the responses received it is considered that subject to a Section 106 Agreement and conditions, planning permission can be granted.
-

2.0 SITE

- 2.1 The application site (some 55 hectares) lies to the south of Sedlescombe village. For several years it was occupied by the Pestalozzi International Village Trust (the Pestalozzi), which was established in the 1950s; however, this occupation has now ceased, and the site has been acquired by the Applicants, PGL, a private company specialising in residential and day activity holidays for children.
- 2.2 The site comprises an undulating rural landscape, containing pastureland and woodland areas, but also buildings and infrastructure remaining from the former occupation of the site by the Pestalozzi. The built development is within the central part of the application site scattered around the access road. The main complex of buildings comprises an assortment of individual blocks for accommodation, education and administration purposes. In addition to this there are a number of separate private residential properties surrounded by the redline site identified by the Applicants (Oaklands Manor, a converted stable block – four dwellings, and a cluster of 6 no detached dwellings (Oaklands Park).

- 2.3 Vehicular access into the site is via a single-track road 'Ladybird Lane'. This has a northern entrance (adjacent to West Lodge) to the B2244, close to its junction with Chapel Hill, and a southern entrance to Cottage Lane (adjacent to South Lodge). Oaklands Manor, the adjacent former stable block properties, and those within the more recent Oaklands Park development, share the Ladybird Lane access road.
- 2.4 To the north of the site, between the northern access and the village are the Sedlescombe Sports Fields, the River Rother, and open fields. Chapel Hill follows the western boundary of the site; this continues to form Cottage Lane, which follows the southern boundaries of the site. To the east of the site lies woodland and semi-open countryside. Both Chapel Hill and Cottage Lane contain a loose scattering of properties, mainly in residential use.
- 2.5 The site is outside the Development Boundary for Sedlescombe as identified in the Neighbourhood Plan. It is also within the designated High Weald Area of Outstanding Natural Beauty. There are three areas of ancient woodland with the site, with other areas being identified as a BAP (Biodiversity Action Plan) sites.
-

3.0 PROPOSAL

- 3.1 The application principally proposes the following operational development:
- Kitchen extension – a new building (395sqm) forming a commercial kitchen and dining area attached to an existing building – the former 'conference centre', which would be utilised as a dining hall.
 - Single storey extension to existing accommodation block (former Trisong Ngonga) to provide 4 no staff bedrooms (80sqm).
 - Two new accommodation blocks (two storey): Block 1 (1,125sqm) and Block 2 (480sqm).
 - Tenting area: permanent development would comprise 30 no. hard standings within the field south of the dining area to accommodate seasonal tented village (30 no. tents).
 - Car and coach park (85 car spaces overlapping 7 no coach spaces – (i.e. to be used by either) located in south part of village – next to Swiss Hall building.
 - Access improvements – widening of the northern entrance (adjacent to West Lodge) to the B2244 close to its junction with Chapel Hill, and the associated roadway 'Ladybird Lane' for about 35m into the site to allow two coaches (leaving and entering, to pass). Also, the creation of coach passing bays on Ladybird Lane.
 - Outdoor activity structures: a four-line 'zip wire' following the sloping ground levels (250m length) suspended on 3.5m high poles and a platform (about 1m high) at the start and finishing at ground level; climbing wall (13m tall); abseil tower (13.5m tall); linear courses x2 (Jacob's ladder) (about 12.8m tall); swings x2 (14m tall); activity shelters (4m x 2.4m).
 - The excavation of a pond (about 2300 sq. m) within the grassland pasture to the west of the proposed car park, to be used for activities such as canoeing and raft building (dimensions: 70m x 36m x 1m deep).

- Acoustic 'green willow' fencing to act as mitigation in respect of noise emanating from activity at pond, tenting area, and activity structures, as well as providing visual screening.
- New planting and landscaping.

[NB Figures given for the size of buildings relate to the ground floor external footprint].

3.2 In addition to the proposed new built development listed above PGL would utilise existing former Pestalozzi buildings (Sainsbury House, Swiss Hall, Education Centre, former Trisong Ngonga, former Songtsen Khang, former Chief Executives House, former VW (staff) Houses.

3.3 In terms of capacity (numbers of people), overall, the application would provide a maximum summer capacity for about 749 people sleeping on site:

(609 guests (made up of 541 children and 68 teachers) and (between 115 and 140 PGL staff) = up to 749).

In terms of the number of guests, however, the Applicant states that no more than 90% of this accommodation capacity would ever be reached, as the need to keep schools and genders separate means that there would always be unfilled beds. Moreover, it is said that this peak period of occupancy would only occur in mid-week during May and June which is the main time for school bookings.

3.4 The staff and guests would be accommodated in the proposed two new accommodation blocks (480); the proposed tented area (129), and the residual (between 115 and 140), principally staff, would be accommodated in existing buildings.

3.5 PGL provides organised activity holidays, mostly to school groups, for the full age range of 7-17 years, although PGL does also offer independent holidays for children who are not part of a larger group.

3.6 Residential courses are aimed at enabling engagement in a variety of organised sporting and outdoor adventure activities, which test both physical and mental abilities while helping to improve a young person's social skills by engendering teamwork.

3.7 The timetabled use of activity bases would run from 9am until 5/5:30 pm with evening entertainment running no later than 9pm.

3.8 Residential courses offered are typically three, five or seven days in length with the shorter stays more popular from March-June and September-October and the longer weekly stays generally more popular over July and August.

3.9 PGL sites are effectively closed during the winter months from the end of October into late February.

4.0 HISTORY

4.1 Recent PGL application:

RR/2020/48/T Works to various trees – withdrawn.

4.2 History:

Historically the site was part of the Oaklands Estate, which sat within a parkland setting with lodges to the north and south entrance gates. Oaklands was separated from the estate several years ago when Pestalozzi acquired the land and was established in the 1950s.

The site has an extensive planning history. The following applications are particularly relevant to the application.

4.3 Housing development:

RR/2007/378/P Outline: erection of 6 dwellings with alteration to an existing access – approved (with Section 106 planning obligation) as 'enabling development' in respect of improved facilities at Pestalozzi (as set out in application RR/2007/397/P) – Approved conditionally

RR/2010/1671/P Proposed residential development comprising of 6 no. detached dwellings with detached garages; proposed access road and soft/hard landscaping proposals; full approval sought following granting of outline approval for 6 dwelling development. RR/2007/378/P – Approved conditionally and implemented.

4.4 Pestalozzi:

RR/2007/397/P Part demolition of existing and construction of replacement buildings including improved conference, dining, administration & education facilities, accommodation; associated works including parking and alteration to existing access – approved (with Section 106 planning obligation) – part implemented.

RR/2007/397/MA Non-material amendment to RR/2007/397/P re. part demolition of existing and construction of replacement buildings including improved conference, dining, administration and education facilities, accommodation including roof lights and associated works including parking and alterations to an existing access – approved.

RR/2010/1264/P Amendments involving proposed relocation of approved conference block to site of approved administration block necessitating relocation of administration block following planning permission RR/2007/397/P – approved.

RR/2015/1557/MA Non-material amendments to approved applications RR/2007/397/P & RR/2010/1264/P. Make use of the void below part of the new building for storage and boiler plant to permit access without disturbing primary function of building. Change shape of the ventilation chimneys to function. To omit roof windows on the south roof slope. Incorporate opening lights in south facing windows for low level ventilation. Show timber cladding

to its correct size. Include fire escape path linking doors to south side. Adjust ground levels in north east corner. Bat roost areas shown – approved.

4.5 Associated temporary permissions for children's activity structures (with expiry date):

RR/2008/893/P Temporary climbing and abseiling tower (to 31/10/2008)

RR/2008/3338/P Erection of a temporary climbing and abseiling tower (to 31/10/2009)

RR/2009/370/P Construction of zip wire (to 31/10/2014)

RR/2009/3089/P Climbing & abseiling tower (to 31/10/2010)

RR/2010/2979/P Temporary abseiling tower (to 31/10/2011)

(The above where granted to 'Travel Class Ltd').

5.0 POLICIES

5.1 The following policies of the Rother Local Plan Core Strategy 2014 (CS) are relevant to the proposal:

- OSS2: Use of development boundaries
- OSS3: Location of development
- OSS4: General development considerations
- RA2: General strategy for the countryside
- RA3: Development in the countryside
- EC6: Tourism activities and facilities
- EN1: Landscape stewardship
- EN3: Design quality
- EN5: Biodiversity and green space
- TR3: Access and new development
- TR4: Car parking

5.2 The Sedlescombe Neighbourhood Plan (NP) has now been made and is in force. The following policies are relevant to the proposal:

- Policy 1: Sedlescombe development boundary
- Policy 3: Land at Pestalozzi

5.3 The following policies of the Development and Site Allocations Local Plan (DaSA) are relevant to the proposal:

- DEC2: Holiday sites
- DEN1: Maintaining landscape character
- DEN2: The High Weald AONB
- DEN4: Biodiversity and green space
- DEN5 Sustainable drainage

5.4 The National Planning Policy Framework and National Planning Policy Guidance are also material considerations. The following parts of the National Planning Policy Framework are particularly relevant to the development proposal:

- Paragraph 11: the presumption in favour of sustainable development
- Paragraph 38: decision-making
- Paragraph 83-84: supporting a prosperous rural economy
- Paragraphs 47- 48: determining applications
- Paragraph 172: development in the AONB

5.5 The High Weald AONB Unit Management Plan (2019-2024) is also relevant to the consideration of the application. The following are particularly relevant:

- Objective S2: to protect the historic pattern and character of settlement
- Objective S3: to enhance the architectural quality of the High weald and ensure development reflects the character of the High Weald in its scale, layout and design
- Objective G2: to protect sandstone outcrops, soils and other important landform and geological features
- Objective W1: to enhance the ecological quality and functioning of woodland at a landscape scale
- Objective W2: to enhance the ecological quality and functioning of woodland at a landscape scale.

6.0 CONSULTATIONS

6.1 Highway Authority: **NO OBJECTION** subject to the imposition of conditions.

6.1.1 Summary: *'Following my objection to the development proposal additional information has been submitted to address my concerns regarding the site access layout, clarify the level of traffic which would be generated by the proposed use and the capacity of the proposed site access junction to accommodate said traffic. The submitted information has allayed my concerns and my objection is withdrawn; however, I recommend that any grant of consent includes appropriate highway conditions.'*

6.2 Highways England: **NO OBJECTION**:

6.2.1 Summary: *'On the basis that we are satisfied that the development will not materially affect the safety, reliability and/or operation of the strategic road network (the tests set out in DfT Circular 02/2013, particularly paragraphs 9 & 10, and DCLG National Planning Policy Framework particularly paragraph 109) in this location and its vicinity'*

6.3 Environment Agency: **GENERAL COMMENTS** (summarised):

6.3.1 *Biodiversity: We note the ecological information has been updated and trust the recommendations within the Protected Species Survey report will be adhered to.*

Groundwater protection: For this type and scale of development we would make no detailed comments.

Flood risk: We have no concerns relating to the risk of flooding from rivers or the sea.

6.4 Southern Water Services: **NO OBJECTION.**

6.5 Lead Local Flood Authority (ESCC - SuDS): **NO OBJECTION:**

6.5.1 Summary: *'The information provided is satisfactory and enables the LLFA to determine that the proposed development is capable of managing flood risk effectively. Although there will be a need for standard conditions which are outlined in this response'*.

6.6 Natural England: **GENERAL COMMENT:** (summarised):

6.6.1 *'The consultation document indicates that this development includes Deciduous Woodland and Wood Pasture and Parkland priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused'*.

6.6.2 Separate comment received state that although the minimum size of a buffer zone with ancient woodland should be at least 15 metres, Natural England's standing advice would expect this to be significantly larger for a development of this nature and size.

6.7 County Ecologist: **NO OBJECTION:**

6.7.1 Summary: *'The information provided is satisfactory and enables the LPA to determine that whilst the proposed development is likely to have an impact on biodiversity, those impacts can be mitigated through the application of planning conditions which are outlined in this response.'*

6.8 County Landscape Architect: **NO OBJECTION** subject to conditions outlined below.

6.8.1 Further to a site visit being undertaken and with regard to the revised drawings provided, revised comments have been received (summarised):

1. The proposed green roofs to the accommodation blocks will help to integrate the buildings into the local landscape. Public views towards the site of these buildings are distant and the buildings would be partially screened by the intervening trees, some of which are evergreen. The buildings need to be considered in the context of the existing built development on the site and the extant planning permission.
2. The proposed willow wall around the activity pond would be preferable to a timber fence. This would be an artificial feature and would need to be screened/softened by appropriate native tree and shrub planting.
3. The proposed planting around the pond would help to integrate it into the surrounding landscape.

4. The development would need to demonstrate and overall enhancement to the AONB landscape and it is recommended that the Applicant is required to provide a detailed landscape management plan for the entire site area, and this would need to include:
 - (a) Confirmation of proposed circulation routes around the site and in particular between activities. This would need to ensure that valuable areas of parkland habitat of wood pasture and woodland are not subjected to excessive trampling. If surfaced paths are to be introduced the location and materials used would need to be agreed.
 - (b) A landscape and ecological management plan for all areas of the Pestalozzi estate and in particular parkland pasture, woodland and ponds. This would need to enhance and protect the historic character of the parkland.
 - (c) Full implementation of the tree planting strategy submitted to support the application.

6.9 AONB Unit: **OBJECTION** (summary):

6.9.1 - The scale and bulk of the proposed guest accommodation conflicts with objective S3 of the High Weald AONB Management Plan (HWAONBMP).

- The proposed creation of a new lake would result in significant change to the landform of this part of the AONB, which would conflict with objective G2 of the HWAONBMP.

- The development would be detrimental to the sense of naturalness, remoteness, tranquillity and dark skies contrary to objective OQ4 of the Management Plan.

- It would result in a substantially greater pressure on the Ancient Woodland habitats within the site than the previous use resulting in damage from soil compression and disturbance to habitats and species, contrary to objectives W1 and W2 of the Management Plan.

- Given the impacts of the proposed change of use and operational development on the purposes for which the AONB was designated (i.e. conserving and enhancing natural beauty) it is advised that this development should be considered 'major' in the terms of National Planning Policy Framework paragraph 172. Planning permission should therefore be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest having regard to the tests set out in that paragraph.

6.10 County Archaeologist: **NO OBJECTION** subject to conditions:

6.10.1 The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions (outlined in the response).

6.11 Head of Environmental Services, Licensing & Community Safety - Environmental Health: **NO OBJECTION** (summary):

6.11.1 *In summary: The lack of guidance for this proposed use makes this application difficult to assess. However, even though residents will likely hear some children noise at times, Environmental Health has no justification to recommend refusal for this Planning application. It is in the interests of PGL to proactively manage noise from this site. This is because any future noise complaints made to Environmental Health will be investigated under Statutory Nuisance legislation and if a Statutory Nuisance is identified, formal action would be undertaken.*

However, the noise assessment indicates that this plan will not result in a Significant Adverse Impact and any potential adverse impacts have been mitigated by good design of the site and introduction of measures to minimise noise. As such, Environmental Health recommends approval with conditions.'

6.12 Sussex Police: **NO OBJECTION**.

6.13 Parish Council: **OBJECTION** (summarised):

- A major development in the AONB needs to demonstrate that it satisfies the criteria of 'exceptional circumstances' and being 'in the public interest'.
- It directly contravenes the Countryside and Rights of Way Act 2000 (CRoW) Part IV section 82 which specifically reaffirms the primary purpose of the AONB designation is to conserve the landscape and enhance scenic beauty.
- PGL should not be able to rely on the extant permission in making this application which should be treated as a new application.
- the proposed lake creates a permanent damaging change to this historic field and the AONB,
- Noise from activity on the lake will be loud and will directly affect South Lodge and the adjacent dwellings in Chapel Lane and Chapel Hill (private dwellings).
- The zip wires in their proposed locations will generate significant noise 7 days a week directly adjacent to both residential properties and more distantly to but still materially affecting residences in Sedlescombe village itself.
- The proposed accommodation blocks are significant in size and are presented as large singular structures with no subtlety in design. The buildings will be highly visible from across the Brede Valley and will generate significant light pollution in a rural area where dark skies are supported in the High Weald AONB. In addition, they incorporate materials which out of keeping.
- This development would attract some 706 guests each week in addition to the 170 staff. The proposal is for 22,500 visitors over an 8-month period. The accommodation has a capacity for 706 guest and 170 staff, a total of 876 people. On the basis of an average dwelling having an average of 2.5 occupants, the proposal equates to the construction of dwellings for the equivalent of 350 dwellings which would increase the number of dwellings and permanent and semi-permanent population of Sedlescombe village by some 60%. This equates to the creation of a village comparable in size to Catsfield or Staplecross This can only ever be viewed as a large development and should be refused on that basis alone given the local plan.

- Highways issues. Widening the access at Chapel Hill to allow two coaches to pass creates an increased risk of accident for other road users; these changes would fundamentally and negatively change the look of the entrance to both the historic parkland and Sedlescombe village. The site entrance is directly outside a private residence and would cause a significant loss of amenity for that property.
- PGL states that they will ensure coaches are routed via the A21 and not through the village; however, this cannot be effectively conditioned or enforced.
- The submitted Noise Impact Assessment does not satisfactorily address the impacts of noise and disturbance from activities on the site and the harm these will have on the amenities of local residents.
- It should be noted that the High Weald AONB is celebrated for its tranquillity; the application is in conflict with this feature.
- Contrary to the Applicant's assertion that outdoor activity equipment has been "a regular feature in connection with the existing use of the site", approval in the past was for the temporary use of a single climbing/abseil tower and a single zip wire, for use in the summer months by far fewer children than currently proposed (250 per month vs. 706 per day), and that this significantly lower level of outdoor activity ceased more than 8 years ago.
- Of concern noise from the tented area particular concern during the sensitive evening and night-time periods. There is no guarantee that an adult will always be present to supervise.
- The proposed green willow acoustic barriers to reduce noise would take many years to reach a height and density to be effective. Additionally, this type of planting is inconsistent with the parkland environment.
- 30 large tents located on concrete bases in the High Weald AONB are contrary to local plan policy and neither enhance nor conserve the AONB landscape and scenic beauty. It should be noted that they are being sited on undeveloped land. The proposed camping is in direct conflict with policy RA2 para 12.63. The proposal neither improves an existing camping site nor is it of small scale and the permanent nature of the concrete bases is unacceptable in the AONB.
- PGL's legal advice seeks to support a view that each field can be treated as a planning unit and used as a camp site under the 28-day permitted development rights. This is simply not correct. It is well established that the 28-day permitted development rights apply to the whole of a single area of parkland use in one ownership.
- The proposed development is in conflict with policy 1 of the Sedlescombe Neighbourhood Plan (SNP) which defines the development boundary and policy 3 which outlines the expected level of new development at Pestalozzi.
- Regarding the three objectives of sustainable development set out in the National Planning Policy Framework; when considering the environmental objectives the development would cause significant and permanent damage to the landscape, scenic beauty and tranquillity of the High Weald AONB; It would provide positive social benefits for children; however, it cannot be said to provide local social benefits for Sedlescombe residents (as evidenced by the high number of objections). It would deliver short term economic benefits in terms of the construction required, although this is unlikely to be locally sourced. Ongoing it would appear that the PGL centre would employ some local staff, but generally at the lowest pay levels. They confirm that the majority of their supplies

would not be locally sourced, with local sourcing only being used for 'last-minute items'. They do say that staff may use local taxis, which has some but a very modest local economic uplift. The economic benefit of this development is at best neutral.

- Whilst Sedlescombe Parish Council and residents of Sedlescombe are clear that they support the type of fun-based activity centres that PGL supplies as a business, the fundamental issue is that whilst it is a good activity for children the proposed development is simply in the wrong location for this business. The issue for this application is about the location of the activity centre in the AONB, and the effect of those activities on both the amenity of neighbours and the impact on the landscape, scenic beauty and tranquillity of the AONB.

6.14 Planning Notice:

6.14.1 A petition containing 90 names has been received **OBJECTING** on the grounds of (i) significant change in the nature of activities from educational to leisure; (ii) impact on the AONB; (loss of residential amenity);(iii) impact on ancient woodland and biodiversity; and (iv) impact on parkland setting.

6.14.2 Some 1,030 letters of **OBJECTION** have been received; this total includes letters received in response to the original planning application, letters received in response to the amended plans following re-publicising the application, 200+ based on a pro-forma, and multiple letters from the occupiers of the same properties. The standardised letter states objections to the development on the grounds of (i) overdevelopment and intensification of the site within the AONB; (ii) Impact on neighbouring residential amenity arising from noise, air and light pollution; (iii) significant increase in traffic, and (iv) the development will have no benefits to the local community but will impact on wildlife, ancient woodland, historic parkland, and dark skies. In addition to local residents this includes an objection on behalf of the Campaign to Protect Rural England (CPRE); (summarised):

General:

- Comments to the original application remain unaltered. The revised application continues to be unacceptable.
- The amended application comprises minor cosmetic changes to the previously deposited plans, together with post hoc justifications to the already submitted objections.
- Out of all proportion to the size of Sedlescombe.
- PGL already have another 12 sites in the UK, including one only ten miles away at Windmill Hill, so there is no need for another site in this unique location, especially one that will provide little or no environmental, social or economic benefit.

Use of the site:

- The existing permission from RDC does not allow for activity equipment or a lake or a permanent campsite.
- RDC provided the existing planning permission with the intended use of the site primarily based on indoor education and conference facilities.
- The PGL application is based on providing outdoor activity equipment for its guests. This is clearly a substantial change of use.

- The scale of the proposal is excessive in terms of guest numbers. Pestalozzi had a planning application approved for two accommodation blocks for 180 guests plus a refurbishment for 60 students plus 40 staff - a total of 280. In contrast the PGL application is for 480 guests in two accommodation blocks plus 226 (in 53 tents) plus 170 staff - a total of 876.
- This is a change of use from C2 to D2; Pestalozzi had at most 60 children, who walked down Ladybird Lane to catch the bus to attend Sussex College.
- Concerned that PGL seem to be suggesting that any planning approval should not include any restriction on the number of people on the site; this would be intolerable for a village of 1400 inhabitants which is already being subjected to an increase of up to 900 additional persons.

Impact on countryside landscape including AONB:

- Unacceptable use of a tranquil site located in an AONB area which must be protected.
- The impact this development will have on the land, the watercourses and nearby ancient woodland could be devastating.
- Sedlescombe is an area with exceptional night skies due to low light pollution which will be significantly affected by the proposal.
- Development will result in loss of trees on Ladybird Lane.

Biodiversity:

- I have seen grass snakes, owls and badgers on the site.
- Very negative impact on nature conservation, ancient woodland and fields and parkland of historical and archaeological importance.

Amenity:

- A number of objectors have criticised the technical noise assessment by the Council's Environmental Health Service of the Applicant's acoustics report
- The proposed use is incompatible with the surrounding area.
- Noise activity and disturbance would have an unacceptable impact on the residential amenity of those living in the locality.
- The noise generated by 600 children on a daily basis including weekends from February until November would be relentless and intolerable.
- The planned outdoor activities including a five wire Zip Line will create a noise pollution.
- Exhaust fumes from coaches and extra staff/deliveries will adversely affect the well-being of local residents.
- Noise from the campsite will impact on nearby houses.
- Under the Human Rights Act, a person has the right to peaceful enjoyment of all their possessions, which includes the home and surrounding land, and protection of the countryside, unless it is in the public interest.
- The times are apparently going to be from 7am until 9.30pm seven days a week.

- South Lodge purchased additional land from Pestalozzi some years ago after the original planning had been agreed; this means that the car/coach park (in the previously approved position) would now be closer to our boundary.
- Concerned about noise from activities not requiring planning consent, disco's, campfire activities, plant noise.

Highways:

- There would be substantially increased levels of traffic with additional coaches, cars and delivery vehicles on roads and junctions which are not able to accommodate this level of traffic.
- The traffic movements both daily and weekly will have an adverse impact on the village which is already suffering from a high volume of non-local traffic with HGV's and coaches using it as a 'rat-run' to avoid the A21.
- Of concern is the volume of traffic that will use Ladybird Lane, consisting of coaches and staff cars. The Lane is currently a safe place for families and children to safely walk and access the village.
- Traffic problems will be compounded with predicted 60 coaches that could arrive and depart in one day, plus deliveries and staff travel.
- Increase in traffic on what is already a dangerous junction; the Chapel Hill/B2244 junction already has notoriously bad sight lines and the increased number of vehicles turning into Ladybird Lane will only increase the likelihood of accidents.

Policy:

- The application conflicts with policies EN1, EN5, RA2, RA3, OSS3 and OSS4, of Rother Local Plan Core Strategy and HG8 and EM10 of the Rother Local Plan 2006.
- The application conflicts with the National Planning Policy Framework clauses 170-177.
- Conflicts with the High Weald AONB management plan Objectives W1, W2.
- Conflicts with Sedlescombe Neighbourhood Plan Objectives 7-10 and 12. Policy 3 of the Sedlescombe Neighbourhood Plan.
- Development guidance states that major developments should not take place in AONBs apart from in exceptional circumstances; this is clearly a major development, and clearly not an exceptional circumstance.

Infrastructure and Services:

- No assessment has been made of the likely impact on local GP and NHS services nor the opinions of these services sought as to how they might be affected.
- Sedlescombe and Westfield Surgery: No discussion or consultation has been held with this surgery over the ability of our small village surgery to cope with this unfunded additional workload or the local hospital which is already overstretched. The GPs at this Surgery therefore opposes the application from PGL in the strongest possible terms. Dr's Mirchandani, Pashley, Meilak, Di-Stefano and Davis.

6.14.3 In addition to the above, **OBJECTIONS** have been submitted on behalf of a group of local residents by: GRF Planning; Acoustic Associates Sussex Ltd (rebuttal to applicant's acoustics reports); Dr John Feltwell - Wildlife Matters Consultancy (rebuttal to applicant's biodiversity reports and comments by County Ecologist); Kingsley Smith Solicitors LLP (legal opinion); and Richard Buxton Solicitors (comments in relation to development and last summer's committee agenda).

The above reports and the individual letters of representation can be viewed in full on the website.

6.14.4 Seven Letters of **SUPPORT** (summarised):

- A well thought out scheme which will bring many benefits to the village and community. Well planned and screened development. I do overlook the site from my house and do not consider it to be a problem.
- It will bring employment into the village and an area providing wholesome activities for children is surely much better than what could end up there!
- PGL offers many activities for young people growing up in today's challenging world. I would envisage this site as a perfect location for such a project. Surely this is a better option than it becomes a derelict ruin and the target for local vandalism.
- Local residents did not have a problem buying property that was built from Pestalozzi in the past, when they required funding; this counteracts the AONB argument.
- This facility will not only inject some life into the village, it will provide much needed local employment; engender further investment, which should result in a greater range of local facilities. In the event the application is refused, what will we get as a substitute - more housing?
- I look forward to hearing children's laughter. As long as it doesn't go on into the night.

6.14.5 Letters of **GENERAL COMMENT** (summarised):

- PGL should investigate whether improvements to the local bus routes (e.g. the Community Transport) could be affected, such that site users and local residents alike could benefit.
- We are in general in support of this scheme but have our concerns as PGL wish to put a bay for coaches to pull into adjacent to our property (Old Orchard, Chapel Hill), which would allow people on said coaches to look directly into our home/bedrooms. The bay is also opposite the Lodge and would affect them severely too.

7.0 APPRAISAL:

7.1 Main issues:

7.1.1 The main issues for consideration are (i) the use of the site; (ii) the impact of the development on the character and appearance of the landscape, including the High Weald Area of Outstanding Natural Beauty (AONB); (iii) the impact of the development on the amenities of local residents; (iv) the highway implications; and (v) any impacts on bio-diversity. In assessing

these issues, it is necessary to give consideration to the scale and nature of the use and the operational development involved. Before assessing each of these considerations, however, the planning policy background to the application is first set out below.

7.2 Planning policy background:

- 7.2.1 Paragraph 7-10 of the National Planning Policy Framework sets out the presumption in favour of sustainable development and sets out the three objectives of sustainable development (an economic objective, a social objective, and an environmental objective).
- 7.2.2 Paragraph 83 of the National Planning Policy Framework ('supporting a prosperous rural economy') states that planning policies and decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses; and c) sustainable rural tourism and leisure developments which respect the character of the countryside.
- 7.2.3 Paragraph 172 of the National Planning Policy Framework states that great weight should be given to conserving and enhancing the landscape of the AONB. This is reflected in development plan policies, specifically Policy EN1 of the Core Strategy and DEN2 of the DaSA Local Plan. Additionally, Policies OSS4 (iii) of the Core Strategy and DEN1 of the DaSA require that development respects and does not detract from the character and appearance of the locality. Policy RA2 of the Core Strategy states that the overriding strategy for the countryside is to: (iii) strictly limit new development to that which supports local agricultural, economic or tourism needs and maintains or improves the rural character; (v) support rural employment opportunities in keeping with rural character and compatible with maintaining farming capacity; (vii) support tourism facilities, including touring caravan and camp sites, which respond to identified local needs and are of a scale and location in keeping with the rural character of the countryside; and, (viii) generally conserve the intrinsic value, locally distinctive rural character, landscape features, built heritage, and the natural and ecological resources of the countryside. Policy RA3 provides that proposals for development in the countryside will be determined on the basis of: (ii) supporting suitable employment and tourism opportunities in the countryside, including by the sensitive, normally small-scale growth of existing business sites and premises; and (v) ensuring that all development in the countryside is of an appropriate scale, will not adversely impact on the landscape character or natural resources of the countryside and, wherever practicable, supports sensitive land management.
- 7.2.4 Policy EC6 of the CS: sets out that proposals relating to tourism activities and facilities will be encouraged where they accord with the considerations listed, as appropriate: this includes where it provides for the enhancement of existing attractions or accommodation; increases the supply of quality serviced and self-catering accommodation; and is compatible with other Core Strategy policies (including those relating to the AONB).

- 7.2.5 Policy DEC2 (holiday sites) of the DaSA reflects this and includes the requirements that proposals for purpose-built holiday accommodation must safeguard landscape character and amenities, paying particular regard to the conservation of the AONB.
- 7.2.6 Holiday accommodation is also included in the National Planning Policy Framework paragraph 83 (“Supporting a prosperous rural economy”), which states that planning policies should enable sustainable rural tourism and leisure developments which respect the character of the countryside.
- 7.2.7 The High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024 (AONB Management Plan) is also a material consideration, particularly the policy objectives described in 5.5 above.
- 7.2.8 The Sedlescombe Neighbourhood Plan has been made and is in force. This is discussed further in the section immediately below.

7.3 Departure from the development plan:

- 7.3.1 The TCPA 1990 at s70(2) states that in dealing with an application for planning permission or permission in principle the authority shall have regard to the provisions of the development plan, so far as material to the application. The Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) states at s38(6) that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this regard, the development plan incorporates the Council’s Core Strategy, the Development and Site Allocations Local Plan, saved policies of the Rother Local Plan 2006 and the Sedlescombe Neighbourhood Plan (NP). The application in this case has been advertised as a departure from the development plan in so far as it departs from Policy 3 of the NP.
- 7.3.2 NP Policy 3: ‘Land at Pestalozzi and Proposals Map: Inset B’ allocates land for residential development (anticipated to be in the order of 6-8 units). This land allocation is within the central part of the application site and is the location of the proposed accommodation Block 1. The Policy links the occupation of some of the proposed new dwellings - as well as cross-subsidy received from the market dwellings - to the continued use of the site by Pestalozzi. The Policy was written with the Pestalozzi Trust in mind and at a time when they still occupied the site. Paragraph 71 of the NP states that, *‘The re-development is intended to facilitate the refurbishment/replacement of existing staff and volunteer accommodation as well as financially helping to secure Pestalozzi’s future operations. It will also help Pestalozzi to retain and recruit staff and volunteers.’* This clearly could not now happen as the Pestalozzi no longer occupy the site and have sold the land. As a further point, it is also the case that the current application proposal would not prejudice the NP’s ability to deliver Sedlescombe’s housing target as set out in the Core Strategy, as Policy 3 was to form additional provision for new homes, intended to secure long-term economic and social objectives. As is implicit in this assessment, NP Policy 3 is afforded less weight given that the Pestalozzi Trust have vacated the site. Furthermore, even if there is conflict with NP Policy 3, this does not mean that the proposed development does not comply with the development plan

read as a whole (see e.g. *R (Corbett) v Cornwall Council* [2020] EWCA Civ 508, [2020] JPL 1277); and, even if there is conflict with the development plan read as a whole, material considerations may indicate that planning permission should be granted other than in accordance with the development plan. As stated, Policy 3 of the NP can be afforded less weight now that the Pestalozzi has vacated and sold the site and this is a material consideration that would allow an alternative form of development to be approved on this part of the site, where it is in accordance with the development plan as a whole. In this regard there is no conflict with the development plan as a whole.

7.4 *The 2008 permission (application RR/2007/397/P- approved in 2008 that was partly implemented and remains extant):*

7.4.1 Under application RR/2007/397/P planning permission was granted (8 January 2008) for the construction of replacement buildings, including improved conference, dining, administration and education facilities, accommodation; associated works including parking and alteration to existing access. The application is referred to in the report as ‘the 2008 permission’. While the Pestalozzi occupied the site at this time, the effect of this permission was to broaden the use of the site, by introducing conference and other facilities on the site, including further accommodation blocks, so that ‘external’ individuals and groups could experience residential training courses on the site to run along-side the Pestalozzi business model. The development permitted by the earlier planning permission has been partly undertaken, but not completed in its entirety (an existing building, Sainsbury House was refurbished, and one new freestanding building was constructed – the conference or learning centre). This means that development has commenced under the earlier planning permission for the purposes of s56 of the TCPA 1990. Because development has commenced, the earlier planning permission has not lapsed and is extant and the residual development permitted under that permission can still be carried out on the site.

7.5 *The use of the site:*

7.5.1 The description of development contained in the planning application has been changed at the request of the Council. The original description of development provided by the Applicant was only for the operational development proposed (i.e. the new buildings and structures etc.), and it did not include the change of use of the land. Supporting information with the application stated that the Pestalozzi use of the site and the proposed PGL use both fall within class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Any assessment in terms of material change of use is a matter of planning judgement; however it is considered that the Council’s amended description firstly, aligns the description of the former use as closely as possible to the 2007 description (the 2008 permission) and secondly, introduces reference to the proposed use being (inter alia) an ‘educational activity centre’ (the term ‘activity’ being referenced frequently in the supporting planning statement). The extent of outdoor learning/experiences is a key factor which differentiates the proposal from the former use.

7.5.2 The Applicant’s position remains that it is not agreed that there is any change of use that requires planning permission; however, the Applicant has

accepted the amended description and the application is determined on this basis.

7.5.3 The Applicant's case is supported by a legal opinion provided by the Applicant's solicitors 'Tozers'. This states that it is not necessary to apply for the change of use of the site because no change of use is involved. Their legal advice states: that the use of the site by Pestalozzi was a use falling within C2 of the Town and Country Planning (Use Classes) Order 1987; that the extant 2008 planning permission was for operational development in connection with the established C2 use; and that the nature of the use proposed by PGL would also be a C2 use (i.e. Pestalozzi, the 2008 planning permission, and PGL are C2 uses).

7.5.4 The relevant provisions from the Town and Country Planning (Use Classes) Order 1987 (as amended) are as follows:

C2 – Residential Institutions:

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

The Interpretation within the Order states that "care" also includes, *'the personal care of children'*.

7.5.5 Whether a particular use of land will fall within a particular Use Class is a matter of fact and degree in each case. The supporting information with the application argues that the intended use is in accordance with the latter use - as a residential training centre.

7.5.6 The supporting information with the application refers to appeal decisions elsewhere (relating to non-PGL sites) for use of land as a training centre that were considered by the respective appeal inspectors to fall into use class C2:

- Badby Lodge Farm, Badby, Northamptonshire (appeal APP/Y2810/W15/3141251) for a proposed residential 'Boot Camp', where an Inspector considered a residential fitness training centre, most of which is undertaken out of doors, to be C2 use; and another:
- Sir Ranulph Bacon House, Croydon (appeal APP/L5240/X/01/1079928) which involved a hostel where young adults were provided with on-site training to improve their prospects; where in the absence of Government guidance the Inspector turned to the ordinary dictionary definition of 'training' which included, *'to instruct and discipline in or for some particular art, profession, occupation or practice; to exercise, practice drill'* and found the use to be within C2.

7.5.7 Also provided with the application as supporting information are recent planning decisions for PGL sites elsewhere, in which the relevant Local Planning Authority expressed a view on the nature of the PGL use:

- Bawdsey Manor, Bawdsey, (Suffolk Coast & Waveney DC, ref: DC/17/4043/FUL) – The planning officer report stated, ‘*the use of the site by PGL does not require planning permission because the site has planning permission [...] to be used for educational use including the boarding of students, teacher training courses and field study centre (residential and non-residential).*’
- The Liddington, Swindon (Swindon BC, ref S/09/2029/ROBI) - The planning officer report stated, ‘*this proposal will finally bring the whole site under one planning C2 use*’.
- Newby Wiske, Newby (Hambleton DC, ref: 17/01285/FUL) – The decision notice issued to PGL was for, ‘*Change of use to a residential training centre (Class C2) ...*’.

7.5.8 However, letters of objection received in respect of the current application take the opposing view – that a change of use is involved – including the Kingsley Smith solicitor’s letter on behalf of residents, which states the 2008 permission granted to the Pestalozzi did not state that it approved a use within C2 and, moreover, the development now proposed is of a different type, scale and kind to that previously approved. Other objectors bring the following to the Council’s attention:

- Marchants Hill, where the local authority (Waverley BC ref: WA/2017/1621) considered the lawful use of the site as currently used by PGL to fall within Class D2 of the Use Classes Order (Assembly and Leisure).
- Windmill Place, where the local authority (Wealden DC ref: WD/2008/2116/MAJ) considered the use of the site by PGL to fall within a mixed use with elements of C1, C2, D2, and sui generis uses.

The Applicant’s response to the above is that their analysis of the lawful use of those sites was incorrect in that the Waverley decision refers to D2 use only, and fails to have regard to the residential use whatsoever; and the Wealden decision is also flawed because the site is treated as comprising several different uses, without considering whether the uses considered together would constitute an alternative use class, i.e. C2.

7.5.9 As stated in paragraph 7.5.1, what constitutes a material change of use is a matter of planning judgement. The ‘existing use’ of the site has to be viewed in the context of the historic use by the Pestalozzi and also the 2008 planning permission, which broadened that use somewhat, to include rather more ‘external’ uses, including as a conference centre. There are similarities in the existing authorised use of the site and the proposed use by PGL; however, there are also differences, including the extent of outdoor learning/experiences set out in the current application. Ultimately, it is considered the application can reasonably be determined on the basis of the amended description.

7.6 The impact of the development on the character and appearance of the AONB:

7.6.1 The site lies within the designated High Weald Area of Outstanding Natural Beauty. The primary purpose for which the area has been designated or defined is to conserve and enhance natural beauty.

- 7.6.2 The legal framework for AONBs is set out in the Countryside and Rights of Way Act 2000. Section 82 provides for the purposes of AONBs:

82(1) Where it appears to Natural England that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, Natural England may, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.

Section 85 requires that ‘in exercising or performing any functions in relation to, or so as to affect, land’ in National Parks and Areas of Outstanding Natural Beauty, relevant authorities ‘shall have regard’ to their purposes for which these areas are designated i.e. the conservation and enhancement of natural beauty:

- 7.6.3 The National Planning Policy Framework at paragraph 172 says:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks. and the Broads⁵⁴. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development⁵⁵ other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

The footnote 55 says:

‘For the purposes of paragraphs 172 and 173, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined’.

- 7.6.4 Planning guidance in relation to AONBs is also contained within the NPPG. This states that, *in exercising or performing any functions in relation to, or so as to affect, land’ in National Parks and Areas of Outstanding Natural Beauty, relevant authorities ‘shall have regard’ to their purposes for which these areas are designated* - Paragraph: 039 Reference ID: 8-039-20190721.

The guidance states that, *Management plans for ... Areas of Outstanding Natural Beauty do not form part of the statutory development plan, but they help to set out the strategic context for development. They provide evidence of the value and special qualities of these areas* - Paragraph: 040 Reference ID: 8-040-20190721.

The guidance also makes reference to National Planning Policy Framework policy which makes clear that, *the scale and extent of development in these areas should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty* - Paragraph: 041 Reference ID: 8-041-20190721.

In relation to 'setting' the guidance states that, *land within the setting of these areas often makes an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account* - Paragraph: 042 Reference ID: 8-042-20190721.

- 7.6.5 Paragraph 172 of the National Planning Policy Framework is reflected in local development plan policies, specifically Policy EN1 of the Core Strategy and DEN2 of the DaSA Local Plan, which include the requirement that 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 distinctive identified landscape character, ecological features and settlement pattern of the High Weald Area of Outstanding Natural Beauty.
- 7.6.6 The High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024 (AONB Management Plan) is also a material consideration, particularly the policy objectives described in 5.5 above.
- 7.6.7 In assessing the proposed development an initial issue for consideration is whether the proposal would constitute major development within the AONB. It is noted that the High Weald AONB Unit in its consultation response considers that the proposal would constitute 'major development'. The issue is referenced in the National Planning Policy Framework at paragraph 172 (reproduced in full above), which states that the scale and extent of development within these designated areas should be limited and planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. The National Planning Policy Framework does not provide a definition for major development in AONBs; however, the footnote to the paragraph at 55 states that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.
- 7.6.8 Legal Opinion is also relevant in considering what amounts to 'major development'. The Opinions provided in 2014 by James Maurici QC to the South Downs National Park Authority as part of evidence in relation to its

Local Plan (and therefore in the context of a National Park) advised that in determining what constitutes a “major development” in the context of paragraph 116 of the 2012 National Planning Policy Framework (a precursor to the current February 2019 in which the relevant paragraph is 172) regard should be had to whether:

“any development which, by reason of its scale character or nature, has the potential to have a serious adverse impact on the natural beauty, recreational opportunities, wildlife or cultural heritage provided by a National Park. Obviously, the assessment of whether the proposal is major is therefore a matter of judgment based on all the circumstances, including the local context.”

He also sets out criteria or principles that may be applied by decision makers when assessing whether a development proposal is ‘major’ summarised as follows:

It is a matter of planning judgement to be decided by the decision maker.

- Major development should be given its ordinary meaning.
- It would be wrong to treat ‘major development’ in the National Planning Policy Framework as having the
- definition of ‘major development’ contained within the Town and Country Planning (Development Management Procedure) (England) Order.
- The application of criteria such as whether the development is EIA (Environmental Impact Assessment) development may be a consideration but will not determine the matter.
- The definition should not be restricted to development proposals that raise issues of national significance.
- The decision maker may consider whether the proposed development could cause a significant adverse impact on the purposes for which the area has been designated or defined.
- The decision maker may consider the proposed development in its local
- context as a matter of planning judgement.

7.6.9 A point to note arising from the above is the fact that the planning application here being reported had been categorised as a “major application” within the meaning of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended); this, however, is procedural for the purposes of processing the application only, and as the Opinion points out, it would be wrong in law to apply the definition of major development contained in what is now the 2015 Order to what is now paragraph 172 of the National Planning Policy Framework.

7.6.10 Relevant case law is also a consideration:

In *Aston v Secretary of State for Communities and Local Government* [2013] EWH 1936 (Admin) Mr J Wyn Williams rejected a submission that the phrase “major development” in paragraph 116 [now paragraph 172] should be given the same meaning as where the term appears in the Order (or its precursor). Instead, he held that the term “*should be construed in the context of the document in which it appears*”.

In *R. (JH and FW Green Ltd) v South Downs National Park Authority* [2018] EWHC 604 (admin) Mr J Stuart-Smith discusses Opinion and the Maurici principles further and goes on to say:

“No authority has been cited to me that supports or mandates the assertion that the categorisation of a proposal as a “major development” under the Order will be a relevant consideration when making the quite separate judgment whether the proposal is a “major development” within the meaning of paragraph 116 [now paragraph 172].”

With regard to the assessment of the potential for harm brought about by a development Mr J Stuart Smith recognised that the most relevant parts of Mr Maurici’s Opinion were the formulation of a set of principles that were derived from caselaw, guidance and appeal decisions this identified:

‘...in making a determination as to whether the development is “major development”, the decision maker may consider whether the development has the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by a National Park or AONB by reason of its scale, character or nature. However, that does not require (and ought not to include) an in-depth consideration of whether the development will in fact have such an impact. Instead, a prima facie assessment of the potential for such impact, in light of the scale, character or nature of the proposed development is sufficient’.

[55] I regard any distinction between “potential” for harm and “likelihood” of harm as sterile and unimportant. Any assessment of potential for harm necessarily includes some consideration of whether harm is likely; and if Mr Maurici meant to advise that the existence of any possibility at all of serious harm would require any development to be categorised as a “major development” within the meaning of paragraph 116, I would respectfully disagree. What the OR did was to conduct a reasoned and reasonable assessment of the potential for harm and to conclude that, although some harm would eventuate, the criteria for categorising the proposal as a “major development” within the meaning of paragraph 116 were not satisfied.

7.6.11 It is necessary to assess whether the proposed development is major development in AONB terms, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. Secondly, if not major development, whether there would still be impacts which would make the proposed development unacceptable in terms of AONB designation, including development plan policies.

7.6.12 In considering whether the proposal is ‘major development’ in the context of paragraph 172 and footnote 55 it is necessary to assess this having regard to consideration of the development proposal itself. It is, however, relevant to assess this against the current position. The site has a history of use in association with the Pestalozzi Children’s Village. In assessing the nature, scale, and setting of the current proposal, it is relevant that the proposed development is a ‘replacement’ of the use of the site by the Pestalozzi – it is not ‘in addition to’ (– i.e. introducing an additional user). It is also relevant that, as previously stated, the main core of the application site is not ‘greenfield’ but previously developed land containing buildings, infrastructure and associated facilities that have been in use by the Pestalozzi for a

number of years and, in terms of location, pattern and layout, the proposed development would principally be concentrated in this area. A number of the remaining buildings are of substantial construction and of a size and scale which reflects the institutional nature of their historic use.

7.6.13 The nature of the proposed development is as a residential activity centre for children, which includes elements of training and education, together with on-site residential accommodation. In the local context, there are parallels between the nature of the proposed development and the historic occupation of the site by the Pestalozzi, as widened by the 2008 permission. However, it is recognised that there are some differences in that the nature of the proposed development would focus rather more on organised outdoor activities. The nature of the use would also be seasonal operating in the spring/summer months between March to October. There would also be peaks in activity during the season around May/June relative to the early spring and late summer/ autumn. The nature of the proposal would be such, that it would not be the same over the whole of the application site, which extends over some 55 hectares, but would be concentrated principally within the central part of the site – being the established Pestalozzi village and the access roadway. There would be some expansion of operational development and activity use beyond but close to the central part (principally the lake, parking area, and the zipwire), however, the wider application site area, comprising the 55 hectares of surrounding parkland would be unaffected by the nature of the proposal to any significant degree.

7.6.14 In terms of the scale of the development proposal, this also may be assessed against the current position and the established use of the site by the Pestalozzi. Having regard to the scale of the proposed operational development, it is explained above that the central part of the site is previously developed land, and the proposal is largely concentrated within this area. Some of the original Pestalozzi buildings have been demolished and removed (including Inspiration House, International House and Trogen House) to the extent that there is presently somewhat less built development on the site than there once was. Elements of the proposed development (the accommodation blocks and the camping use) would be located in areas of the site previously occupied by buildings that have since been demolished. As such, a significant part of the proposed new operational development would be viewed as the redevelopment of previously development land. Any assessment of the scale of the development's impacts has to be viewed, at least in part, in the context of previously developed land rather than the impacts on 'greenfield' AONB landscape.

7.6.15 The increase in the number of people it is proposed to be accommodated on the site is also a material consideration, which is higher than that envisaged for the Pestalozzi students. The proposal would represent a significant increase on this in terms of the numbers of people accommodated on the site, given as 749 people sleeping on site (609 guests (made up of 541 children and 68 teachers) and (between 115 and 140 PGL staff); although this is the maximum summer capacity for May/June and the Applicant explains that, in terms of the number of guests, no more than 90% of this accommodation capacity would ever be reached as the need to keep schools and genders separate means that there would always be unfilled beds. It is also pointed out by the Applicant that there is no planning condition in place that presently controls the numbers of staff and children

that are permitted at the site (which is correct). This includes an absence of any condition or limitation on the 2008 permission. While to an extent numbers would be controlled by the capacity of the existing buildings on the site (principally, the accommodation blocks: Sainsbury House, Songtsen Khang, and Trisong Ngonga and the smaller accommodation units: Chief Executives House and VW House), the Applicant also points out that using PGL's business model for floorspace occupancy, which allows for an average 6.32 sq. m of floorspace for children and teachers and 16.81 sq. m of space per PGL staff member, would allow the existing accommodation to be used at an increased capacity. The occupancy level could be increased to some degree without the need for planning permission, unless that intensification amounted to a material change of use.

- 7.6.16 In addition to the built form and the numbers of people, the scale is also assessed in respect of the proposed use of the site. The use would be likely to focus on particular parts of the site and would not be spread over the 55 hectares. The use would be associated with meeting the needs of children staying at the site, including their arrival/departure, sleeping, eating and day-to-day activities as set out in the PGL programme. The latter would include both the use of the activity equipment/structures (climbing tower/abseiling/swing/zipwire, pond etc) and also the more ad hoc activities (indoor and outdoor), such as 'capture the flag' and 'campfire' The location of the former activities would be controlled by the position of the equipment itself (the activity bases). In respect of the latter, because all activities are supervised by adults, these would be in locations determined by PGL staff. The greater part of the 55 hectare site is unlikely to be used to any degree as part of PGL programme of activities and certain areas adjacent to the core of the village, such as the ancient woodland, would be excluded from use for bio-diversity reasons by the Landscape and Ecological Management Plan.
- 7.6.17 Footnote 55 of paragraph 172 states that as part of the assessment as to whether a development is major, this should take account of 'setting'. The High Weald AONB Management Plan states that the term 'setting' is used to refer to areas outside the AONB where development and other activities may affect land within an AONB. In this regard it is not considered that there would be effects. Taking a wider appreciation of 'setting', however, it is also taken to mean the spatial relationship between the proposed development and its surroundings. In this regard, while the whole application site area is given as extending to some 55 hectares, and comprises an undulating rural landscape, containing pastureland and woodland areas, the proposed development is largely concentrated within the central part of the site, which contains existing built form and areas of previously developed land, and follows the spine of the central access road (Ladybird Lane). While there are elements of the development that extend out into the wider parkland (such as the end of the zipwire and the proposed activity pond) on the whole, the development is largely contained within the central part of the site. The proposed form and layout also use existing woodland and topography to visually contain the development and maintain the setting of the site.
- 7.6.18 Footnote 55 of the National Planning Policy Framework paragraph 172 requires that the decision maker also takes into account whether it (the development proposal) could have a significant adverse impact on the

purposes for which the area has been designated or defined. The primary purpose of AONB designation is to conserve and enhance the natural beauty of the High Weald AONB. In this regard "natural beauty" has become to mean, not just the look of the landscape, but includes, '*landform and geology, plants and animals, landscape features and the rich history of human settlement over the centuries*' [Countryside Commission, CA24, November 2001]. In relation to 'significant adverse impact', the National Planning Policy Framework does not define 'significant'. To assess the potential impact of the proposed development it would seem reasonable to consider it in relation to each of the AONB Management Plan (HWAONBMP) objectives. The Management Plan Statement of Significance identifies the five defining components of character that have made the High Weald a recognisably distinct and homogenous area:

1. Geology, landform, and water systems
2. Settlement
3. Routeways
4. Woodland
5. Field and Heath.

Additionally, the HWAONBMP recognises:

Other qualities and locally distinctive features: views and scenic beauty, rich biodiversity; relative tranquillity, ancientness and sense of history, intrinsically dark landscape.

- 7.6.19 In terms of the proposed development, the proposed pond would impact to some degree upon (1.) existing landform; however, this would be in terms of sculpturing existing land levels and gradients, particularly at the northern edge where ground levels slope down. Moreover, new planting would be introduced at the margins of the pond. As a feature in the landscape, the overall impact on landform would not be major and any adverse impacts would not be considered significant. There would be no effects in relation to geology or water systems. There would be no effects in relation to (2. & 3.) 'settlement' and 'routeways'. In respect of (4.) 'woodland' the HWAONBMP recognises the abundance of ancient woodlands as a characteristic of the High Weald. Natural England, whilst not objecting to the proposal has raised some concern about the separation distance ('buffer') between the development proposal and the areas of ancient woodland. This is addressed elsewhere in the report. While the site contains areas of ancient woodland, mitigation is proposed as part of the application and it is not considered that significant adverse impacts would result. In terms of (5.) 'field and heath' there would no loss of lowland heath or species rich grassland (field) and the proposal would have limited effects in relation to the rationale set out in the HWAONBMP in relation to landscape permeability and connectivity of fields and heaths and their associated and interrelated habitats (such as hedges, woodlands, ditches, ponds and water systems) for wildlife.
- 7.6.20 In respect of the other qualities, long views across the undulating Wealden landscape are also a characteristic, which would largely be conserved.
- 7.6.21 Bio-diversity has also been considered. In this regard there are presently no measures in place for the management of the site's landscape and ecology; the proposal addresses this aspect. Consideration has been given to the ecological surveys submitted with the application, and the proposed potential for biodiversity net gain by securing ecological management of the estate

through a Landscape and Ecological Management Plan (LEMP). No objection has been received from the County Ecologist. The issue of biodiversity is considered further in section 7.9 of the report.

- 7.6.22 A further quality attributed to the AONB is identified as its relative tranquillity. This is not uniform over the whole of the AONB and some parts will be more tranquil than others. The application site is not an undeveloped rural site and any impacts have to be viewed in the context of the existing development and the authorised use of the site. Consideration has also been given to the assessments that have been carried out in relation to matters that could impact of tranquillity - in particular, the acoustic reports, and the reviews undertaken by Environmental Health. The latter has not resulted in an objection to the application on the grounds of any potential noise impacts of the development.
- 7.6.23 The qualities attributed to the AONB include also an intrinsically dark landscape. The potential impacts in relation to this essentially concern light pollution. In this regard, the existing authorised development would have the potential to impact on dark skies. In relation to external lighting, including floodlighting, in the event planning permission is given for the current proposal this could be controlled by an appropriate condition.
- 7.6.24 The reasons explained above (and also the comments contained later in the report at 7.6.21, 7.6.37, 7.6.38 and 7.6.39) address the objection to the application raised by the High Weald AONB Unit and other representations of a similar nature and supports the conclusion reached at paragraph 7.6.32.
- 7.6.25 Any assessment as to whether development is 'major' in relation to footnote 55 of paragraph 172 of the National Planning Policy Framework, may also have regard to whether the development is EIA (Environmental Impact Assessment). A screening opinion has been carried out by the Council and separately by the Secretary of State for Housing, Communities, and Local Government; these have determined that the development is not EIA development. This in itself does not decide the matter, but it is a consideration (see James Maurici QC criteria or principles 7.6.8 above).
- 7.6.26 A further relevant factor as to whether the development is 'major' in the context of this site is in relation to the consideration by the Council of the earlier application RR/2007/397/P, which at that time was not identified as constituting 'major development' in the AONB (under the provisions within PPG7, which preceded the National Planning Policy Framework). That application for redevelopment and expansion of the site, including conference facilities, additional accommodation blocks and parking area, proposed a similar quantum of built development, and had similarities to the current proposal in terms of nature, scale and setting. Moreover, factoring in the six detached houses (now known as Oaklands Park), that were granted planning permission under a separate application (RR/2007/378/P) at about the same time as enabling development, the combined development was not considered to constitute major development in the AONB.
- 7.6.27 While it is noted that the consultation response from the High Weald AONB unit considers the proposal to be 'major', having assessed the nature of the development's potential impacts overall in respect of the matters covered in

the paragraphs above, it is considered that the proposed development would not be 'major' in terms of the AONB and for the purposes of the National Planning Policy Framework paragraph 172. This conclusion would be further reinforced if the 'fallback position' was to be taken into account, that being the extant 2008 planning permission and the fact that the developments permitted under that permission could still be implemented. Following on from this, however, it is still necessary to assess the acceptability of the impacts of the development on the character and appearance of the AONB.

- 7.6.28 With regard to an assessment of the acceptability of any impacts of the development on the character and appearance of the AONB, national and development plan policies (as set out above) state that great weight should be given to conserving and enhancing landscape and scenic beauty.
- 7.6.29 As previously stated, the application site is not completely undeveloped land; it is a large site, the central part of which is previously developed land with historic uses associated with the Pestalozzi, as well as containing 'island' areas of separate residential uses (that fall outside the application site). The wider application site is undeveloped, and all the land is identified as woodland pasture and parkland habitat. The development proposals are largely concentrated within the previously developed land but some elements – such as the proposed car park, activity pond and the activity structures – encroach into the undeveloped parkland.
- 7.6.30 It is relevant to assess the acceptability of the impact of the proposed development on the character and appearance of the AONB in relation to (i) the Pestalozzi developments that became established over the years since its establishment in the 1950's and also, (ii) the 2008 planning permission, which is still extant, relating to the redevelopment of parts of the site; this included extending development into the undeveloped parkland (e.g. the approved car park, the two accommodation blocks, the sports-field). The High Weald AONB has been consulted on the application and it is noted that objections have been received. These make specific reference to the size and scale of the proposed accommodation blocks, the impact of the proposed pond/lake on landform, the potential impacts on ancient woodland, and the impacts on the AONB characteristics of relative remoteness, tranquillity and dark skies. These matters are referenced in the assessment below.
- 7.6.31 In relation to (i): it has previously been explained that a number of the Pestalozzi buildings have been demolished; however, a collection of existing buildings and infrastructure remain. These comprise buildings of various styles arranged informally within the central part of the site and set within an undulating parkland landscape, comprising irregular fields of grassland pasture with individual standard trees interspersed by irregular pockets of mainly deciduous woodland. There are long views to Sedlescombe village from the higher ground and equally, some buildings within the site - particularly the existing 3-storey Sainsbury House – can be viewed from the village. In addition to the separate residential occupation of Oaklands Manor and the converted stable block, the original Pestalozzi Farm area, which including a workshop building, Southover Centre and Louise Centre, were demolished to accommodate the housing that was granted planning permission about ten years ago as 'enabling development' for the Pestalozzi,

now known as 'Oaklands Park'. This introduced new residential development within the parkland setting.

- 7.6.32 As explained in paragraph 7.6.14 the new accommodation blocks (1 and 2) would be built on the site of two buildings (Inspiration House and International House) which have been demolished. While these were single storey buildings and the proposed new accommodation blocks would be two storey, sectional drawings having been provided which illustrate that they would accord with the ridge height of the existing 'conference' building – approved under the extant 2008 permission and the last building to be constructed on the site. Moreover, design amendments to the original scheme have gone some way towards 'breaking-up' the roofline of the proposed buildings and the roof covering would now comprise a living green roof (grass). The proposed green roofs to the accommodation blocks would help to integrate the buildings into the local landscape. The external walls of the buildings would be clad in natural larch horizontal and vertical boarding to match the existing Pestalozzi (conference centre) building. Public views towards the site of these buildings are distant and the buildings would be partially screened by the intervening trees, some of which are evergreen. While it is accepted as a principle that the fact that a development is not visible by the general public does not mean that there is no harm to the intrinsic character of the AONB, in this case the impact has to be assessed in the context of the site and particularly, that they would be on the site of buildings that have since been demolished, which carries weight. In this regard, while the objection of the AONB Unit has been noted, it is not considered that these buildings would result in further harm.
- 7.6.33 The proposed tenting area has been amended to give a reduction in the number of tents and this would now comprise the lower northern field nearest the buildings, which was formerly occupied by a building (Trogden House), which has been demolished. This is also previously developed land and has been referred to in paragraph 7.6.14. Again, the use of previously developed land carries weight as a planning consideration.
- 7.6.34 In relation to point (ii) of paragraph 7.6.30 above: the 2008 planning permission, is still extant, and planning permission already exists for a quantum of unbuilt development on the site and its associated use. This has been referred to as the 'fallback position' in that the planning permission runs with the land and any owner of the site, including PGL, would be able to implement the outstanding developments previously granted under the 2008 planning permission. However, the test to be applied when analysing the weight given to the 'fallback position' is whether there is a 'realistic prospect' of the current applicants (PGL) implementing the extant 2008 permission, should they be unsuccessful with this planning application and any subsequent appeal. In this regard there are similarities between the approved developments and the proposed developments; PGL has a need for guest accommodation blocks, servicing facilities, dining/kitchen facilities and administration and staff accommodation, and a carpark; all of which remain outstanding from the extant 2008 permission. The agent's acting for PGL have confirmed that, in the event that the current application is refused, and a subsequent appeal is dismissed, then PGL will continue to operate the site under the extant permission RR/2007/397/P, building out the remaining buildings as necessary as they develop their use of the site. They go on to confirm that, the Pestalozzi site was purchased, after due diligence, on the

understanding that there was permission for additional buildings that could be built to address the needs of the business for guest and staff accommodation, catering and educational activities. While it is recognised that the extant planning permission would not give the current applicants the activity bases they require, comments received from the agent state that in such an event, *“the outdoor activities would include raft building and kayaking on the existing pond (as previously used), archery on the open fields, orienteering, woodland interpretation and craft skills, team sports on the football pitches and games courts, campfires, and other organised outdoor activities. Meanwhile, the various existing and permitted buildings described above would be used for learning activities, crafts, workshops, quiz nights and discos”*. While this does not go so far as to set out an alternative business plan for PGL, it does give support to there being a ‘realistic prospect’ of the remaining developments approved by the 2008 permission being implemented. Moreover, in assessing the proposed scheme it is reasonable to compare the proposed development with that approved and still outstanding under the extant 2008 permission. This is discussed below.

7.6.35 Supporting information with the application points out that 2,922sqm of new buildings could be built under the extant 2008 permission; while the current PGL application proposes replacing this with buildings having a floor area of 3,411sqm – thereby concluding that there would be a net increase of 489sqm of buildings on the site, which is not considered to be significant in relation to the previously approved development. This does not take into account the fact that under the present application proposal two buildings previously planned for demolition (Education Centre and Swiss Hall) would remain – adding some 728sqm (320sqm + 408sqm) – making a net increase of approximately 1,217sqm). However, it is also a relevant consideration that under the 2008 planning permission there is no condition requiring the demolition and removal of Swiss Hall. Moreover, unlike the Education Centre, no new buildings approved under the 2008 permission overlapped with the footprint of the Swiss Hall building and consequently, purely in construction terms, the removal of Swiss Hall would not be essential to carry out the proposed development. Therefore, in the event that Swiss Hall was not removed by the developer as part of any implementation of the 2008 permission, there is no certainty that planning enforcement to seek its removal would be successful. The net increase in ground floor area put forward in the application is therefore made up of the two buildings (Swiss Hall and Education Centre) that would not be demolished as well as the residual increase provided by the proposed new building development.

7.6.36 In the event that planning permission is granted for the current application proposal, the outstanding developments previously allowed under the extant 2008 permission would not be built (once quashed by a Section 106 planning obligation). The developments not built would principally comprise, two (part two-storey) accommodation block buildings within the south-western field, a dining hall building, an education building and an administration building. In judging the acceptability of the development on the AONB, taking account of the developments that have previously been approved and are presently extant, but would be quashed as part of the current application proposals, is a material consideration.

7.6.37 The scale of the proposed development is also a relevant consideration. The proposed new buildings are two-storey whereas the 2008 permission contained an element of single storey buildings as well as two storey buildings. While in this regard the current proposal contains a greater volume of buildings, sectional drawings with the application demonstrate that following the existing landform and levels, the ridge heights of the new buildings would correspond to that of the existing adjacent building (the conference centre built under the 2008 permission). They would not therefore dominate. These new buildings essentially comprise the two no. 2-storey accommodation blocks, which would be built on the site of previously removed (demolished) buildings, and the proposed dining hall/kitchen facility building. The latter would link to the existing conference building and would abut closely the site of a building previously approved under the 2008 permission (education), which would not now be built. Three other buildings linked closely to the existing conference centre building that were given approved under the 2008 permission (education, dining and administration) would also not be built under the current application. The layout of the current proposal retains a cluster of development – including the positioning of a number of the activity areas (the climbing and abseiling towers) among the buildings. Further, within a different part of the site, also included within the 2008 permission is consent for two 2-storey accommodation blocks (bunk houses), which have not been built and would not now be built. These would have been positioned on greenfield land beyond the edge of the developed area, which would have made them intrusive in the landscape. Additionally, the current application includes a proposed tenting area. This has been reduced in size from that originally proposed. It would be located on previously developed land within the established confines of the village and set behind a bank. The proposed car park is also a consideration; while the proposed development includes provision to accommodate coaches, the proposed parking area would be of a similar size and location to a car park approved under the 2008 permission, that has not been implemented. The current proposal is a revised parking arrangement, which would replace the previously approved development.

7.6.38 The application includes other aspects of new development that would extend beyond the main complex of buildings within the parkland; this includes the formation of an activity pond and some of the activity structures, as well as the proposed works to the access road. The proposed activity pond would have some impact on landform. This would be localised, however, and would involve excavation and re-contouring existing ground, particularly at the northern side. This would utilise natural materials and incorporate some planting at the margins. Ponds are not an alien feature in the AONB, indeed a characteristic feature of the AONB is the abundance of ponds. The pond in this case has been reduced in size from the original submission. It is not considered that the pond in this location would materially impact on AONB landform to such an extent so as to justify a refusal of planning permission on this ground. The proposed willow-wall around the activity pond, whilst preferable to the timber fence originally proposed, would be an artificial feature and would need to be screened/softened by appropriate native tree and shrub planting.

7.6.39 A further character component of AONB designation is the abundance of ancient woodlands within the Weald. There are areas of ancient woodland within the application site (designated as such since the 2008 permission)

and the potential for impact on ancient woodland has been raised by the AONB unit and Natural England. Natural England, while not objecting to the application proposal, comment that for a development of this type they would expect the protection of ancient woodland to be significantly more than a (standard) 15m buffer. They do not, however, specify what is 'significant'. The Standing Advice says:

“For ancient woodlands, you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, you’re likely to need a larger buffer zone. For example, the effect of air pollution from development that results in a significant increase in traffic”.

7.6.40 There are two (not extensive) areas of ancient woodland on the site. The existing complex of buildings is sandwiched between the two. As a consequence, some existing buildings are already close to ancient woodland (some are within 15m and others are further away). This also applies to a number of former buildings that existed on the site but have since been demolished. The application plans use a dashed-line to show a notional 15m buffer around the areas of ancient woodland. The whole of the proposed new development is not at the margins of the notional 15 m buffer and it is only within certain specific areas that some aspects of the proposed development are close, and only at one point where a pedestrian footpath/hardstanding would be slightly within 15m. On the whole the new development seeks to concentrate (group) new development with old development, in the interest of minimising landscape impact. A consequence of applying a buffer 'significantly' greater than 15 m for all aspects of the proposal would potentially be to disperse the development further out into the surrounding landscape and away from the existing central core of development, resulting in greater visual landscape impact. The new development does not surround or enclose the areas of ancient woodland and the areas of ancient woodland would still have an interface with the surrounding countryside.

7.6.41 One objection received (Richard Buxton Solicitors acting on behalf of a group of 17 local residents opposed to the application) makes specific reference in particular to two locations within the site where impact on ancient woodland would be particularly intrusive:

- (i) one where an area of proposed pedestrian footpath/ hardstanding would be slightly within 15m – this location relates to an existing building (conference centre) which in itself already encroaches within 15m of the ancient woodland at its nearest point. The proposed pedestrian footpath in question is in front of this existing building. This is considered to be a minor incursion (probably amounting to between 1 or 2 sq. m) and in relation to the standing advice is unlikely to result in root damage or any other additional harm to ancient woodland at this point.
- (ii) the other, where one of the new accommodation blocks would be about 16.5m from the edge of the ancient woodland at its closest point – this is outside the standard buffer, relates only to the corner of the proposed building, is previously developed land in that it would occupy the site of a former building (now demolished), and the entrances and main activity associated with occupation would be on the side facing

away from the ancient woodland. In the circumstances, and in relation to the standing advice, there would be no impact resulting from traffic, air pollution or other issues, and it would be unlikely to result in root damage.

- 7.6.42 It is also envisaged that the proposals for the future management of the ancient woodland would be covered by the planning condition requiring a LEMP (Landscape and Ecological Management Plan); in this regard there is no management plan presently in place requiring management of the ancient woodland. Moreover, it is envisaged that the LEMP would contain proposals for appropriate fencing around the ancient woodland to deter intrusions, disturbance and trampling etc. through human activity. On the whole, the proposed location (siting) of the development provides for a 'grouping' of the buildings on the site. and taking a balanced view, it is considered that the development in relation to ancient woodland is satisfactory. The County Ecologist has raised no objection to the siting of the proposed development in relation to ancient woodland. In view of the considerations outlined above it is considered that the provisions contained in the application for the protection of ancient woodland meets the requirements of the standing advice and addresses the point made by Natural England regarding an expectation for 'significantly more than a standard buffer'.
- 7.6.43 An arboricultural survey has been submitted with the planning application, which includes a survey of existing trees on the site. The planning application identifies specific trees that would be removed as a consequence of the developments in relation to the two accommodation blocks, the kitchen/dining hall building, and the tent field. These would comprise oak (3), hazel, cherry (5), apple, ash, walnut, silver birch (2), beech, copper beech and white beam. These would be removed because they would either fall beneath the footprint of the development or their position in relation to the proposed development would mean that they would be unlikely to survive the construction process. In the main, these have been assessed as unexceptional Grade C trees, which provide no visual amenity in terms of wider landscape value and their loss is accepted subject to mitigation.
- 7.6.44 A separate application (RR/2020/48/T) had been submitted for works to trees in other parts of the site (not those affected by the proposed development) covered by an interim 'blanket' TPO. This TPO has since been replaced by a 'targeted' TPO (relating to specific trees across the site) and consequently application RR/2020/48/T has been withdrawn. The Applicants have explained that there is now no need for a blanket tree works application as it is now clear that most of the works they wish to carry out are to trees that are no longer preserved or exempt from consent. They add that there is likely to be a new more targeted tree works application applying for works requiring consent under the TPO, potentially relating to works to just two trees.
- 7.6.45 Proposals are also contained in the application for new planting and landscaping around the building and within the wider parkland. In terms of new tree planting this is indicated to be 150+ new trees.
- 7.6.46 Consideration has also been given to activity associated with the use in the context of AONB designation. In this regard areas within the parkland site are relatively tranquil; however, it is not a remote undeveloped countryside

and sources of human activity are evident from the highways, residential properties and the Pestalozzi itself – although this has been dormant in recent years. The impact of the development on neighbouring residential amenity is covered in 7.7 below.

7.6.47 Whilst the development and activity associated with the use of the site would have some impacts of the character and appearance of the AONB, the scope and extent of this could be mitigated by conditions. These would include the need for a detailed landscape management plan for the entire site area as set out in the comments from the ESCC landscape architect. Moreover, this would include a requirement for controlling the circulation of children throughout the site, including between the various activity bases; avoiding sensitive ecological areas to ensure they are not subject to excessive trampling or disturbance - such as the deciduous ancient woodland - and the provision of a buffer around the ancient woodland, which included appropriate stock-type fencing to protect the buffer area. It is considered that the application proposal would be acceptable in terms of AONB designation and relevant development plan policies.

7.7 The impact of the development on the amenities of local residents:

7.7.1 Policy OSS4 (ii) of the Core Strategy requires that development should not unreasonably harm the amenities of neighbouring occupiers. Additionally, the National Planning Policy Framework at paragraph 180 says that planning decisions should ensure that new development is appropriate for its location, taking into account the likely effects on living conditions. The supporting information with the application includes a Noise Impact Assessment undertaken by PGL's acoustic consultants, 'Surface'. The Noise Impact Assessment undertaken by 'Surface' relates to the revised layout of the site. Consultations on this have been carried out with the Council's Environmental Health Service. Environmental Health (EH) have been in direct consultation with 'Surface' on matters pertaining to the technical assessment and have produced a detailed appraisal of the 'Surface' report. The conclusion of the consultation response is that there is no objection to the application from EH subject to specified conditions. The EH response notes that even though residents will likely hear some children noise at times, this planning application complies with the relevant planning noise guidance and Environmental Health has no justification to recommend refusal for this planning application.

7.7.2 The noise considerations in relation to residential amenity include the potential impacts of noise arising from proposed activities associated with the use of the site and in particular, any potential noise disturbance resulting from the use of the proposed activity structures by children (the zip wires, swing, climbing/abseiling towers, canoeing and raft building pond) as well as general noise and activity associated with the land and buildings – including the camping area.

7.7.3 In relation to the activity structures (including the activity pond) and deciding the locations of the Activity Bases, EH has acknowledged that the design approach to the layout of the site has been undertaken in order to minimise noise impact at residential properties, and this design approach is in line with ProPG (guidance for practitioners on a recommended approach to the management of noise within the planning system). The Applicant's acoustic

report models noise associated with the new activity bases proposed for the site. EH notes that the Applicants have attempted to break line of sight between activity bases and residents where possible, and where this has not been possible, then additional attenuation has been outlined. In this regard some activities would have additional natural green willow acoustic fencing, in addition to shelters.

- 7.7.4 Regarding the background noise assessment and assessment criteria EH has confirmed that monitoring the lowest recorded background noise level was not appropriate and under planning, it is the 'typical' background values that would routinely be used in a noise assessment, rather than the absolute lowest identified. Therefore, the value used by the Applicant was acceptable. EH has stated that, whilst there is no specific guidance for an application such as this, the criteria that, 'Surface', the Applicant's acoustic consultant, has worked to are not unreasonable. EH points out that the results of the 'Surface' assessment show that 'Surface' set criteria that in each centre frequency octave band, cumulative noise (total sound levels due to the activities on site, at the receptors) would be no more than 5dB greater than existing background levels (without activities). EH notes that 'Surface' achieved that aim in each centre frequency octave band, indicating predicted sound levels were actually lower than they were aiming for. This means that the results of the assessment show that the cumulative noise levels from the full use of the activity bases, would match, or are very close to matching, background sound levels at residents' properties.
- 7.7.5 While the use of the site and associated activity has diminished in recent years, particularly in the latter years of the Pestalozzi's occupation, the noise assessment has been carried out in relation the existing authorised uses of the site, including the level of activity and use associated with the extant 2008 planning permission. In this regard the Pestalozzi use of the site included 2 separate hard-surfaced games courts (currently permitted) and football pitch (shown on the proposed site layout plan approved under the 2008 permission - RR/2007/397/P). There can be little doubt that the use of these facilities is permitted for this site and while they may not currently be used, if they were regularly used, they would form part of the current sound scape during the day and evenings. It is against this context that the assessment of noise from the proposed facility needs to be judged and whether there is a significant change in the acoustic character of the area. Using the correct context, Environmental Health cannot state that there is going to be a dramatic change in the acoustic character of the area.
- 7.7.6 Regarding evening uses, it is understood that an evening disco, possibly once a week, forms part of PGL operations. These are held within a building. Moreover, proposed evening activities are included, which are not based on the day-time activity equipment (swings etc.) but would be rather more ad hoc (in this regard, activities such as 'campfire' and children's games such as 'wacky races' and 'capture the flag' have been mentioned). All evening activities (as well as day-time activities) would be supervised by adults. Again, having regard to the extant planning permission, it is not considered that such evening activities would be prohibited if carried out on a basis that was ancillary to the existing use of the site. In the circumstances it is the case that evening activities, such as the ones mentioned, could be controlled by the noise management plan that EH are recommending under the planning condition. Applying a condition for a noise management plan would

mean that the Applicants would need to think about how they would manage noise from these activities prior to use of the site. It would also require them to review their management of noise should complaints be made.

7.7.7 Regarding potential noise from the camp site: the camp site is a proposed new use. This has been amended (reduced) from that put forward in the original application submission. The camping area has been moved away from receptors and its capacity reduced by 45%. It would be for thirty tents located within a field that was formerly occupied by buildings. If ever occupied at full capacity the tents would contain up to 115 children (and 14 teachers). In this regard there would be adult supervision. Prior to the EH consultation response on the application, noise contours relating to camp site use were requested from the consultants. EH has confirmed that the assessment of the camp site noise is reasonable and complies with the NPSE ('Noise Policy Statement for England') and PPG (Planning Practice Guidance: Noise). The consultants have outlined measures to mitigate adverse impacts. In this regard, in addition to being reduced in size and moved away from receptors, the proposed tent area is now shown to be screened by a slope on site, and where it is not screened, it is proposed to install an acoustic fence to break line of site to the nearest residents. EH recognises that use of a camp site could potentially give rise to some noise and this could possibly be sporadic in nature; and therefore, at times, some conversation could possibly be heard at the nearest receptor if the receptor was in their garden area, the weather conditions were suitable and there was a lull in other environmental noise sources. This should not be sustained noise as it should be controlled by staff enforcing their noise management policies. EH considers however, that in context, it cannot be stated that this would represent an adverse impact.

7.7.8 A particular matter raised by objectors is that the acoustic information does not cover noise from traffic, i.e. cars and coaches visiting the site. EH has confirmed that it would not expect 'Surface' to include this as part of its noise assessment. Traffic accessing the site would use the northern access to 'Ladybird Lane' (the private access road into the site that is shared by Oaklands and Oaklands Park properties). West Lodge is the closest residential property being adjacent to the access (Orchard Cottage garden is adjacent the opposite side of the access). The development proposals include the widening of the existing access to assist the free-flow of larger vehicles – such as coaches in and out of the site. Vehicles using Ladybird Lane would fork-off into the main site before passing Oaklands and the Oaklands Park properties. During future traffic movements on the busiest days, some residents may well hear coaches / cars as they pass by but for each resident, the increase in noise level will be fleeting and such movements will occur during the daytime. New development will often result in additional traffic movements and this was the case with the 2008 extant planning permission which included a proposed car park of similar size to that now being proposed and in the same location. That planning permission did not impose any restriction on the number, frequency and character of vehicle movement to and from the site. While there may be times when such traffic is heard, and the frequency at which traffic is heard is much greater than currently experienced, it is not considered that a refusal of planning permission could be reasonably sustained in terms of the potential impacts of traffic on the amenity of neighbouring residential properties.

- 7.7.9 EH has stated that any noise from plant associated with the development such as kitchen extractors) could be controlled by planning condition, indicating that the rating level for plant would need to match current background sound levels as per BS4142:2014 + A1:2019.
- 7.7.10 Representations have been received from objectors (including the 'Sedlescombe Protection Group') raising a number of concerns in relation to the EH response to the application indicating that there are a large number of material irregularities and facts which appear to have been ignored/overlooked throughout the noise assessment. In response to this, it is relevant that EH has consulted directly with 'Surface' through the application process, which has resulted in 'Surface' providing a level of information that exceeds that required under noise guidance; and relevant detail sufficient to allow EH to properly determine whether it can or cannot recommend that there would be no objection to the application in respect of the potential noise issues. EH refers to published planning guidance and British Standards for noise. This guidance will vary depending on the application. EH has confirmed that this planning application complies with the relevant planning noise guidance which means that Environmental Health has no justification to recommend refusal. It is added that the consultation response was carried out by a senior officer with recognised professional qualifications as an established environmental health practitioner, who is member of the Chartered Institute of Environmental Health and also a Member of the Institute of Acoustics (MCIEH, CEnvH, AMIOA). The officer is clearly qualified to provide a noise assessment.
- 7.7.11 The Environmental Health consultation response includes a requirement for planning conditions to be imposed. These would include the requirement for: a Noise Management Plan to be undertaken to control noise, such as within the camping area, and relating to the evening activities, such as discos. Conditions would also cover the erection of acoustic barriers ('green willow' fencing) to act as mitigation in respect of noise emanating from activity at pond, tenting area, and activity structures; and a condition requiring a noise assessment of the mechanical plant associated with the development together with measures to ensure that these are adequately controlled.
- 7.7.12 Additionally, even if Environmental Health does not object to the development on the basis that there is no material harm in planning terms, that does not guarantee that there would never be a Statutory Nuisance caused when a development is in operation. In this regard if future complaints are made about an alleged Statutory Nuisance during the operational phase of a development, then Environmental Health has a legal duty to investigate such complaints. If it is judged that a Statutory Nuisance exists, then Environmental Health shall serve an Abatement Notice on the person responsible under S80 of the Environmental Protection Act 1990. How the noise is abated so that it is no longer a Statutory Nuisance (NB, this does not mean silence) would depend on the activity. For example, it would be possible to increase the sound proofing of a building to stop noise escape from an indoor disco or to install a noise limiter. For some activities, it may be decided that the location of the activity is changed along with the time of day it is undertaken. How noise is abated is considered on a case by case basis and up to the person responsible.

7.8 Highways:

- 7.8.1 It is proposed that traffic movement in and out of the site would be via the northern access with the B2244 (this is the access adjacent to the private property known as West Lodge). There is no proposal to use the southern gated access to Cottage Lane, which under the present arrangement is kept closed to be used in times of emergency, if the circumstances should arise. Traffic entering at the northern access would follow the existing single-track (Ladybird Lane) into the site and the main complex of buildings and proposed parking area. Ladybird Lane is shared by Oaklands and a number of other separate residential properties. The application includes proposals to widen the existing northern access and proposes the creation of a number of passing points on Ladybird Lane.
- 7.8.2 A Transport Assessment Statement, Travel Plan, Site Access Design and Stage 1 Road Safety Audit Report have been submitted with the application. The Highway Authority has been consulted on the application and following an initial objection to the development proposal has now confirmed that additional information has been submitted to address previously expressed concerns regarding the site access layout, clarification of the level of traffic which would be generated by the proposed use, and the capacity of the proposed site access junction to accommodate said traffic.
- 7.8.3 *Access:* The Highway Authority has stated that the Applicants have carried out a traffic survey; the results of which confirms that the visibility available either side of the site access exceeds the minimum distance required. The main initial objection to the development proposal was due to concerns regarding the site access and its inability to accommodate turning movements by large vehicles. In response the application has been amended and alteration to the access are now proposed, which includes increased width and radii and the provision of an overrun area with the edge marker posts removed and the correct chevron signs provided. The Highway Authority has confirmed that the revised access arrangement proposed is now considered to be acceptable in principle.
- 7.8.4 *Road traffic accident records:* The Highway authority has stated that police accident records indicate the number of recorded crashes involving vehicles is considered to be relatively low considering the traffic flows on the B2244 and the A21. It is satisfied that the increase in traffic generated by the development proposal would not have a detrimental effect upon highway safety in the vicinity of the site.
- 7.8.5 *Proposed traffic generation:* In summary, A revised assessment has been submitted by the Applicant to reflect fewer tent spaces in the amended application. The predicted levels of traffic are based on a 'worst-case scenario' where the site would be operating at full capacity. This level of activity, it is said, would be limited to a 6-8 week period in the summer and the site would operate at a lower level for the majority of the year.
- 7.8.6 Traffic generated by the proposed development would comprise in the main, coaches and parents' private vehicles (dropping-off and collecting children), staff with their own private vehicles, and others such as waste collection, deliveries of food and cleaning products, retail items etc. In terms of coach trips, the Highway Authority recognises that, on most days of the year the

number of trips by coaches would be zero or minimal; however, during the summer months this would rise to 20 to 30 trips on some days during the week. The busiest day in terms coach activity would be a Friday in June which would see a total vehicular traffic generation of 136 trips of which about 50 would be classed as HGV/coach (25 in and 25 out). The busiest day in terms of total traffic would be a Saturday which would generate 374 traffic movements of which 6 would be classified as HGV/coach. Of these, 284 vehicular movements would be parent car trips, which would primarily occur during July and August, so for the vast majority of the year the total would comprise significantly less car traffic.

7.8.7 *Junction capacity Analysis and Highway Impact:* In response to a request for further detail from the Highway Authority the proposed site access junction with the B2244 Sedlescombe Road/Tollgate Road has been assessed in terms of junction capacity. The Highway Authority has confirmed that the assessment carried out indicates that the access currently operates well within capacity in all scenarios.

7.8.8 *Accessibility:* In terms of sustainable access to services the Highway Authority notes that a majority of the needs for visitors will be provided on-site, thereby minimising the need to travel outside of the grounds. However, where there is a need to access village services and facilities, all are reachable from the site access on foot within a distance of 800 metres equating to a walk time under 10 minutes. Accessibility is summarised as follows:

- *Pedestrian:* The pedestrian route to the site is relatively good with a continuous footway available on the east side of the B2244 between the site access and the village centre.

- *Cycle Access:* It is recognised by the Highway Authority that any cycle travel from the application site would likely be restricted to the confines of Sedlescombe.

- *Bus:* Services to the local towns and villages are available, including Hastings and Robertsbridge; although, as is the case with most villages, the services are not particularly frequent.

- *Rail:* - While the station at Battle is accessible from the site via bus, the infrequent connections and the excessive walking distance at 5.0km does not constitute a realistic option for travel by rail.

7.8.9 *Internal Layout* In order to provide a suitable route into the site for coaches, the amended details propose the widening of the access to form a 6.5m carriageway width. This would necessitate the existing entrance wall and gate piers being removed and rebuilt south of the access. Further within the site it is proposed to provide passing bays/waiting bays on Ladybird Lane at various intervals, which would also facilitate use by refuse and emergency vehicles. In order to improve pedestrian access into the site a new footway is proposed on the south side of the site access.

7.8.10 *Proposed parking provision:* The car park would accommodate 80+ spaces to be shared with coaches. The Highway Authority has stated that, as the level of parking provided has been based on the operational requirements of other PGL sites, it is satisfied that it would meet the requirements in this instance.

7.8.11 *Travel Plan*: The Highway Authority notes in this case a Travel Plan would, in the main, seek to maintain and improve the group travel initiatives and promote sustainable travel modes to commuting staff by providing travel information packs etc. Moreover, while a Travel Plan Framework has been submitted and this covers the main points required; the Highway Authority states that a full Travel Plan would be required for this development and this would need to be secured by condition in the event the Council is minded to grant planning permission.

7.8.12 The Highway Authority is aware that representations have been received from objectors raising concerns in relation to the Highway Authority's consultation response. These objections maintain that the increase in traffic would be significant, they raise on-going concerns about highway safety, inadequate levels of parking provision within the site, and concerns that despite reassurances, the likelihood is that traffic, including coaches, will travel through the village to access the site rather than leaving the A21 directly at Blackbrooks. In response, the Highway Authority, whilst acknowledging that its stance on the application is not the response objectors were hoping for, stresses that highway safety is of upmost importance when assessing any new development and having assessed the proposal, there is no highway objection in this regard. Moreover, the Highway Authority maintains the view that a Travel Plan would be effective in the main in directing vehicles, and particularly coaches, directly from the A21 to avoid accessing the site through Sedlescombe village. The Highway Authority has confirmed that there are no major concerns regarding the internal layout, and the additional information submitted has addressed its previous concerns and as a result the proposed development is now considered to be acceptable from a highway safety and capacity perspective. However, should the Planning Authority be minded to approve the application it is recommended that conditions are attached to any consent along with a Section 106/278 agreement securing the following items:

- The proposed improvement of the site access as agreed, to include the provision of a suitable pedestrian link between the site and the existing pedestrian facilities on the B2244.
- Improvements to the existing footway on the east side of the B2244 to the north of the site access.
- Possible improvements to the bus stops to the north of the site, which they acknowledge would require further discussions with the ESCC Passenger Transport team and Sedlescombe Parish Council.

7.9 *Biodiversity*:

7.9.1 The nature conservation and bio-diversity issues are a material planning consideration in the determination of the application. Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The application site includes Deciduous Woodland and Wood Pasture and Parkland Priority habitat, as listed on Section 41 of the NERC Act 2006.

7.9.2 The National Planning Policy Framework states that the planning system should 'contribute to and enhance the natural and local environment by...protecting and enhancing...sites of biodiversity or geological value...'

and ‘minimising impacts on and providing net gains for biodiversity...’ (paragraph 170). The National Planning Policy Framework states that when determining planning applications, local planning authorities should aim to conserve and enhance bio-diversity and... ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused’ (paragraph 175). This paragraph goes on to state that, ‘development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists’; and ‘opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity (paragraph 175).

- 7.9.3 Paragraph 99 of ODPM Circular 06/2005 states ‘It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision’.
- 7.9.4 Ecological information has been provided to support the planning application; (by Urban Edge Environmental Consulting) these comprise; a Preliminary Ecological Appraisal (PEA; June 2019), Protected Species Surveys (July 2019), Bat Survey (October 2019), and a ‘Technical Report’ – ‘Response to County Ecologist’s objections March 2020’. In respect of the biodiversity issue, relevant consultations responses have been received from Natural England, the Environment Agency, and specific advice was sought from the County Ecologist, in accordance with Natural England’s recommendation. Natural England and the Environment Agency have provided general comments on the application, and an initial objection by the County Ecologist has now been withdrawn, following the receipt of additional information. In summary, the initial objection was on the grounds that further information was required to assess the impact of the proposed development on biodiversity, most notably wood-pasture and parkland, bats, great crested newts and reptiles, and the additional information should make clear how such impacts would be mitigated and/or compensated. Additionally, clear measures for how biodiversity net gain would be achieved should be provided.
- 7.9.5 The site of the proposed development is not designated for its nature conservation interest. Brede Valley Local Wildlife Site (LWS or Site of Nature Conservation Importance) lies adjacent to the northern boundary; however, it is not considered there would be any direct impacts on the LWS. The site supports ancient woodland, deciduous broadleaved woodland, ponds and wood-pasture and parkland, all of which are listed as Habitats of Principal Importance (HPI) under Section 41 of the NERC Act (UK BAP Priority Habitats). The assessment of the impacts of the proposed development on the ancient woodland is covered elsewhere in the report (7.6.39-42).
- 7.9.6 With respect to potential impacts on semi-improved grassland and to wood-pasture and parkland Habitat of Principal Importance (HPI), PGL’s ecological consultant has confirmed that the Applicant is committed to bringing the entirety of the wood-pasture and parkland within the site into positive

management to compensate for the loss of grassland brought about by the proposed development. It is recognised that much of the grassland to be lost has been disturbed through the construction and demolition of former buildings approximately 10 years ago. Furthermore, they have committed to undertake botanical surveys of the grassland to be lost, and to undertake additional mitigation should any botanically rich areas be impacted by the proposed development. The County Ecologist has confirmed that these measures are considered acceptable and should be secured through a planning condition for a Landscape and Ecological Management Plan (LEMP).

- 7.9.7 The County Ecologist has considered the additional information that was previously outstanding in relation to protected species. The received response is that: with respect to bats, it is confirmed that while further surveys will be required to inform a European Protected Species Licence application, there is agreement with the assessment that effective mitigation is possible. Regarding the additional information with respect to great crested newts, the response accepts the justification given for the centre of the metapopulation lying more than 100m to the east of the site. Regarding reptiles, it has been confirmed that reptiles would be retained on site, while the exact location of the receptor area within the site and the translocation strategy should be secured by condition.
- 7.9.8 In summary, provided that the recommended mitigation, compensation and enhancement measures are implemented, the county Ecologist would have no objection to the proposed development from an ecological perspective.
- 7.9.9 Representations have been received from objectors regarding the potential impact of the development proposal on biodiversity. This has included individual reports and a rebuttal from a consultant ecologist made on behalf of local residents to both the PGL ecology report and the advice given to the Local Planning Authority by the County Ecologist. In respect of the latter, the County Ecologist has provided a detailed response, which includes explanations as to why the advice given regarding grassland and bats is in line with best practice, including BS42020, and confirmation that great crested newt surveys were conducted in accordance with government guidance and within the recommended survey window.

8.0 PLANNING BALANCE AND CONCLUSION

- 8.1 As explained above, s38 of the PCPA 2004 states that the development proposals should comply with the development plan when read as a whole, unless other material considerations indicate a determination other than in accordance with the development plan. The National Planning Policy Framework also sets out that achieving sustainable development means that the planning system has overarching objectives, which are interdependent and need to be pursued in mutually supportive ways – an economic objective, an environmental objective, and a social objective. It sets out that planning decisions should play an active role in guiding development towards sustainable solutions but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

- 8.2 The application site lies within the countryside at the edge of the village. Parts of the site are previously developed land and the historic occupation of the site by the Pestalozzi saw the site being used to provide residential accommodation and training to young people from overseas. The nature of this use was expanded by the granting of the 2008 planning permission to the Pestalozzi, which introduced conference and other facilities on the site, including further accommodation blocks, so that external individuals and groups could experience residential training courses on the site to run alongside the Pestalozzi business model.
- 8.3 Pestalozzi was not able to continue and has now vacated the site having sold it to the current applicants. The site still contains some of the original Pestalozzi buildings – though others have been demolished. The 2008 planning permission, being partly implemented, remains an extant planning permission. Additional buildings approved under that planning permission that have not been built, can still be built. The 2008 planning permission is a material consideration in the determination of the current planning application.
- 8.4 There are some similarities between the proposed PGL use of the site and the format Pestalozzi use – as expanded by the 2008 planning permission – in that they aim to provide residential training courses for young people; however, in the case of PGL the use would be seasonal and the nature of the training experience based rather more on outside activity, including the use of specially constructed activity bases. Some outside activity would not be excluded by the existing use of the site, however, this would be based on the existing and approved hard-courts for team games, the grass football pitch and activities that have been carried out on occasion within the wider site area, such as orienteering.
- 8.5 In terms of the economic objectives of sustainable development the proposal would utilise a partly previously developed site. It would bring in economic benefits for the construction industry during the phase of carrying out the proposed new building works. The PGL use would employ staff – albeit mainly seasonal - to run the operation. Moreover, it is recognised that the use would be likely to have economic benefits by supporting some local businesses and firms, including shops, pubs, restaurants, ground and building maintenance, and transport.
- 8.6 The environmental objectives of sustainable development include contributing to protecting and enhancing the natural, built and historic environment including making effective use of land, helping to improve biodiversity, and facilitating movement towards a low carbon future. The site is within the High Weald AONB where great weight should be given to conserving and enhancing the character and appearance of the area. In assessing the AONB impact, the application site in this case is not completely undeveloped land and the proposed new development would be concentrated on the core part of the site that was formally occupied by the Pestalozzi. It is also recognised that the extant 2008 planning permission allows buildings, infrastructure and ancillary uses that have not yet been built and would in part be replaced by the new development. Moreover, the associated application (RR/2007/378/P) that was granted planning permission at about the same time and was subsequently implemented in full (under the revised application RR/2010/1671/P), resulted in some new

residential development (six new houses) within the former Pestalozzi estate that in turn, contributed to some change in the character and appearance of the area. Notwithstanding this, it is acknowledged that some harm to the AONB has been identified, including the objections raised by the High Weald AONB Unit. The nature of those objections has been addressed in the report. While the objection comments refer to the bulk and scale of the proposed new guest accommodation blocks, these developments have to be viewed in context of their amended design, the former buildings (now demolished) that existed on the site, and the two storey blocks of residential accommodation elsewhere on the site that were previously approved and would not now be built. The objection comment in respect of the proposed new activity pond is also noted, however appropriate mitigation such as landscaping and planting would go some way towards softening the impacts on the character and appearance of the area. Other concerns raised such as light pollution could be addressed by planning condition. Finally, regarding AONB biodiversity and ancient woodlands, consideration would also be given to the mitigation brought about by a Landscape and Ecological Management Plan (LEMP) for the whole of the estate, and an Ecological Design Strategy (EDS).

- 8.7 Regarding the social objectives of sustainable development, which include those of fostering a well-designed and safe built environment, with accessible services and open-spaces that reflect current and future needs and support communities' health, social and cultural well-being, it is recognised that the use of the site would provide social benefits by providing training, exercise, life experiences, social interaction – as well as recreation, and enjoyment for the children and young people taking part. This would have positive outcomes regarding the social objective. However, the proposed use has to be balanced against the need not to cause unreasonable harm to the amenities of neighbouring residential occupiers. These have been previously identified but would include the separate residential properties within the Pestalozzi site itself, including the Oaklands properties and the six new houses granted planning permission (ref: RR/2007/378/P) as enabling development for the Pestalozzi (and subsequently built-out under the revised application RR/2020/1671/P), as well as the individual dwellings at the entrances, and other scattered dwellings along Cottage Lane, Chapel Hill and Paygate Road surrounding the wider site. A great number of objections have been received in respect of the application. Not only from those within the immediate vicinity of the site but also from those within Sedlescombe village and the wider area. Also, local objections have been raised by the Parish Council. Particularly, for those in the immediate vicinity of the site, a specific concern is loss of residential amenity, resulting from the proposed number of people (including large groups of children) and associated activity resulting from the proposed use of the site. This includes disturbances arising from potential noise. Other grounds of objection include matters relating the AONB, countryside landscape, and biodiversity. The objections have included petitions and also specific reports that have been commissioned by groups of residents. While the application has been amended to both reduce the scale of the proposed development and introduce mitigation measures, it is acknowledged that this has done little to diminish the overall level of objection from local residents. That said, the application has to be judged on its individual planning merits and with due regard to planning policies and taking into account all material planning considerations (not the volume of objection).

- 8.8 In respect of the principal issues that have been identified in the report, consultations have been carried out and the responses have been assessed. The objection set out by the High Weald Unit AONB has been referred to above. In respect of the potential landscape impacts the ESCC Landscape Architect has provided advice on the application and recommends that there is no objection subject to conditions. On the biodiversity issues the County Ecologist has provided advice and recommends that there would be no objection subject to conditions. The Highway Authority has been consulted in respect of the technical highway issues and highway safety and the received response is that there would be no objection subject to conditions. In respect of the advice received from Environmental Health, the received view is that an objection could not reasonable sustained with regards to the issue of potential noise and conditions could be imposed to control any impacts. Moreover, separate Environment Health legislation exists to investigate statutory noise nuisance.
- 8.9 Having assessed the planning application, while the objections from the local residents and the Parish council have been taken into account, it is considered that the proposal represent sustainable development in the context of the National Planning Policy Framework and that, having regard to s38 of the PCPA 2004, the proposal is considered to comply with the requirements of the development plan, including where harm has been identified, applying conditions that mitigate that harm to an acceptable level. On this basis the development is recommended for approval.

RECOMMENDATION: GRANT (FULL PLANNING) DELEGATED SUBJECT TO CONDITIONS AND COMPLETION OF A SECTION 106 AGREEMENT TO SECURE:

- **NO FURTHER IMPLEMENTATION OF PLANNING PERMISSION RR/2007/397/P AND SAFEGUARDING THAT THIS GIVES NO RISE TO COMPENSATION FROM THE LOCAL PLANNING AUTHORITY.**

CONDITIONS:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: In accordance with section 91 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the following approved plans and details:
Location Plan 1:5000: Drawing No. 4174-MP-100 Rev D
Site Plan as Existing 1:1250: Drawing No. 4174-MP-110 Rev P3
Proposed Site Plan 1:1250: Drawing No. 4174-MP-200 Rev P23
Proposed Village Centre 1:500: Drawing No. 4174-MP-201 Rev P19
Access Road Improvements: 1:1000: Drawing No. 4174-MP-251 Rev P9
Revised Junction Design (418.06654.00006.14.H005.2)
Proposed Site Plan 1:250: Drawing No. 4174-GA-200 Rev P9
Block One Ground Floor 1:100: Drawing No. 4174-GA-220 Rev P11
Block One First Floor 1:100: Drawing No. 4174-GA-221 Rev P10
Block One Elevations 1:100: Drawing No. 4174-GA-222 Rev P11

Block One Site Sections 1:250: Drawing No. 4174-GA-223 Rev P7
 Block Two Floor Plans 1:100: Drawing No. 4174-GA-225 Rev P7
 Block Two Elevations 1:100: Drawing No. 4174-GA-226 Rev P8
 Block Two Site Sections 1:250: Drawing No. 4174-GA-227 Rev P5
 Proposed Staff Accommodation 1:50/100: Drawing No. 4174-SA-200 Rev P1
 Kitchen and Dining Hall Plan 1:100: Drawing No. 4174-DK-200 Rev D
 Kitchen and Dining Elevations 1:100: Drawing No. 4174-DK-201 Rev B
 Lake Sections (1 of 2) 1:250/100: Drawing No. 4174-SP-200 Rev P8
 Lake Sections (2 of 2) 1:250/100: Drawing No. 4174-SP-201 Rev P8
 Swiss Hall/Education Buildings: Proposed: 1:100: Drawing No. 4174-EB-200 Rev P2
 A - Zip Wire 1:100: Drawing No. 4174-AA-200 Rev B
 B - Climbing Wall 1:100/20: Drawing No. 4174-AA-201 Rev A
 C - Abseil Tower 1:50: Drawing No. 4174-AA-202 Rev A
 D - Linear Course 1:100: Drawing No. 4174-AA-203 Rev A
 E – Swing 1:100/20: Drawing No. 4174-AA-204 Rev A
 Activity Shelter 1:50/20: Drawing No. 4174-AA-205 Rev P1
 Landscaping Plan General Arrangement: Drawing No. 241/01B; and block landscaping Plans: Drawing Nos. 241/02A, 241/03A, 241/04A, 241/05A, 241/06A and 241/07A.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The maximum number of guests (children) on the site shall not exceed 500 at any time. This includes those accommodated within the seasonal tenting area.
 Reason: In order to protect the amenity of the area and to accord with the requirements of Policy OSS4 (ii) (iii) of the Rother Local Plan Core Strategy

4. No external lighting shall be installed except in accordance with a lighting scheme approved in writing by the Local Planning Authority. Prior to the installation of any external lighting, full details of the lighting shall first be submitted for the consideration and subsequent approval of the Local Planning Authority in writing. The lighting shall then only be installed in complete accordance with the approved details.
 Reason: In order to protect the amenity of the area and to accord with the requirements of Policies OSS4 (ii)(iii) and EN1 (vii) of the Rother Local Plan Core Strategy.

5. The materials, including their colour and texture, to be used in the construction of the external surfaces of the buildings hereby permitted shall be in accordance with the details specified in the application and described on the plans, unless an alternative finish is first submitted to and approved in writing by the Local Planning Authority.
 Reason: To ensure that the development is in character with its surroundings in accordance with Policies OSS4 (iii) of the Rother Local Plan Core Strategy.

6. Notwithstanding any provisions contained in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no pitching of tents or any other camping shall be carried out within the application site except within the tenting area shown on the approved plan and this shall not exceed the 30 tents indicated. The colour of the tents and the concrete bases shall be as set out in the application (beige and green respectively) unless otherwise agreed in writing with the Local Planning Authority, before being set in place. The tents shall be taken down and

removed from the tent site no later than the end of September and shall not be put back in place again until May the following year.

Reason: In order to protect the amenity of the area in accordance with Policies OSS4 (ii)(iii) and EN1 of the Rother Local Plan Core Strategy.

7. No development shall commence until 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 have been submitted to and approved by the Local Planning Authority and such approved protection measures shall be retained in situ for the duration of construction works.

Reason: These details are required prior to commencement of works to ensure the protection of trees and hedgerows during construction and the creation of a high-quality landscape setting in accordance with Policy EN3 of the Rother Local Plan Core Strategy

8. All landscape works shall be carried out in accordance with the approved details. (Landscaping Plan General Arrangement: drawing no. 241/01B; and block landscaping Plans: Drawing nos. 241/02A, 241/03A, 241/04A, 241/05A, 241/06A and 241/07A). The works shall be carried out prior to any part of the development being brought into use or in accordance with the programme agreed with the Local Planning Authority. If within a period of five years from the date of the planting any tree or plant is removed, uprooted, destroyed or dies, [or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective] another tree or plant 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 ensure the creation of a high-quality landscape setting in accordance with Policies EN3 and OSS4 (iii) of the Rother Local Plan Core Strategy.

9. Biodiversity Method Statement – reptiles and amphibians: No development shall take place (including any demolition, ground works, site clearance) until a method statement for the protection of reptiles and amphibians has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:

- (a) purpose and objectives for the proposed works;
- (b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- (c) extent and location of proposed works shown on appropriate scale maps and plans;
- (d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- (e) persons responsible for implementing the works;
- (f) initial aftercare and long-term maintenance (where relevant); and
- (g) disposal of any wastes arising from the works.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and The Conservation of Habitats and Species Regulations 2017, as amended.

10. Biodiversity Method Statement – non-native invasive species: No development shall take place (including any demolition, ground works, site clearance) until a method statement for the control of non-native invasive species has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:
- (a) purpose and objectives for the proposed works;
 - (b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - (c) extent and location of proposed works shown on appropriate scale maps and plans;
 - (d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - (e) persons responsible for implementing the works;
 - (f) initial aftercare and long-term maintenance (where relevant); and
 - (g) disposal of any wastes arising from the works.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and The Conservation of Habitats and Species Regulations 2017, as amended.

11. Ecological Design Strategy: No development shall take place until an Ecological Design Strategy (EDS) addressing compensation for the loss of grassland from the wood-pasture and parkland Habitat of Principal Importance, protection of ancient woodland and other retained habitats and enhancement of the site overall for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:

- (a) purpose and conservation objectives for the proposed works;
- (b) review of site potential and constraints;
- (c) detailed design(s) and/or working method(s) to achieve stated objectives;
- (d) extent and location /area of proposed works on appropriate scale maps and plans;
- (e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- (f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- (g) persons responsible for implementing the works;
- (h) details of initial aftercare and long-term maintenance;
- (i) details for monitoring and remedial measures; and
- (j) details for disposal of any wastes arising from works.

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, and paragraphs 170 and 175 of the National Planning Policy Framework.

12. Landscape and Ecological Management Plan: A Landscape and Ecological Management Plan (LEMP) for the whole of the site shall be submitted for consideration and approval in writing by the Local Planning Authority prior to the development being brought into use. The management matters contained in the LEMP shall include details of the proposed circulation routes around the site and in particular, between activities, and incorporate measures to ensure that valuable areas of parkland habitat of wood pasture and woodland are not subjected to excessive trampling, and areas of ancient woodland and existing ponds are protected from intrusion and disturbance. If surfaced paths are to be introduced the location and materials used would need to be agreed in the LEMP. The LEMP shall provide details (including the locations) of any other activities that it is proposed to carry out on the site that are not connected to the activity bases (e.g. PGL group activities) and shall demonstrate the measures to be carried out to ensure these are only carried out in locations, and a manner, that protects the landscape and ecology of the site, The content of the LEMP shall also 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; and
- (h) ongoing monitoring and remedial measures.

The LEMP shall also include 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. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will 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.

13. Compliance with existing biodiversity strategies: All ecological measures and/or works in relation to trees and bats shall be carried out in accordance with the details contained in the Bat Survey Report (Urban Edge Environmental Consulting, December 2019) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and The Conservation of Habitats and Species Regulations 2017, as amended.

14. Protection of Badgers on Construction Sites: No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipes and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include:
- (a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using plans placed into them at the end of each working day; and
 - (b) open pipe-works greater than 150 mm outside diameter being blanked off at the end of each working day.
- Reason: To ensure badgers are not trapped or harmed on site and to prevent delays to site operation.
15. Prior to the development being brought into use, a full and detailed Noise Management Plan (NMP) shall be submitted to and approved in writing by the Local Planning Authority. This NMP shall clearly outline how all noise, including that arising from any proposed discos, the use of a camp fire (activity), and any games (activities, such as 'wacky races' and 'capture the flag' for example) shall be managed using best practicable means. The noise management plan shall outline the roles and responsibilities of staff with respect to the control of noise and it shall include a log outlining any details of complaints made and subsequent actions taken. The NMP and complaint log shall be provided to any Authorised Officers of the Council on request. Use of the site shall be carried out in accordance with the approved plan.
- Reason: to protect the amenities of the area in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy.
16. Living willow acoustic barriers to the specification as that proposed in the application (as designed by ETS, trademarked The Green Barrier™ or a similar company that may be agreed in writing) shall be installed in locations as outlined in the email sent from the Applicant's acoustics consultant, 'Surface' to Environmental Health on the 5 February 2020 prior to the car park and any activity bases being brought into use. The living willow acoustic barriers shall remain in place thereafter and shall be maintained as required in accordance with details to be contained in the NMP.
- Reason: to protect the amenities of the area in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy.
17. No mechanical plant shall be installed on site or any other machinery or works brought into use until there has been submitted to and approved in writing by the Local Planning Authority a noise assessment of the mechanical plant (or other machinery or works) associated with the development in line with BS4142:2014 + A1:2019. This assessment shall consider the location of the future nearest noise sensitive receptors to each noise source. The report shall make recommendations to ensure that the rating levels of the noise sources do not exceed existing background sound levels at the nearest noise sensitive receptors. The plant (or other machinery or works) shall be maintained as such thereafter.
- Reason: to protect the amenities of the area in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy.
18. Activity bases (Swings, Abseil Tower, Climbing Wall, Zip Wire, Linear Rope Course and Pond for Canoeing, Kayaking and Rafting) shall only be used between the hours of 09:00 to 12:00 and 14:00 to 17:30 and at no other times.

Reason: to protect the amenities of the area in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy.

19. Prior to commencement of any below ground works in association with the development hereby approved, the following details in respect of a surface water drainage scheme shall be submitted for the consideration and subsequent approval in writing of the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA), and the development shall thereafter be completed and maintained in accordance with the approved details:
- (a) Detailed design drawings of the pond, and these shall incorporate an overflow to a drainage system or watercourse to manage flows that could exceed the hydraulic capacity of the pond.
 - (b) Surface water discharge rates should be limited to 4 l/s for all rainfall events, including those with 1 in 100 (+40% for climate change) annual probability of occurrence. Evidence of this (in the form hydraulic calculations) shall be submitted with the detailed drainage drawings. The hydraulic calculations should take into account the connectivity of the different surface water drainage features.
 - (c) The condition of the ordinary watercourse and existing drainage system which will take surface water runoff from the development shall be investigated before discharge of surface water runoff from the development is made. Any required improvements to the condition of the watercourse and drainage system shall be carried out prior to construction of the outfall.
 - (d) Prior to occupation of the development, evidence (including photographs) shall be submitted showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

The drainage strategy for the site shall be completed and maintained in accordance with the submitted Flood Risk assessment and Drainage Strategy Report and the additional details as approved in respect of the above.

Reason: A pre-commencement condition is required as the very nature of surface water drainage schemes can require works to be put in place prior to any other above ground development being undertaken. To control the quality and rate of run-off in relation to surface water drainage thereby protecting water quality and reducing local flood risks in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraph 163 of the National Planning Policy Framework.

20. The new development shall not be brought into use until the vehicular access serving the development has been constructed in accordance with the approved drawing no. ref: 418.06654.00006.14.H005.4.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

21. The new development shall not be brought into use until the four vehicle passing/waiting areas have been provided on Ladybird Lane as indicated on the approved plan (4174-MP-251 P9), and a foot path for pedestrians has been provided along-side Ladybird Lane, also in accordance with the approved plan.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

22. The new development shall not be brought into use until a parking area has been provided in accordance with the approved plans 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 in accordance with Policy TR4 of the Rother Local Plan Core Strategy.
23. The new development shall not be brought into use until a cycle parking area (or areas) has been provided in accordance with details which have been submitted for the consideration of the Local Planning Authority, in consultation with the Highway Authority, and its subsequent approval in writing. The area(s) 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 as contained within the National Planning Policy Framework.
24. The new development shall not be brought into use until a turning space for vehicles has been provided and constructed in accordance with the approved plans 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 in accordance with Policy TR3 of the Rother Local Plan Core Strategy.
25. The new development shall not be brought into use until a Travel Plan 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 within 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 in accordance with the objectives contained within the National Planning Policy Framework.
26. The new development shall not be brought into use until improvements to the existing footway on the east side of the B2244 to the north of the site access (towards Sedlescombe village) have been carried out in accordance with a scheme that has been submitted for the consideration of the Local Planning Authority in consultation with the Highway Authority, and subsequently approved in writing.
Reason: To ensure the safety of pedestrians entering and leaving the access and proceeding along the highway and to encourage and promote sustainable transport in accordance with Policy TR3 of the Rother Local Plan Core Strategy.
27. No development shall take place, including any ground works or works or 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 anticipated number, frequency and types of vehicles 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; and
- (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 Regulation Orders), details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and protecting the amenities of the area in accordance with Policies OSS4 (ii) (iii) and TR3 of the Rother Local Plan Core Strategy.

28. No development shall take place until the Applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy

29. The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority within three months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in writing with the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy

NOTES:

Highways:

1. The Highway Authority's requirements associated with this development proposal will need to be secured through a Section (106/184/171/278) Legal Agreement between the Applicant and East Sussex County Council The Applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process.
2. The Applicant/developer should also contact the Transport Development Control Team to ascertain further detail of the Highway Authority's requirement for improvements to the existing footway on the east side of the B2244 as required by Condition 26.

Biodiversity:

3. The Applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 01 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
4. The Applicant is reminded of the requirement to first obtain the necessary licence from Natural England or Defra before carrying out works likely to disturb or remove wildlife, or damage habitats and it is an offence to carry out works for which a licence is required without the necessary licence first being in place.

Drainage:

5. Any works that may be required to the outfall into the watercourse, and works in establishing an overflow from the activities pond to the watercourse will require Ordinary Watercourse Consent from East Sussex County Council; the Lead Local Flood Authority can be contacted on: watercourse.consenting@eastsussex.gov.uk

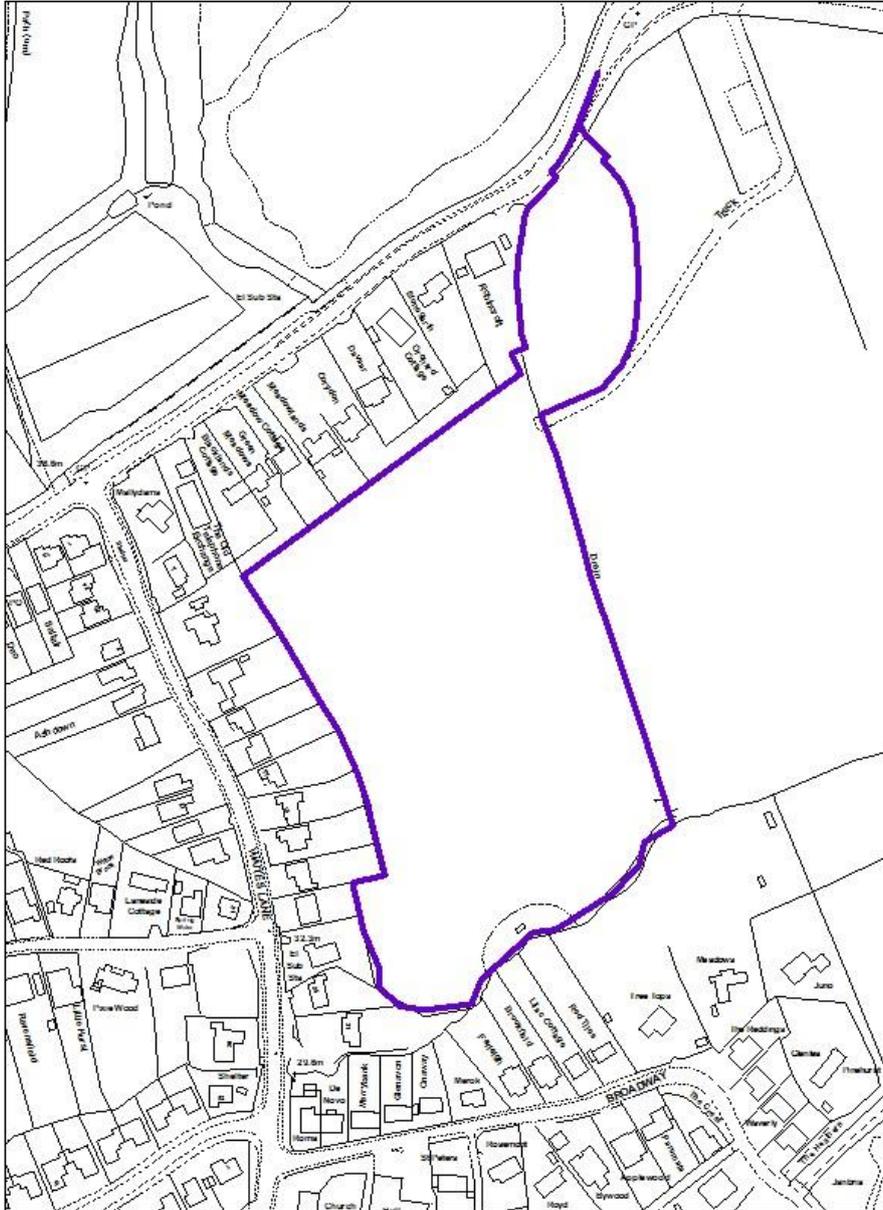
Other:

6. The planning permission is subject to a Section 106 agreement.

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

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SITE PLAN FAIRLIGHT
RR/2020/151/P Pett Level Road - Land South of, Fairlight Cove



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Rother District Council

Report to	-	Planning Committee
Date	-	11 March 2021
Report of the	-	Head of Strategy and Planning
Subject	-	Application RR/2020/151/P
Address	-	Pett Level Road – Land South of, Fairlight Cove FAIRLIGHT
Proposal	-	Outline: Development of up to 43 Residential Units (Including 40% Affordable), including new Vehicular Access from Pett Level Road.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT (OUTLINE PLANNING) DELEGATED SUBJECT TO COMPLETION OF A SECTION 106 AGREEMENT: FOR PROVISION OF AFFORDABLE HOUSING, OLDER PEOPLE AND SELF-BUILD/CUSTOM HOUSING, LANDSCAPE/ECOLOGY WORKS, HIGHWAY WORKS AND A FINANCIAL CONTRIBUTION TOWARDS A DOCTORS SURGERY (DELEGATED SUBJECT TO DISCUSSIONS WITH THE CCG AND APPLICANT).**

Head of Service: Tim Hickling

Applicant:	Welbeck Strategic Land III
Agent:	Strutt and Parker
Case Officer:	Mrs S. Shepherd (Email: sarah.shepherd@rother.gov.uk)
Parish:	FAIRLIGHT
Ward Member(s):	Councillors R.K. Bird and A.S. Mier

Reason for Committee consideration: Member referral: Councillor A.S. Mier referencing the following matters:

- **Major application in the AONB.**
- **Significant divergencies from DaSA Policy FAC2. In particular the number of dwellings is 43, rather than “approximately 30” (a 43% increase) and no provision for a Doctors’ surgery.**
- **The Parish Council has raised a number of material issues.**
- **The site is visible from the public realm, including from the Saxon Shore Way public footpath, and there are concerns that development at the proposed density will present an urban edge to the village, despite screening.**
- **The site is in the catchment area of the Dungeness, Romney Marsh and Rye Bay Ramsar site and poor water quality below the Wastewater Treatment Works has been established.**
- **There are very limited services in Fairlight to support a development of the proposed size.**

1.0 SUMMARY

- 1.1 This application seeks outline permission with all matters reserved except access. The proposed access point from Pett Level Road is detailed with tracking drawings and visibility splays to show required standards can be obtained.
- 1.2 The application site and access are as allocated at Policy FAC2 of the Development and Site Allocations Local Plan 2019 (DaSA).

1.3 PROPOSAL DETAILS

PROVISION	
No of houses	Up to 43
No of affordable houses	40% - 17.2
Other developer contributions 1	50% age restricted units
Other developer contributions 2	2-3 Self-build plots
Other developer contributions 3	Doctors surgery contribution (TBA)
CIL (approx.)	£389,392
New Homes Bonus (approx.)	£287,412

- 1.4 An illustrative layout and housing mix accompanies the proposals which indicate a broadly acceptable scheme for up to 43 dwelling units. This is acknowledged to be more than the 'approximately 30 dwellings' referenced in the policy. This number is not exact and it is always for any applicant to prove that the number of units proposed could satisfactorily be accommodated within the site. The CCG have advised that they do not require a serviced plot for a doctor's surgery within the site, which thus affords an opportunity to increase unit numbers. In addition, the illustrative plan has been amended to reduce the number of units (48) initially proposed and to include the full extent of open space, landscaping and outline for a surface water drainage scheme that are also required by Policy FAC2. While all the details of layout, appearance, landscaping and scale are for determination at reserved matters stage, the illustrative layout, nevertheless, is considered to clarify that the site has capacity to potentially accommodate up to 43 units as well as the other pertinent policy requirements.
- 1.5 Subject to the imposition of conditions and the prior completion of a legal agreement the development is recommended for approval.

2.0 SITE

- 2.1 The site comprises some 3.2 hectares of land currently in agricultural use on the edge of Fairlight Cove lying on the south side of Pett Level Road.
- 2.2 The land is inside the development boundary for Fairlight, as set out in the DaSA. The main site area comprising a single field abuts existing residential gardens along its northern, western and southern boundaries (on Pett Level Road, Waites Lane and The Broadway). The proposed new access to the site is proposed via the adjacent field to the east, on a piece of land that

abuts Robincroft, the last house on this side of Pett Level Road. Access into the main field is in the top north east corner where an existing field gate exists. The remainder of the eastern boundary to the main field is vegetated with trees and hedging.

- 2.3 The site is largely open, sloping gently from the north, and sitting at a lower level than the surrounding dwellings. There are some mature trees and hedges around the site. The site lies within the edge of the High Weald Area of Outstanding Natural Beauty (AONB), which skirts around but does not include the main village of Fairlight Cove. It is also partly within an SSSI Impact Risk Zone but not within the Hastings Cliffs to Pett Beach Site of Special Scientific Interest (SSSI).

3.0 PROPOSAL

- 3.1 This is an outline application with access only to be determined at this stage. All other matters are reserved. The application has been subject to amendment following comments from consultees and discussions with officers with regard to the policy allocation. As amended, the site now proposes 'up to' 43 dwellings, with a new access from Pett Level Road and the doctors surgery has been removed. An indicative layout has been provided which indicates a potential layout to satisfactorily accommodate up to 43 dwellings on the site with landscaping to the road and within the site, a buffer zone to the eastern side boundary, amenity spaces including a play space to the north east, and a large attenuation pond with open space/landscaping to the southern section of the site.
- 3.2 The Applicant has confirmed provision of affordable housing, self-build plots and housing suitable for older people. A variety of documents accompany the application including Design & Access Statement and Transport Assessment/Statement with tracking drawings. Additional reports include a flood risk assessment with drainage strategy, ecological surveys and appraisal, arboricultural matters, heritage assessment and utilities assessment.

4.0 RECENT HISTORY

- 4.1 RR/2018/2726/P - Outline: Development up to 150 residential units (including 40% affordable), a new mini-supermarket and a new GP surgery together with the provision of public open space, allotments, play areas, landscaping, internal roads and parking, and the provision of new vehicular access from Pett Level Road. Details of access submitted for approval. WITHDRAWN (related to a larger site).
- 4.2 While it is noted that there are two old refusals for development in 1971 and 1976, these are not considered to be significant in the determination of this application given the lengthy passage of time (nearly 50 years) and changes in planning policy.

5.0 POLICIES

5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:

- OSS1: Overall Spatial Development Strategy
- OSS2: Use of Development Boundaries
- OSS3: Location of Development
- OSS4: General Development Considerations
- RA1: Villages
- RA2: General Strategy for the Countryside
- RA3: Development in the Countryside
- SRM2: Water Supply and Wastewater Management
- CO6: Community Safety
- LHN1: Achieving Mixed and Balanced Communities
- LHN2: Affordable Housing
- EN1: Landscape Stewardship
- EN3: Design Quality
- EN5: Biodiversity and Green Space
- EN7: Flood Risk Management
- TR3: Access and new Development

5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:

- DHG1: Affordable Housing
- DEN1: Maintaining Landscape Character
- DEN2: The High Weald Area of outstanding natural beauty
- DEN4: Biodiversity and Green Space
- DEN5: Sustainable Drainage
- DIM2: Development Boundaries
- FAC2: land east of Waites Lane, Fairlight Cove

5.3 Policy FAC2: Land east of Waites Lane, Fairlight Cove states:

Land east of Waites Lane, as shown on the Policies Map, is allocated for a comprehensive scheme comprising residential development, doctor's surgery and amenity open space. Proposals will be permitted where:

- (i) approximately 30 dwellings are provided in the residential area indicated on the Detail Map, of which 40% are affordable;*
- (ii) at least 50% of the dwellings comprise appropriately designed, age restricted housing for older people;*
- (iii) a serviced plot for a new doctors surgery together with space for associated car-parking is provided, subject to business case support from the Clinical Commissioning Group;*
- (iv) the development provides an amenity open space extending across the southern part of the site, as indicated on the Detail Map;*
- (v) vehicular access is provided off Pett Level Road together with footways to link to the existing footway on the southern side of Pett Level Road and via a new pedestrian crossing to link to the footway on the northern side of the road, to the satisfaction of the Highway Authority;*
- (vi) landscape planting is provided as indicated on the Detail Map, including a retained and enhanced tree belt on the eastern boundary; tree*

planting on either side of the access road; and new hedgerows on the northern and western boundaries. All planting shall be of native species;

- (vii) a detailed sustainable drainage strategy (SuDS), in accordance with Policy DEN5, is included and has informed the layout and form of development;*
- (viii) an acceptable connection is made to the local sewerage system in liaison with the service provider; and*
- (ix) an assessment and evaluation of the site's archaeological potential has been carried out and mitigation measures are implemented accordingly.*

5.4 The following Council documents are considered relevant to the proposal Housing and Homelessness and Rough Sleeping Strategy.

5.5 The National Planning Policy Framework and Planning Policy Guidance are also material considerations including:

- Paragraph 11: the presumption in favour of sustainable development
- Paragraph 38: decision-making
- Paragraph 47: determining applications
- Paragraph 67 – 68: identifying land for homes
- Paragraph 73: maintaining supply and delivery (five year supply)
- Paragraphs 102-103: promoting sustainable transport
- Paragraphs 117-118: require that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses
- Paragraph 122: achieving the appropriate density of development
- Section 12: achieving well-designed places
- Section 15: conserving and enhancing the natural environment, including paragraph 170 and paragraph 175 reference enhancement of biodiversity
- Paragraph 172 – weight to be given to conserving and enhancing landscape and scenic beauty of AONBs.

5.6 The High Weald Management Plan and Housing Design Guide are also material considerations.

6.0 CONSULTATIONS

6.1 Highway Authority - NO OBJECTION

6.1.1 Full comments are on the website. *Did not object to the now withdrawn scheme (102 dwellings etc) and notes that the development now proposes significantly fewer dwellings than the previously submitted application and the highway impact is also reduced.*

6.1.2 Access

Noted that the proposed access as originally submitted fell outside the Policy FAC2 site. As a result, an amended plan (Drawing No.101466-SK-008) has been submitted indicating the provision of a realigned access arrangement contained within the site allocation.

The proposed new access has a width of approximately 6.0m with 6.0m radii. Tracking drawings have been provided and these indicate that a large refuse vehicle turning left out of the site would overrun the opposite side of the carriageway; however, given that the overrun would only occur relatively infrequently when larger vehicles leave the site this is not considered to be a major concern. Overall, I am satisfied that the tracking drawings demonstrate that the access can accommodate large refuse vehicles in a safe and convenient manner.

The submitted plan demonstrates that appropriate visibility splays can be provided either side of the new access.

Pedestrian access is to be improved with the provision of 2m wide footways on both sides of the new access to tie into the existing footway on Pett Level Road. Crossing points are also required.

The access arrangement as shown is acceptable in principle; however, the detail design would need to be subject to a second Road Safety Audit and any issues raised would need to be addressed in a satisfactory manner.

6.1.3 Highway Impacts

The Highway Impact Assessment related to the earlier proposals for 48 dwellings (now further reduced to 43), which indicated that traffic flows at junctions and on linking roads in the vicinity of the site would increase post development; however, the results of the impact assessment indicate that no junction, which contains a movement close to saturation, has an overall impact that could be considered severe. The maximum predicted increase in traffic as a result of the development would therefore likely to be below the daily variations in traffic flows and with this in mind it was accepted that any impact on the local highway network could not be considered to be significant.

With this in mind an insistence on the provision of mitigation measures or an objection based on the developments impact on the surrounding highway network could not be justified. Given the further reduction in quantum of development, no objection is raised.

6.1.4 Internal Layout

The internal layout has also been altered and the number of parking spaces proposed reflects the reduced number of dwellings now proposed; however, this is an outline application with all matters reserved except for access and as a result, the internal layout and parking provision details provided are therefore yet to be finalised. Provides a list of specific details to be assessed at reserved matters stage.

6.1.5 Accessibility

There are a limited number of services and facilities located within Fairlight, all of which are located within a relatively short walking distance of the site. These include Fairlight Post Office, Wakehams Farm Shop, Fairlight Village Hall and St Peter's Church.

There are intermittent footways on both sides of the carriageway on Pett Level Road to the west of the proposed site access, with informal crossing points provided between the two sides of the carriageway. Pedestrian

improvements secured as part of the development proposal will provide a continuous footway from the location of the proposed site access up to and beyond Waites Lane, which in turn connects with the centre of Fairlight and the local services and facilities located there.

Improvements are also required to the bus stops along with enhanced provision in the site Travel Plan to encourage use of bus services. A Construction Traffic Management Plan would also be required.

6.1.6 To conclude, *with the above in mind the HA does not object to the proposal and include a summary of highway measures to be provided via s106/278 legal agreements, to ensure highway safety for site and surrounding network, capacity accommodation on the network, sustainability, accessibility to local services and encouraging provision for travel modes other than the private car, as follows:*

- *The vehicular access into the site.*
- *New access to include footways on either side connecting with the existing pedestrian facilities on Pett Level Road.*
- *Improvements to the pedestrian facilities on the north and south side of Pett Level Road and Battery Hill to include upgraded footways and pedestrian crossing points (details to be agreed following further investigations).*
- *Improvements to the bus stops on Pett Level Road as detailed above.*
- *A Residential Travel Plan including an audit fee of £6,000.*

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

6.2 **Lead Local Flood Authority (LLFA, ESCC) – NO OBJECTION**

6.2.1 The information provided is satisfactory and enables the LLFA to determine that the proposed development is capable of managing flood risk effectively. It is noted that the submitted Flood Risk Assessment and Drainage Strategy report produced by Peter Brett Associates in July 2018 (report no. 42590/2001) should be carried forward to the detailed design stage. There will be a need for standard conditions.

6.3 **Environment Agency – NO OBJECTION**

6.3.1 Consider the proposal to be low environmental risk and have no comments to make. Consent/license may be required from the EA for associated activities such as water abstraction or discharging to a stream.

6.4 **Southern Water – NO OBJECTION**

6.4.1 Advise that their initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the Applicant or Developer. They advise of limitations as to building or tree planting in close proximity to a sewer. They request a pre-commencement condition in respect of drainage details.

6.5 County Landscape Architect – **NO OBJECTION**

- 6.5.1 It is recommended that the proposed revised layout can be supported as it would have an acceptable impact on the landscape character and visual amenity of the High Weald AONB. In particular notes the following points:
- 6.5.2 The Rother LDF Market Towns and Villages Assessment 2009 assessed the relative landscape capacity of urban and village fringe areas to accept development. The report identified that the area of the site and immediate surrounds (referred to as F1, Stonelynk Farm, Fairlight Cove) would have a low capacity to accept development, the conclusion for this area was: *'Fairlight Road is currently the barrier to dense development. Any significant expansion to the north of this would intrude into the AONB countryside. Some infill in more enclosed fields to the east of Fairlight Cove may be acceptable in a strong landscape structure. A major constraint is the eroding coast.'*
- 6.5.3 Rother District Council commissioned a further study in May 2018 to identify the capacity of land at Wakeham's Farm to accommodate development. This report concluded that only the western part of the site, close to the built-up edge of Fairlight Cove, would have capacity for development.
- 6.5.4 The Rother District Council's Development and Site Allocations Plan (DaSa) Policy FAC2 allocates the site for 30 houses and a plot for a doctors' surgery with access from Pett Level Road. The policy was informed by the 2018 capacity assessment.
- 6.5.5 The revised layout does address previous concerns regarding the layout and lack of landscape buffers and green infrastructure. The removal of the need for a doctors' surgery has allowed for the following improvements to the site layout:
- a) The 24m minimum multi-functional landscape buffer is proposed along the eastern boundary of the site.
 - b) The access road is realigned and would be more in keeping with that proposed in the DaSa policy.
 - c) The area of tree planting on the eastern side of the access road has been increased.
 - d) A green space would be provided between the access road and Robincroft.

6.6 County Ecologist – **NO OBJECTION**

- 6.6.1 While noting that best practice has not been met for all the application documents, they are considered acceptable for the outline application and it is confirmed that it is possible that the risk is capable of being mitigated to acceptable levels by the application of planning conditions. Further advises that any submission of Reserved Matters should be informed by updated surveys and an Ecological Impact Assessment.
- 6.6.2 Advises that Hastings Cliffs to Pett Beach Site of Special Scientific Interest (SSSI) lies c. 514m to the south and Knowle Wood Local Wildlife Site (LWS or Site of Nature Conservation Importance) lies c. 310m to the west. There are several blocks of ancient woodland in the wider area, some of which are connected to the boundaries of the site via hedgerows and treelines. Given

the location, nature and scale of the proposed development, there are unlikely to be any significant impacts on these sites or habitats.

6.6.3 The site lies within 5km of two European Sites; Hastings Cliffs Special Area of Conservation (SAC) and Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) and Ramsar site. The County Ecologist concurs with the view that the proposed development is unlikely to have a significant effect on the SAC, SPA or Ramsar and as such, an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017, as amended, is not required.

6.6.4 Notes that the arable fields are of limited ecological value, with the most important habitats being the boundary habitats and hedgerows and trees bordering the site. While the majority of the boundary and linear habitats will be retained and protected, with small areas of hedgerow and scrub removed for the access, this loss is acceptable, subject to precautions for protected species, and replacement habitats within the scheme.

6.6.5 Also notes that the proposed open space as shown on the Illustrative Landscape Masterplan is likely to provide ecological enhancements to the site provided it is sympathetically managed. Other potential enhancements include, but are not limited to, the provision of bird, bat and insect boxes, wildlife friendly fencing, green roofs and/or walls, and the use of native species of known value to wildlife within the landscaping scheme. Full details of how the site will be enhanced for biodiversity should be informed by an Ecological Design Strategy at the reserved matters stage.

6.7 County Archaeologist – **NO OBJECTION**

6.7.1 Confirms that the information provided is satisfactory and identifies that there is a risk to archaeological remains. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by planning conditions on any grant of permission.

6.7.2 Advises that the landscape has been utilised by humans from at least 6000BC and that flint tools have been found in adjacent fields. A geophysical survey does not indicate the presence of any remains of national significance that would inhibit development but has identified features that may be of local archaeological interest, which will need to be investigated further.

6.8 Natural England – **NO OBJECTION**

6.8.1 No objection was made to the original proposals and is maintained for the amended proposals, which are unlikely to have significantly different impacts on the natural environment than the original proposal.

6.8.2 Natural England further consider that based on the submitted plans the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

6.9 High Weald Unit – **NO OBJECTION**

- 6.9.1 Confirm that the amended plans dated 11.01.2021 are much improved from the original submission, particularly in respect of the following:
- The reduction in the amount of encroachment into the eastern field by the access more in line with the boundary of the allocation site;
 - The 24m minimum wide landscape buffer along the eastern boundary which includes the reinforcement of a historic hedgerow;
 - The relocation of parking spaces behind the building line which reduces their impact on the street scene; and
 - The clear street hierarchy with reduced width of access roads towards the southern end of the site and replacement with footpaths where road access is unnecessary.
- 6.9.2 Note that the quantum of development has been reduced from 48 to 43 homes which is still in excess of the 30 dwellings allocated under Policy FAC2 of the DASA. But note that land is no longer set aside for a surgery because the Commissioning Body has confirmed that one is not needed on this site, and that this frees up space for the additional 13 homes. Overall, consider that the amendments have overcome previous objections to the scheme.
- 6.10 Community and Economy – Housing Development Officer – **NO OBJECTION**
- 6.10.1 Housing Development fully supports this amended Outline planning application. The scheme proposes to deliver 43 new dwellings in the village of Fairlight, to include 17 much needed affordable homes to meet local housing need.
- 6.10.2 The following mix of affordable housing proposed offers a range of property types and sizes to meet need, including properties suitable for older people and/existing social housing tenants looking to downsize.
- Open Market Provision: 26 dwellings
- 2 x 1 bed apartments
 - 4 x 2 bed bungalows
 - 4 x 2 bed houses
 - 8 x 3 bed bungalows
 - 3 x 3 bed houses
 - 5 x 4 bed houses
- Affordable Provision: 17 dwellings
- 4 x 1 bed apartments
 - 2 x 2 bed apartments
 - 2 x 2 bed bungalows
 - 3 x 2 bed houses
 - 2 x 3 bed bungalows
 - 3 x 3 bed houses
 - 1 x 4 bed house
- 6.10.3 Subject to Planning approval Housing Development requires the following to be secured as part of the S106 Agreement;

- The 40% affordable housing planning policy requirement of affordable housing totalling 17.2 homes requires 17 affordable homes to be delivered on site and;
- the remaining 0.2 of provision secured as a commuted sum towards delivery of affordable housing across the district;
- The affordable homes must comply with Building Regulations Part M 4 (2) and the Nationally Described Space Standards with the exception of;
- Two affordable dwellings to be delivered in accordance with M 4 (3) (b) wheelchair accessible standards (Policy DHN4)
- 65% of the affordable homes must be provided as affordable/social rented housing and 35% intermediate/shared ownership housing (Policy LHN1)
- Up to 50% of the housing scheme to be as housing for older people to include affordable and private market housing.

6.10.4 It is recommended that the following matters are also included as part of the Reserved Matters planning application;

- A detailed plan confirming the mix of housing types and property sizes to be provided, to accord with the indicative plans and accommodation schedule provided as part of this outline planning application.
- A plan identifying the location of the affordable housing units and the tenure mix of the affordable housing.
- The affordable homes must be pepper potted across the scheme to ensure they are made indistinguishable from market housing (Policy LHN1).
- Identification of the two affordable homes to be delivered to wheelchair accessible standards (M4 3 b) based on identified need

To ensure the housing scheme is deliverable, the developer is encouraged to engage with a Register Provider, once the scheme has planning permission.

6.11 Clinical Commissioning Group – **NO OBJECTION**

6.11.1 A considerable amount of informal discussion has been held with the CCG pending submission of their formal comments. Initial comments were that a serviced plot was not required on this site but a financial contribution may be sought. Final comments have yet to be received but this is currently being considered as a requirement of any s106 obligation.

6.12 Sussex Police – **NO OBJECTION**

6.12.1 With the level of crime and anti-social behaviour in Rother district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site specific requirements should be considered. Will make detailed comments with regard to any reserved matters at that time. Notes that lighting is important and considers bollard lighting to be inappropriate in reducing a fear of crime.

6.13 SGN – **NO OBJECTION**

6.13.1 Note the relationship of the site with the gas mains within Pett Level Road and provide details of the requirement to follow safe working practices.

6.14 Building Control – **NO OBJECTION**

6.14.1 Have no concerns with the outline application.

6.2 Planning Notice

6.2.1 82 letters of objection have been received (from both within and outside Fairlight) including from the CPRE, Ramblers, Fairlight Residents Association, East Fields Fairlight Action Group and National Trust in respect of the original proposals. Further 16 Objections in total received to the two subsequent amendments, reiterating objections. The concerns raised are summarised as follows:

- No exceptional circumstances for development in the AONB.
- Will not conserve or enhance the AONB.
- Site is off narrow winding lanes, much of which has no footways, several miles from the main road (A259) for access to and from Hastings and Rye. And will increase local highway hazards.
- Access will be dangerous.
- Roads are already in a poor state of repair.
- Poor pedestrian links.
- Inadequate bus services.
- Fairlight may need some housing but not this many.
- Overdevelopment of site and density is too high.
- Urban sprawl.
- Will split the community.
- Loss of agricultural land.
- Loss of biodiversity and harm to wildlife.
- Ecology reports out of date.
- Unsustainable as will increase need to travel.
- Will impact the unstable cliffs.
- Will lead to light pollution.
- Housing will not be affordable.
- The proposal fails to make adequate infrastructure provision to manage increased volumes of foul and surface water.
- Drainage will require pollution controls and should reduce flood risk.
- Current drainage and polluted water issues as per the EA survey. Could impact the SSSI.
- There is no need for a doctor's surgery.
- 1 letter objecting to loss of the doctor's surgery as amended.
- No need for public open space.
- Land should be transferred to the National Trust as is the surrounding land and not built on.
- Insufficient capacity in local schools.
- Lack of local services and facilities.
- No local employment.
- Need to consider climate change.
- How will the site be maintained?
- If approved should comply with High Weald Housing Design Guide.

6.2.2 One letter with general comments has been received. The comments are summarised as follows:

- Housing is fine but wildlife and environmental impacts need to be addressed.

6.3 Fairlight Parish Council - **OBJECTION**

6.3.1 Have made comments to the original and amended proposals. They note that this is in outline with all matters reserved apart from access. With regard to the latest 'illustrative' layout and statement comments are summarised as follows:

- Query policy compliance with regard to FAC2 - Number of dwellings is 43% greater and there is no medical centre.
- Local sewage system is overloaded and results in local watercourses being polluted.
- Southern Water have commissioned to undertake a feasibility study of various options to upgrade the drainage network. In an area of known problems outline consent should not be granted until satisfactory drainage can be provided.
- Local wildlife studies conclude that dirty water flowing into Marsham Sewer and beyond will harm wildlife.
- Western end of site has history of standing water after heavy rainfall. Robust maintenance arrangements would be required for any SuDS.
- Statement fails to reference previous historic refusals for the site.
- Inconsistent reference to pre-application advise.
- Has the CCG decided they do not need a surgery in this location?
- Transport Assessment – walking and cycling may be suitable within the village but not wider afield because of the hilly terrain.
- No employment or education facilities locally so have to travel.
- Large increase in traffic given narrowness of local roads and inadequacy of C92. Existing problems will be exacerbated.
- Two fatalities have occurred on Battery Hill in 2017 and 2020.
- Proposed new access and dropped crossing is in hazardous location close to bend and junction with Rosemary Lane.
- Sustainability issues – requires highway quality transport network and employment opportunities to be sustainable. In absence of these two elements scheme is not sustainable.
- Proposal is physically separated from rest of the village.
- Density of 25 dph seems cramped for the village.
- Consider the proposal to represent major development in the AONB.
- Extension of built form into undeveloped AONB will not conserve or enhance AONB.
- But intention to allocate 30 properties strikes a balance between protecting AONB and providing housing, doctors and landscaping. But question the need for 30 houses. Proposal goes beyond this and even 5 year supply issues and affordable housing is not considered to provide exceptional circumstances and is not in public interest.
- Currently need 5 affordable units in the village but does not justify a whole development.
- Additional public open space does not appear a particular priority given location to Hastings Country Park and Commanders Walk.

7.0 LOCAL FINANCE CONSIDERATIONS

- 7.1 The proposal is for a type of development that is CIL liable. The total amount of CIL money to be received is subject to change, including a possible exemption, and as this is an outline planning application final floor space figures are unknown. But, the development could generate approximately £389,392
- 7.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band D property, be approximately £287,412 over four years.
-

8.0 APPRAISAL

8.1 The site lies within the Development Boundary for Fairlight Cove as defined by the Rother DaSA Local Plan, adopted 2019. The site boundary is the same as that allocated for housing with a new access and landscaping at Policy FAC2 of the DaSA. Consequently the principle of development in this location is accepted.

8.2 The principal issues for consideration are:

- Policy allocation compliance
- Housing Supply
- Impacts on the AONB
- Highway Impacts
- Drainage
- Ecological Impacts
- Impacts on neighbours

8.3 Policy Allocation Compliance

8.3.1 Policy FAC2 was subject to public examination as part of its proposed inclusion within the DaSA. It was subsequently left unchanged by the Inspector when the DaSA was found sound and forms part of the adopted Local Plan. In terms of the number of units, the policy refers to 'approximately 30 dwellings', 40% of which are to be affordable. This number is not exact and it is always for any applicant to prove that the number of units proposed could satisfactorily be accommodated within the site.

8.3.2 This application has been amended more than once following discussions with officers and the receipt of comments from statutory consultees. The initial proposals included a development for up to 48 dwellings, with a doctors surgery and a wider land take for the new access road. The illustrative scheme that was first submitted, was not however considered satisfactory. The proposals were considered to result in a cramped scheme with issues relating to layout, parking dominating the street scene, no woodland buffer to reinforce the eastern boundary and a lack of space around the development to soften and redefine the new village edge. At officers' requests, the road was subsequently realigned, while still meeting required highway standards, to reflect the boundary set out at Figure 50 of Policy FAC2. Some additional landscaping is proposed for part of the road just outside this boundary, as discussed with the County Landscape Officer

and High Weald AONB Unit. Additionally, the doctors surgery has now been removed, (this is explored further below) which affords space for a greater numbers of units on the site than originally envisaged by the policy. The amendments also now show a broadly policy compliant space being proposed to the buffer area, enhanced tree belt and amenity landscape area on the eastern side of the site, ranging from 24m to approximately 27m.

8.3.3 The scheme now as presented proposes 'up to 43 dwellings' and the indicative sketch layout shows all the proposed dwellings accommodated within the area of the site intended for development in Policy FAC2. Whilst it is not the remit of this outline application report to consider matters of design and layout in detail, it is important that these matters are briefly assessed in view of indicative information regarding this being submitted with the application and the way in which it informs whether such development could be achieved. The illustrative material and sketch layout submitted to accompany the outline application are considered to contain a broadly satisfactory layout and design strategy. They indicate a mix of unit types and sizes, with affordable, self-build and housing suitable for older persons. The mix is supported by the Housing Development Officer. Single storey bungalows are sited around the north and west boundaries with two-storey dwellings set further within the site where the levels are even lower. Four of the units are set out as two-storey apartments. All units appear to meet the requirements for external space as set out at Policy DHG7 of the DaSA. While retaining existing boundary vegetation, the required woodland buffer is included along with new hedgerows to the north and west. Open space and planting through the site are also accommodated.

8.3.4 Officers do have a number of detailed design and layout concerns as presented in the sketch layout, including: grain of development particularly on the eastern side, spacing of the bungalows, street frontage and addressing the street in certain locations, along with some aspects of the parking strategy, which, whilst generally successfully provided either on plot to the sides of dwellings or in a small parking court, in some locations is in too wide (double or triple parking areas are shown). However, none of this falls to be considered at this outline application stage, and, as would be usual, any future reserved matters of layout, scale, appearance and landscaping would be expected to refine detailed elements of the scheme having regard to the High Weald Housing Design Guide and addressing issues relative to but not exclusively, appearance, street scene, built form, street character, parking and turning standards, materials and character areas. Officers would hope to engage positively with the Applicant at pre-application stage of a reserved matters scheme to give detailed advice on these issues. Changes to the scheme in terms of layout and design to address these issues could result in a slightly lower number of units being considered appropriate at reserved matters stage, depending on how the issues are addressed. However, the 'up to 43' units would allow for this. While the number of units now proposed are up to 43, as set out on the illustrative plan, subject to some urban design matters at detailed stage, it is considered that the site is capable of accommodating 'up to 43' units as well as the planting and open space elements within the site in accordance with figure 50 to Policy FAC2.

8.3.5 Comments have been made that the density at 25dph is too cramped and out of character for Fairlight. The Government guidance in relation to

densities is that 'minimum' density standards are utilised and that densities be optimised, having regard to local character. Paragraph 122 of the National Planning Policy Framework states that planning policies and decisions should support development that makes efficient use of land, taking account of various factors including the identified need for development, local market conditions, the desirability of maintaining an area's prevailing character and setting, and the importance of securing well-designed, attractive and healthy places. Paragraph 123 confirms that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. In this instance it is accepted that the surrounding residential properties are generally set within larger plots, particularly having regard to the depth of the plots. Plot widths are not so different. This then presents a lower density. However, the density must be considered in relation to all other aspects of the proposal and the overall sense of place to be created. As always, planning is a balancing exercise. As existing, the properties on Pett Level Road (north) and in Waites Lane (west) present an obviously built and urban edge to the village clearly visible from the surrounding area and road network. The proposed scheme and as per the policy allocation and figure 50, is to create a new softer village edge. The woodland to the south and rear of The Broadway, is to be retained and enhanced. Part of that enhancement is to continue it northwards along the eastern boundary of the site and connect it back to the trees at the access along the southern side of Pett Level Road. Additional hedgerows and planting within the site as well as landscaping to both sides of the access road are also proposed. As a result it is intended that this side of the village would be less visible within views from the surrounding area. The amount of landscaping required is considerable but all in accordance with the policy and as a result, subject to a high quality design detail at reserved matters stage, a higher density development than had been anticipated by the allocation can be accepted.

- 8.3.6 A serviced plot for a doctor's surgery is one of the policy requirements (iii). However, the CCG have latterly confirmed to the Council that they do not require a serviced plot in this location and hence its removal from the illustrative layout. It is noted from the majority of objections that there is a query on the need for a surgery here). The CCG are continuing to review current requirements for the surrounding area and have indicated that a financial contribution in lieu of the plot is being considered. The Applicant would gain financially, through using the land allocated for the doctor's surgery for additional housing, and this is at the expense of contributing to improved healthcare provision locally (wherever and in whatever form that would take, as determined by the CCG). Policy CO2 of the Core Strategy supports the provision of new or improved primary healthcare facilities, particularly doctor's surgeries, through allocations, permissions and/or developer contributions and, whilst the CCG have indicated that on-site provision here would not fulfil their strategic ambitions, in line with Policy CO2, it is expected that a financial contribution should be secured in lieu of on-site provision.
- 8.3.7 That said, in order to determine and require a reasonable developer contribution, the CCG must provide us with further details of their precise requirements. If a financial contribution is required and can be justified, then

this would be required for inclusion in any s106 obligation in the event that permission were granted.

8.3.8 While drainage matters are addressed separately below, with exception to the doctor's surgery and variation of the numbers as addressed above, all other policy requirements are addressed in the proposals.

8.4 Housing Supply

8.4.1 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.

8.4.2 As the adopted Local Plan Core Strategy is now more than five years old, in accordance with the National Planning Policy Framework published in February 2019, the Council will measure its five-year housing land supply position against its minimum local housing need (LHN), defined using the new standard method calculation, until such time as a new target is established through the Plan-Making process. As at 1 April 2020, the LHN figure for Rother is 736 dwellings per annum. This is in sharp contrast to the Core Strategy figure of 484 dwellings per annum for this point in the Plan period.

8.4.3 Due to the considerable uplift in the housing figure, the Council is only able to identify 2.87 years of housing supply. It should be noted however, that if the five-year housing land supply position were still measured against the outstanding Core Strategy requirement, then the Council would be able to demonstrate 4.36 years of housing land supply, an increase of 0.63 years since April 2019.

8.4.4 Notwithstanding this, it is concluded that there is currently an insufficient supply of deliverable housing sites to meet the five-year housing land supply requirement in accordance with paragraph 73, or a three-year housing land supply in accordance with paragraph 14c of the National Planning Policy Framework.

8.4.5 The general presumption in favour of sustainable development becomes a critical reference point when determining planning applications across the district. Significant weight should generally be given to the benefits that additional housing supply would bring, although this will depend to some extent on local circumstances, including the impact on the High Weald AONB. However, for the purposes of decision-taking, the Council cannot demonstrate a five-year housing supply and therefore the presumption in favour of sustainable development outlined in paragraph 11 of the National Planning Policy Framework is applicable to Rother.

8.4.6 Paragraph 11 states:

*"For **decision-taking** this means:*

- c. approving development proposals that accord with an up-to-date development plan without delay; or*
- d. where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- 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”.*

8.4.7 This means that the Development Boundaries contained within the DaSA Local Plan and other policies that relate to the supply of housing must be viewed at present as being “out-of-date” and that, as a consequence, planning applications fall to be considered in the context of paragraph 11 of the National Planning Policy Framework. However, that does not mean that housing schemes which are unacceptable for other sound planning grounds must be allowed; but it does add weight to the benefits that the contribution to boosting housing supply would bring when determining planning applications.

8.4.8 In terms of housing delivery, the Housing Delivery Test (HDT) has been introduced by Government as a monitoring tool to demonstrate whether LPAs are building enough homes to meet their housing need. The latest HDT result, which was published in January 2021, compares the number of new homes delivered over the previous three years with the authority's housing requirement. Against a requirement of 1,035 dwellings over the last three years, Rother delivered 670 net dwellings with a result of 65%. Consequently, the Council will produce an updated Action Plan by August 2021 to take account of the most recent HDT results (which will replace the existing Action plan published in August 2020). In addition, the Council must continue to include a 20% buffer in its respective housing land supply position statement.

8.5 Impacts on the AONB

8.5.1 The application site lies on the edge of the High Weald AONB where it skirts around the village. As 82% of the District lies within the AONB it is accepted that on some occasions development will occur within the AONB. Obviously that development is subject to consideration having regard to all relevant policy considerations especially those relative to the conservation and enhancement of the AONB. Having regard to paragraph 11 (d) (i) it must be considered whether the policies in the National Planning Policy Framework that relate to AONBs provide a clear reason for refusing the development proposed but in this instance the principle of development here has already been accepted having allocated the site for development within the DaSA.

8.5.2 The reference by objectors to these proposals constituting major development in the AONB are noted. However, as explored below the proposal is not regarded as major development in the AONB for the purposes of paragraph 172 of the National Planning Policy Framework and having regard to associated footnote 55 which states:
“whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.”

- 8.5.3 There are approximately 663 dwellings within the development boundary of Fairlight Cove. An increase in the number of dwellings by 43 units would represent an increase of approximately 6.5%. Having regard to the fact that the site is allocated for development in the adopted DaSA Local Plan (albeit of a lower density), the view is taken that the proposed development is unlikely to constitute “major development” in terms of its scale, in the context of paragraph 172 (footnote 55) of the National Planning Policy Framework. In terms of its nature, setting and impact, it is noted that the site sits below the surrounding development which encloses it to its north, west and south sides, albeit that the woodland to the south screens the development along The Broadway.
- 8.5.4 As referenced by the County Landscape Officer, the allocation of the site within the AONB was the prior subject of the Landscape Assessment of Wakeham’s Farm, Fairlight Cove (May 2018). The assessment divided the area into “Character Areas”, labelling the area which was subsequently subject to DaSA Policy FAC2 – and now subject to the current application – as Character Area B1. The adjoining field to the east of the site was Area B2. The Landscape Assessment found (at section 4.2) that Area B1 has capacity for “some well-designed, high quality development of an appropriate density and scale”, subject to the mitigation listed at section 5. These mitigation measures were subsequently incorporated into the requirements of DaSA Policy FAC2. While the proposed layout is indicative only, it is of a high level of detail and does demonstrate, subject to resolution of specific design details, that the proposed increase in numbers of units accompanied by the other requirements of Policy FAC2, (excluding the surgery), can be accommodated within the site without compromising the effect on the landscape or the quality of the development.
- 8.5.5 Therefore, in this case, a higher density development than had been anticipated by the allocation can be accepted. This is because the areas dedicated to landscaping and open space within the site accord with the requirements of the site-specific Policy (FAC2) in respect of both their size and location. Providing the landscaping and open space is secured as proposed and are of a high quality, these areas will provide the necessary screening of the development within the wider AONB landscape to the east and the necessary conservation and enhancement of this designated landscape, despite the higher density. The landscaping and open space, together with a high quality overall design for the development (to be secured at Reserved Matters stage) will also ensure the development is in keeping with the character of this edge of village location. The density as proposed is considered to accord with paragraphs 122 and 123 of the National Planning Policy Framework in respect of making optimal use of the potential of the site, taking account of the area’s prevailing character and setting and the importance of securing well-designed, attractive and healthy places.
- 8.5.6 The east field subject of the development is well contained sitting at a lower level than the surrounding development, with woodland to its south (with The Broadway), proposals to strengthen the existing east side boundary and with a woodland buffer as well as planting throughout the site. The proposed development would not protrude out into the countryside but ‘infills’ between existing development. Subject to detail for a high quality design and landscaping as required by the policy, the development would be no more

intrusive than the existing village which is arguably more open to view. Any views from the east if available would be seen against the backdrop of the existing village. The proposals are thus considered to conserve the landscape of the AONB, while the extensive landscaping and softer edge to the village would be an enhancement of the AONB.

8.6 Highway Impacts

8.6.1 Many objections have been received with regard to the position for the new access and the nature of the surrounding road network. The proposed access has been the subject of assessment and road safety audit by the Highway Authority and the transport company for the Applicant. As the Council's expert adviser, the Highway Authority has confirmed that it has no objection to the access details and that the proposal does not represent a significant hazard to the safety of the surrounding road network. Overall impacts would not be considered severe and hence a refusal would not be justified, subject to the other details required with regard to off-site works. Visibility splays can be provided to meet the required standards and, with exception of an occasional left turn by a large refuse truck which may overrun the opposite side of the carriageway, there are no major concerns with the access in this location.

8.6.2 Access within the site is illustrative and its details in terms of carriageway width, parking and turning facilities would be subject to reserved matters considerations.

8.6.3 Accessibility of the site would be improved by the provision of the extended footways in Pett Level Road as required by the Highway Authority and policy and which would be included in any s106 obligation. While not a policy requirement, as referenced at paragraph 11.125 of the DaSA, permeability would also be improved with a pedestrian link from the site to Waites Lane/The Broadway. While this would require use of third party land, the Applicant should be encouraged to explore this and this could be referenced in an informative note.

8.7 Drainage

8.7.1 The drainage issues within Fairlight are acknowledged and while improvements may be required, Southern Water have stated that the development could be accommodated within the network. Similarly the LLFA also advise that the design strategy for surface water drainage within the proposed development is capable of managing flood risk effectively. While the full details for both foul and surface water drainage have yet to be agreed, these details would be required to ensure that any issues were not accentuated by the proposals and may actually assist in alleviating them. The concerns regarding local pollution of watercourses are noted, but these issues are not related to this development (being an existing problem) and the drainage condition would require details to ensure that the scheme did not result in any pollution. It is noted that both the County Ecologist and Natural England state that the proposed scheme would not significantly impact the natural environment or statutorily protected nature conservation sites. As is usual, full details should be required by condition and their absence at this stage is not considered a reason for refusal.

8.7.2 Reference has been made to the issues of cliff erosion in the area. This site lies well outside the coastal buffer zone set out at Policy DEN6 of the DaSA and is not considered to be impacted by the proposals as currently outlined.

8.8 Ecological Impacts

8.8.1 The main site has limited ecological value due to its use for agriculture but it is noted that the site boundaries in particular do have value and this value is required to not only be maintained but also enhanced. As noted by the County Ecologist, while some of the surveys and reports may be slightly outdated, they are considered acceptable for the outline application. Any reserved matters application would, however, be required to be accompanied by up to date surveys and assessment, along with detailed mitigation and enhancements. Both the County Ecologist and Natural England state that the proposed scheme would not significantly impact the natural environment or statutorily protected nature conservation sites. Appropriate details would be required at reserved matters stage to ensure this.

8.9 Impacts on neighbours

8.9.1 The neighbouring properties that would be subject to some impact would be those dwellings to the north along Pett Level Road and to the west in Waites Lane. The site falls away from the north and so the proposed dwellings would step down the hill away from the existing dwellings in Pett Level Road while being comparative to those in Waites Lane. The existing properties are a mixture of single storey and chalet bungalows. The rear gardens to Pett Level Road vary in length with a depth of around 30m at the western end to 40m or more for Orchard Cottage and eastwards. The dwellings in Waites Lane are set some 30m away from the development boundary. Those with a shorter rear garden to the southern part of the site correspond with the area designated for open space and the attenuation ponds. Both these boundaries are proposed to have new hedgerows planted with new dwellings likely to be bungalows and having gardens not less than 10m in depth. Given the separation distances the proposed dwellings would not result in loss of residential amenities, i.e. not suffer loss of light, overshadowing, unacceptable overlooking or be faced with overbearing development. While private views may be impacted, they are not a material planning consideration.

8.9.2 The other neighbour to be specifically considered is the owner/occupier at Robincroft, the last dwelling fronting Pett Level Road and closest to the new access. It will be noted that the access junction is located approximately 50m from the dwelling with separation between the road and side garden boundary by a substantial landscaped area of between 20-30m deep. The boundary here is to be reinforced with additional tree planting. Having regard to the separation distance and proposed landscaping and given the relatively limited number of dwellings to be served by the access, the proposal is not considered to result in harm to the residential amenities of this property.

8.10 Section 106 Contributions

8.10.1 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 Community Infrastructure Levy 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.

8.10.2 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:

- The 40% affordable housing planning policy requirement of affordable housing totalling 17.2 homes requires 17 affordable homes to be delivered on site and;
- The remaining 0.2 of provision secured as a commuted sum towards delivery of affordable housing across the district.
- The affordable homes must comply with Building Regulations Part M 4 (2) and the Nationally Described Space Standards with the exception of;
- Two affordable dwellings to be delivered in accordance with M 4 (3) (b) wheelchair accessible standards (Policy DHN4)
- 65% of the affordable homes must be provided as affordable/social rented housing and 35% intermediate/shared ownership housing (Policy LHN1)
- Up to 50% of the housing scheme to be as housing for older people to include affordable and private market housing. Provision of 5-10% of the total number of dwellings should be made available as serviced plots for self and custom housebuilders, in accordance with Policy DHG6 of the DaSA Local Plan. Provision of and future management of the landscaping to the site including retention and enhancement of woodland areas, boundary trees and new planting and including the public access areas,
- Ecology mitigation and biodiversity compensation and improvements,
- Highway works including:
 - *The vehicular access into the site.*
 - *New access to include footways on either side connecting with the existing pedestrian facilities on Pett Level Road.*
 - *Improvements to the pedestrian facilities on the north and south side of Pett Level Road and Battery Hill to include upgraded footways and pedestrian crossing points (details to be agreed following further investigations).*
 - *Improvements to the bus stops on Pett Level Road as detailed above.*
 - *A Residential Travel Plan including an audit fee of £6000*
- Unless subsequently not demonstrated by the CCG a necessary to make the development acceptable (having regard to the CIL Regulations), a financial contribution towards doctor's surgery provision in the local area in lieu of the serviced plot required by Policy FAC2 (iii) of the DaSA Local Plan.

9.0 PLANNING BALANCE AND CONCLUSION

- 9.1 This application for the development of this particular parcel of land with access off Pett Level Road is pursuant to the policy allocation of the site for residential and associated landscaping, Policy FAC2 of the DaSA.
- 9.2 The application is in outline only with all matters, except access, reserved. But, as indicated, the proposals seek to comply with the policy requirements for 40% affordable housing, 50% housing for older people, 5% self-build custom housing, with a variety of dwelling types and sizes to present a policy compliant mix.
- 9.3 The proposed means of access from Pett Level Road, subject to the off-site works required by the Highway Authority, and including extension of the public footways and bus stops along Pett Level Road, is acceptable.
- 9.4 Policy FAC2 references the proposal for a serviced plot for a doctors surgery but the CCG have advised that this is not required in this location. The justification for a financial contribution in lieu of the serviced plot continues to be assessed and if required should be incorporated within any s106 obligation.
- 9.5 In the absence of the serviced plot, the site affords space for additional dwellings to be accommodated within the proposals. As such and as illustrated the site could accommodate additional dwellings above the 30 specified in the policy and up to 43 is broadly satisfactory providing all the required landscaping, open space, drainage provisions and design details etc can accommodate that number at reserved matters stage.
- 9.6 As illustrated the site can provide access, open space, landscaping and surface water drainage to meet the policy requirements.
- 9.7 Southern Water, the Environment Agency and the Lead Local Flood Authority all advice that suitable drainage systems can be provided to serve the development, although, as is usual, further details would be required at reserved matters stage.
- 9.8 Natural England and the County Ecologist having regard to the current level of submissions, confirm that the proposed scheme would not significantly impact the natural environment or statutorily protected nature conservation sites. Additional details would be required at reserved matters stage.
- 9.9 The proposed site is contained within the landscape, infilling a gap within the existing development. Subject to detail for a high quality design and landscaping as required by the policy, the development would be no more intrusive than the existing village which is arguable more open to view. Any views from the east if available would be seen against the backdrop of the existing village. The proposals are thus considered to conserve the landscape of the AONB, while the extensive landscaping and softer edge to the village would be an enhancement of the AONB. The development is, therefore, recommended for approval.

RECOMMENDATION: GRANT (OUTLINE PLANNING) DELEGATED SUBJECT TO COMPLETION OF A SECTION 106 AGREEMENT: FOR PROVISION OF AFFORDABLE HOUSING, OLDER PEOPLE AND SELF-BUILD/CUSTOM HOUSING, LANDSCAPE/ECOLOGY WORKS, HIGHWAY WORKS AND A FINANCIAL CONTRIBUTION TOWARDS A DOCTORS SURGERY (DELEGATED SUBJECT TO DISCUSSIONS WITH THE CCG AND APPLICANT).

In the event that the Agreement is not completed by 11 September 2021, that permission be refused for the Applicant not entering into an agreement to secure the above, contrary to the relevant policies, unless an extension of time has been agreed by the Head of Service Strategy and Planning (or delegated substitute).

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. Subject to the details required by Condition 1, the development hereby permitted shall be carried out in accordance with the following approved drawings and documents:
PL-03D, dated 25.02.21
101466-SK-008 rev.B, dated 18/12/2020

The following drawings/documents are not approved:

- Drawing No. Sk12 Rev E – Sketch Layout Western Field Only (apart from in reference to Condition 6 below)
- Drawing No. PL-10 Rev C – Illustrative Open Space Areas
- Drawing No. Sk14 Rev C – Proposed Dwelling Breakdown

Design & Access Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

6. The area permitted for residential development should be limited to the area identified on Drawing No. 6552-SK-12e (Sketch Layout) and shall not extend into any other part of the site. The areas identified for landscaping and public open space/SuDS features on this plan are to be retained and maintained for those uses in perpetuity. Policy FAC2 (iv and vi) of the DaSA Local Plan.
Reason: To ensure a policy compliant development that maintains and enhances the landscape character, scenic beauty and biodiversity of the site and surrounding High Weald Area of Outstanding Natural Beauty, in accordance with Policies OSS4(iii), EN1, EN5 and SRM2(iii) of the Rother Local Plan Core Strategy, Policies FAC2 (iv) & (vi), DEN1, DEN2, DEN4 and DEN5 of the Rother Development and Site Allocations Local Plan (DaSA) and paragraphs 170, 172 and 175 of the National Planning Policy Framework.
7. All ecological measures and/or works shall be carried out in accordance with the details contained in Reptile Survey Report (Epoch Ecology, dated 19/12/19 as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. However, The Reserved Matters application shall be informed by further ecological surveys commissioned to
 - i) establish if there have been any changes in the presence and/or abundance of protected species; and
 - ii) identify any likely new ecological impacts that might arise from any changes.Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.
Reason: As species are mobile and habitats can change and become more or less suitable, it is important that the surveys reflect the situation at the time on any given impact occurring to ensure adequate mitigation and compensation can be put in place and to ensure no offences are committed. To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, to comply with Policy EN5 of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and Site Allocations Local Plan (DaSA) and to avoid an offence under the Wildlife and Countryside Act 1981, as amended.
8. As part of condition 1 above, an ecological design strategy (EDS) addressing retention and protection of existing habitats during construction and enhancements to increase the biodiversity value of the site shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:
 - a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;

- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance;
- i) details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, and paragraphs 170 and 175 of the National Planning Policy Framework, Policy EN5 of the Rother Local Plan Core Strategy and Policy DEN4 of the DaSA.

9. As part of Condition 1 above, details shall also be submitted for a foul and surface water drainage scheme based on the following matters:
- a) Details for connection to and improvement of the local foul sewer network
 - b) Surface water management principles set out in the submitted Flood Risk Assessment and Drainage Strategy report produced by Peter Brett Associates in July 2018 (report no. 42590/2001)
 - c) Surface water discharge rates should not exceed the proposed rate of 7.0 l/s/ha for all rainfall events, including those with 1 in 100 (+40% for climate change) annual probability of occurrence. Evidence of this (in the form of hydraulic calculations) should be submitted with the detailed drainage drawings. The hydraulic calculations should take into account the connectivity of the different surface water drainage features.
 - d) The details of the outfall of the proposed attenuation pond and how it connects into the watercourse should be provided as part of the detailed design. This should include cross sections and invert levels.
 - e) The condition of the ordinary watercourse which will take surface water runoff from the development should be investigated before discharge of surface water runoff from the development is made. Any required improvements to the condition of the watercourse should be carried out prior to construction of the outfall.
 - f) The detailed design should include information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely.
 - g) Detailed design of drainage features should be informed by findings of groundwater monitoring. We note that groundwater monitoring was undertaken on site in May 2018, but monitoring is to be carried out between autumn and spring to provide a better representation of soil characteristics during periods of higher intensity rainfall. The design should leave at least 1m unsaturated zone between the base of the ponds and the highest recorded groundwater level. If this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the drainage system should be provided.
 - h) A maintenance and management plan for the entire drainage system should 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.

- i) The Applicant should detail measures to manage flood risk, both on and off the site, during the construction phase. This may take the form of a standalone document or incorporated into the Construction Management Plan for the development.
- j) Prior to occupation of the development, evidence (including photographs) should be submitted showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

Reason: A pre-commencement condition is required to ensure that the drainage infrastructure is provided to ensure that the development will not increase the risk of flood and will improve water quality and to ensure the future maintenance of the drainage systems, in accordance with Policies SRM2 of the Rother Local Plan Core Strategy and Policies DEN5 and FAC2 of the DaSA Local Plan.

10. As part of Condition 1 above details shall be submitted for the parking and turning of vehicles in accordance with the East Sussex Residential Parking Demand Calculator and the provision of cycle parking areas and all those areas shall be provided and thereafter retained for that use only. Parking spaces shall measure at least 2.5m by 5m (add an extra 50cm where spaces abut walls).

Reason: A pre-commencement condition is required to ensure the provision of integral and adequate on-site parking and turning facilities for the development that do not prejudice the free flow of traffic or conditions of general safety along the highway and in order that the development site is accessible by non-car modes of transport and to meet the objectives of sustainable development, in accordance with Policies TR4 and TR3 of the Rother Local Plan Core Strategy.

11. As part of Condition 1, the following details regarding built form shall be submitted and the development shall thereafter be completed in accordance with the approved details:

- a) An updated Design and Access Statement
- b) 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.
- c) 1:200 scale streetscene drawings, of all streetscenes within the development, accurately reflecting site topography, showing proposed buildings in context.
- d) 1:50 drawings of all proposed buildings including details of all fenestration, eaves details, porches, dormers, rooflights, chimneystacks, pipes, vents and utility meters and boxes.
- e) The proposed site levels and finished floor levels of all buildings in relation to existing site levels, and to adjacent highways and properties (including levels of paths, drives, steps and ramps).

Reason: A pre-commencement condition is required to ensure a high quality building appearance and architectural quality, which reflects the character of development within the High Weald AONB, and which maintains existing trees and hedgerows as part of the development and landscape setting within the AONB, to accord with Policies OSS4 (iii), EN3 and EN1 of the Rother Local Plan Core Strategy, Policies DEN1 and DEN2 of the DaSA, and the High Weald Housing Design Guide.

12. As part of Condition 1, the following public realm and hard landscaping details shall be submitted, and the development shall thereafter be carried out as approved and in accordance with an agreed implementation programme.
- a) Proposed finished levels or contours.
 - b) Boundary treatments (plot and other) and any other means of enclosure (fences, railings and walls) indicating the locations, type, design, height, and materials of such.
 - c) design of other relevant vehicle and pedestrian access, including street widths, pavements, other footpaths and cycleways.
- Reason: A pre-commencement condition is required to ensure the creation of a high quality public realm, design quality, and landscape setting, in accordance with Policies EN3 and EN1 of the Rother District Local Plan Core Strategy, Policies DEN1 and DEN2 of the DaSA and the National Planning Policy Framework design principles.
13. No development shall commence on any part of the site until the Applicant has secured the implementation of a programme of archaeological works for that part of the site, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
- Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.
14. 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 , and no bonfires will be permitted on site. . The Plan shall provide details as appropriate but not be restricted to the following matters;
- a) the anticipated number, frequency and types of vehicles used during construction,
 - b) the method of access and egress and routeing of vehicles during construction,
 - c) the parking within the site of vehicles by site operatives and visitors (including location and capacity);
 - d) the loading and unloading of plant, materials and waste within the site,
 - e) the storage of plant and materials used in construction of the development within the site,
 - 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 Regulation Orders) and to otherwise control dust;
 - h) 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.
 - i) details of public engagement both prior to and during construction works.
 - j) measures to manage flood risk, both on and off the site, during the construction phase.

Reason: A pre-commencement condition is required from the outset because the works need to be managed in all stages of construction to maintain the safety of all road users and so as not to unreasonably harm the amenities of adjoining properties and to maintain the amenities of the locality in accordance with Policies OSS4, TR3 and CO6 of the Rother District Local Plan Core Strategy.

15. Prior to the commencement of development on site, detailed drawings, including levels, sections and constructional details of the proposed roads surface water drainage, outfall disposal and any street lighting, (if required – lighting is to be avoided in this rural area of the High Weald AONB), to be provided, shall be submitted to the Planning Authority and be subject to its approval, in consultation with the Highway Authority

Reason: A pre-commencement condition is required to ensure design and construction is integral to the development as a whole in the interests of highway safety and for the benefit and convenience of the public at large and to ensure the development will not increase the risk of flood and will improve water quality and to ensure the future maintenance of the drainage systems, and surrounding countryside landscape, in accordance with Policies SRM2 and EN1 of the Rother Local Plan Core Strategy and Policies DEN5, DEN2, DEN7 and FAC2 of the DaSA Local Plan.

16. As part of Condition 1, details of the soft landscaping shall include:
- a) Design, layout and appearance of structural and amenity green space, including verges.
 - b) Planting plans, including landscape and ecological mitigation (buffer planting and green buffers)
 - c) Written specifications (including cultivation and other operations associated with plant and grass establishment).
 - d) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - e) Details for implementation

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, Policies DEN1 and DEN2 of the DaSA and paragraph 172 of the National Planning Policy Framework.

17. No above ground works shall commence until details of the following have been submitted to and approved by the Local Planning Authority, and the development shall thereafter be completed in accordance with the approved details:

- a) Samples of the materials to be used in the construction of all external faces of the buildings.
- b) Hard surfacing materials (including road surfaces, cycleways, footpaths, parking spaces and other areas of hardstandings, kerbs and tactile paving).
- c) Street furniture, signage and lighting, including proposed locations.
- d) Minor artefacts and structures
- e) Play areas (Local Areas of Equipped Play or Landscape Areas of Play) including full specification and details of play equipment proposed.

Reason: To ensure a high building appearance and architectural quality, which reflects the character of the area within the High Weald AONB, in accordance with Policies EN3 and CO4 of the Rother Local Plan Core

Strategy, the National Planning Policy Framework and the High Weald Housing Design Guide.

18. The site access point from Pett Level Road shall be in the position shown on Drawing No. 101466-SK-008 rev.B, dated 18/12/2020, with visibility splays of 2.4m x 65m to the south 2.4m x 55m to the north to be provided and maintained thereafter, as hereby approved and be laid out and constructed in accordance with details agreed through reserved matters and secured under a Section 106/278 agreement and the construction shall be executed and completed by the Applicant to the satisfaction of the Local Planning Authority to a timetable to be agreed with the Local Planning Authority.
Reason: To ensure the safety of persons and vehicles entering and leaving the access point and proceeding along the highway in accordance with Policies TR3 and CO6 of the Rother Local Plan Core Strategy.
19. The details of layout pursuant to Condition 1 above shall include details of the siting and form of bins for the storage and recycling of refuse within the site (internally or externally), and collection points and the approved details shall be implemented before the occupation of each relevant dwelling(s) and thereafter continued, with all bins and containers available for use, maintained and replaced as need be.
Reason: To safeguard the visual amenities of the locality and in the interests of providing a sustainable development in accordance with Policy OSS4 (iii) of the Rother District Local Plan Core Strategy.
20. A landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority prior to occupation of any of the development. 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) ongoing monitoring and remedial measures.
- The LEMP shall also include 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. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will 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.

21. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post - investigation assessment (including provision for analysis, publication a dissemination of results and archive deposition) for that phase has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under condition.
Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.
22. Prior to the occupation of any dwelling, a landscape management plan, including management responsibilities and maintenance schedules for the communal hard and soft landscape/open space areas, including any street furniture and minor artefacts therein, shall be submitted to and approved by the Local Planning Authority. The landscape management plan shall be carried out as approved.
Reason: To ensure a high quality public realm taking account of the characteristics of the locality [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.
23. If within a period of 10 years from the date of the planting of any tree that 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.
24. Prior to the occupation of any dwelling, a Travel Plan Statement in association with this development shall be submitted to the Local Planning Authority to ensure that private car trips to and from the site are reduced. The travel plan should include targets for reduced car use and a monitoring programme to ensure these targets are met. 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: In order that the development site is accessible by non- car modes and to meet the objectives of sustainable development and in accordance with Policies TR2 and TR3 of the Rother Local Plan Core Strategy.
25. The dwellings hereby permitted shall not be occupied until they have been constructed in accordance with Part M4(2) (accessible and adaptable dwellings) or M4(3) (a and b), [as may subsequently be identified by reserved matters or discharge of S106], of Schedule 1 of the Building Regulations 2010 (as amended) for access to and use of buildings.
Reason: To ensure that an acceptable standard of access is provided to the dwelling(s) in accordance with Policy OSS4 (i) of the Rother Local Plan Core

Strategy and Policy DHG4 of the Rother Development and Site Allocations Local Plan.

26. The dwelling(s) hereby approved shall meet the requirement of no more than 110 litres/person/day water efficiency set out in Part G of Schedule 1 of the Building Regulations 2010 (as amended) for water usage. The dwelling(s) hereby permitted shall not be occupied until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwelling(s) has been constructed to achieve water consumption of no more than 110 litres per person per day.
Reason: To ensure that the dwelling(s) is built to acceptable water efficiency standards in line with sustainability objectives and in accordance with Policy SRM2 (v) of the Rother Local Plan Core Strategy and Policy DRM1 of the Rother Development and Site Allocations Local Plan All new dwellings to be designed to achieve water consumption of no more than 110 litres per person per day, in accordance with Policy DRM1 of the DaSA Local Plan.

NOTES:

1. This permission is the subject of an obligation under Section 106 of the Town and Country Planning Act 1990.
2. The Applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 01 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity during this period and has shown that it is absolutely certain that nesting birds are not present.
3. This Authority's requirements associated with this development proposal will need to be secured through a Section (106/184/171/278) Legal Agreement between the Applicant and East Sussex County Council The Applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process. The Applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
4. Section 38 Agreement of the Highways Act, 1980 – Provision of Adoptable Highway. The Applicant is advised to enter into a Section 38 legal agreement with East Sussex County Council, as Highway Authority, for the proposed adoptable on-site highway works. The Applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process. The Applicant is advised that any works commenced prior to the Sec 38 agreement being in place are undertaken at their own risk.
5. The Applicant is advised that it is their responsibility to notify their Building Control Body (Local Authority or Approved Inspector) that conditions triggering the optional technical standards for Water Efficiency and/or Accessibility and Wheelchair Housing Standards are attached to this planning permission and that development should be built accordingly. Enforcement

action may be taken without further notice if the relevant standards are not achieved.

6. Permeability to/from the site would be improved with a pedestrian link from the site to Waites Lane/The Broadway, as referenced at paragraph 11.125 of the DaSA. While this would require use of third party land, the Applicant is encouraged to explore this and to include details in any reserved matters submission.

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

Rother District Council

Report to	-	Planning Committee
Date	-	11 March 2021
Report of the	-	Head of Strategy and Planning
Subject	-	Application RR/2020/1410/P
Address	-	Southern of Barnhorn Road and west of Ashridge Court, Barnhorn Road BEXHILL
Proposal	-	Reserved matters relating to residential development for 29 dwellings (outline permission RR/2016/3206/P), appearance, landscaping, layout and scale as well as the discharge of planning conditions 7 (Construction Method Statement), 8 (tree protection measures), 9 (foul and surface water drainage), 11 (translocation protected species), 12 (boundary treatment), 13 (Residential Travel Plan) and 14 (Electric Vehicle Charging Infrastructure).

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT (RESERVED MATTERS)**, including adoption of the **Appropriate Assessment** and details submitted under conditions 8, 9 (apart from maintenance and management of the SuDs), 11, 12 and 14.

Head of Service: Tim Hickling

Applicant: Park Lane Homes (South East) Ltd
Agent: Town & Country Planning Solutions
Case Officer: Mr J. Pyrah (Email: jeff.pyrah@rother.gov.uk)

Parish: BEXHILL

Ward Member(s): Councillors S.J. Errington and K.M. Harmer

Reason for Committee consideration: Member referral: S.J. Errington - Impact on Pevensey Levels SSSI/SAC/Ramsar site

Statutory 13 week date: 24 November 2020

Extension of time agreed to: 18 March 2021

1.0 SUMMARY

1.1 This reserved matters submission follows the grant of outline planning permission for the site. The junction details were approved as part of the outline permission. This submission proposes 29 dwellings and provides details relating to the reserved matters of scale, layout, appearance and

landscaping as well as detailed surface water drainage proposals and information to inform an Appropriate Assessment under the Habitats Regulations.

- 1.2 As the competent authority, the Local Planning Authority must undertake an Appropriate Assessment. If this is passed, then the Local Planning Authority can consider the merits of the reserved matters proposals. The Local Lead Flood Authority/Pevensay & Cuckmere WLMB and Natural England have reviewed the proposals and advise that they will avoid impact on the protected Pevensey Levels SSSI/SAC/Ramsar site. As such the Appropriate Assessment is passed and it is recommended that planning committee adopt the Appropriate Assessment.
- 1.3 The reserved matters submission responds successfully to the development plan policy requirements and to the expectations of the conditions imposed on the outline planning permission.
- 1.4 It is recommended that the Appropriate Assessment is adopted, reserved matters is granted and that details submitted in relation to conditions 8, 9 (apart from maintenance and management of the SuDs), 11, 12 and 14 are approved.

1.5 **PROPOSAL DETAILS**

PROVISION	
No of houses	29
No of affordable houses	9
CIL (approx.)	£71,383.
New Homes Bonus (approx.)	£0 (lost appeal)

2.0 SITE

- 2.1 The site lies on the south side of the A259 Barnhorn Road, immediately to the west of Ashridge Court care home. It lies outside of, but adjacent to the development boundary, approximately 1.4km from the Little Common district centre.
- 2.2 The rectangular site has an area of 1.5 hectares with site levels falling north to south towards the Pevensey Levels by around 18 – 20m. The site was bounded by a double row of tall Leyland cypress trees with a band of lower scrubby planting to the front (north) of the site onto the A259, which was cleared in 2020. There is a treed boundary to the west separating the site from a paddock associated with farmland at Upper Barnhorn Manor. To the east, Ashridge Court looks onto the site with the boundary formed by a simple “Sussex” fence behind which there is a row of protected trees. To the south there are extensive open views across the Pevensey Levels to the sea.
- 2.3 To the north of this part of Barnhorn Road there are open views across the countryside. To the west, the Grade II listed Upper Barnhorn Manor and related buildings lie at a distance of approximately 55m in a rural setting clearly separate from the built-up area of Bexhill that commences east of the application site. The isolated development known as Northeye lies off the north side of Barnhorn Road approximately 200m to the north-west.

- 2.4 From the coast and from public footpaths crossing the Levels to the south, the site is clearly visible in medium and longer distance views along with other developed and open parts of the Barnhorn Ridge.
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3.0 PROPOSAL

- 3.1 The details of the junction with Barnhorn Road were submitted and approved through the appeal decision. The layout beyond the junction needs to be considered as part of this reserved matters submission together with the quantum (scale) of housing and car-parking and its appearance and landscaping.
- 3.2 Twenty-nine dwellings are proposed, with two terrace blocks (totalling 13 houses) facing Barnhorn Road (set back between 18m-27m) positioned either side of a central spine road. The access road then forms a loop around a central open feature with 16 detached, semi-detached and terraced dwellings grouped either side to the east and west.
- 3.3 The majority of the boundary trees to the west, south and east are retained with additional planting to these boundaries and new planting along Barnhorn Road.
- 3.4 The southern part of the site is left open and would incorporate a balancing pond and subsidiary filtration pond (as part of a sustainable drainage system) and landscaped amenity space.
- 3.5 The reserved matters drawings are accompanied by the following documents which are appraised in this report:
- Report to Inform a Habitats Regulations Assessment (including Appropriate Assessment).
 - Landscape and Visual Appraisal.
 - Noise Assessment Report.
 - Addendum Transport Statement.
- 3.6 The submission also seeks approval of details of the submitted documents listed in relation to the following conditions imposed on the outline planning permission and these are also considered by this report:
- Condition 7: Construction Management Plan.
 - Condition 8: Arboricultural Report.
 - Condition 9: Flood Risk and Drainage Assessment Report.
 - Condition 11: Reptile Mitigation Closing Statement.
 - Condition 12: Landscape Management Plan.
 - Condition 13: Residential Travel Plan
 - Condition 14: Planning statement advises on this issue.
- 3.7 Condition 5 of the outline planning permission requires the provision of 30% of the housing as affordable housing. The Applicant advises that they will provide the details to discharge this condition subsequently. However, the Applicant has confirmed that 30% provision will be provided on site through

the provision of nine dwellings (5 two-bedroom and 4 three-bedroom dwellings).

4.0 HISTORY

- 4.1 RR/2016/3206/P - OUTLINE: Proposed residential development including parking and access. APPROVED (AT APPEAL) 23 November 2018. Details of access to the site approved, with all other matters reserved.
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5.0 POLICIES

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:

- OSS1: Overall spatial development strategy (additional dwellings required)
- OSS2: Use of development boundaries
- OSS3: Location of development
- OSS4: General development considerations
- SRM2: Water supply and wastewater management
- LHN1: Achieving mixed and balanced communities
- EN1: Landscape stewardship
- EN3: Design quality
- EN5: Biodiversity and green space
- EN7: Flood risk and development
- TR2: Integrated transport
- TR3: Access and new development
- TR4: Car parking

- 5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:

- DEN1: Maintaining Landscape Character
- DEN4: Biodiversity and Green Space
- DEN5: Sustainable drainage
- DHG3: Residential internal space standards
- DHG4: Accessible and adaptable homes
- DHG7: External residential areas

- 5.3 The following Council documents are considered relevant to the proposal:

- Housing and Homelessness and Rough Sleeping Strategy.

- 5.4 The National Planning Policy Framework and Planning Policy Guidance are also material considerations. The following parts of the National Planning Policy Framework are particularly relevant to the development proposal:

- Paragraph 11: the presumption in favour of sustainable development
- Paragraph 38: decision-making
- Paragraph 47: determining applications

- Paragraphs 117-118: require that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses
 - Paragraph 122: achieving the appropriate density of development
 - Section 12: achieving well-designed places
 - Paragraph 175: enhancement of biodiversity
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6.0 CONSULTATIONS

6.1 Natural England – **NO OBJECTION**

The development is within 600m of Pevensey Levels SAC and Ramsar site. These sites are internationally important sites designated for their wetland features such as: vegetation, invertebrates and birds. These interest features rely on a high quality of water and stable water level. As such development proposals must demonstrate how negative impacts to water quality and water levels are avoided and/or minimised.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the Pevensey Levels Special Area of Conservation (SAC) and Ramsar site. Specifically, your authority agrees that the potential impact pathway of increased contaminated surface run-off is sufficiently mitigated. In the construction phase the required mitigation is detailed in the submitted construction method statement. During the operational phase of development this mitigation is provided by the implementation of the proposed surface water drainage scheme which will be monitored and managed in perpetuity.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

6.2 Local Lead Flood Authority and Pevensey and Cuckmere WLMB – **NO OBJECTION**

The information submitted to discharge condition 9 (Flood Risk and Drainage Assessment Report) is satisfactory and addresses all concerns with surface water management and impacts on local flood risk. Details of the management company should be provided to ensure both organisations know who to contact in the event of flooding associated with the maintenance of the system. A management company is satisfactory if steps are taken to ensure that it remains in operation for the lifetime of the development, however their preference would be for the system to be adopted by a public body.

6.3 Highway Authority – **NO OBJECTION**

Agrees the pedestrian access details and the car-parking, including EV charging infrastructure and the on-site turning proposals. Advises that the

cycle parking should be provided closer to the front of the dwellings and that the proposed Travel Plan (condition 13) requires amendments to ensure that the Travel Plan's objectives and incentives are available from the moment resident's move into their homes and exploits the potential to encourage bus usage.

6.4 Highways England – **NO OBJECTION**

Satisfied that the reserved matters proposed by this application would not materially affect the safety, reliability and/or operation of the Strategic Road Network. Request that HGV movements are restricted in the Construction Method Statement (condition 7) so they are outside the peak hours of 0800-0900 and 1700-1800. A revised CMS has been submitted by the Applicant in response and Highways England confirms that they have no objection to the revised CMS (while noting that no parking should be allowed on the A259 and that all loose loads should be sheeted).

6.5 ESCC Landscape Architect – **NO OBJECTION**

The proposed landscape masterplan would provide a high quality and well tree setting for the development, with acceptable boundary treatments (condition 12) and tree retention and protection measures (condition 8).

6.6 Southern Water – **NO OBJECTION**

There is capacity for the sewerage disposal of 13 dwellings. Off-site network reinforcements will be required for the remaining 16 dwellings. A condition is requested requiring the development to be phased to align with the delivery of sewerage network reinforcement.

6.7 Environment Agency

Advise that they have no comments to make on the submission.

6.8 Sussex Police – **NO OBJECTION**

Creates good active frontage but there is an over reliance on rear access footpaths and this is compounded by the presence of an informal public footpath (leaky cul-de-sacs) and it is recommended that this is removed along with the gating of the terraced rear access paths. Supports the boundary treatments (submitted under condition 12).

6.9 RDC Waste & Recycling – Comment.

Front of property bin collection points are recommended and the proposals should be revisited in this respect.

Planning Notice

6.10 Nine responses objecting to the proposals have been received. The concerns raised are summarised as follows:

- Impact on Pevensey Levels – will the system protect the levels forever? If not, will the Council be left to pick up the pieces. Could the Levels suffer irreversible damage? Is the groundwater monitoring adequate? Have the questions asked by the LLFA in October 2020 been answered? Is there a need for a back-up pumping station.
- Number of dwellings – 29 dwellings is excessive, although accepted in the appeal process. It should be reduced – spoils the landscape and out of

keeping. Parking unlikely to be sufficient with many families possessing at least two vehicles.

- Design – roof pitch too steep, creating an unfortunate imbalance. Balancing pond will be a potential health and safety issue.
- Travel Plan – a flawed desk-top exercise. Divorced from any real-world situation. Walking and cycling would not be a safe experience (cycle path is not continuous to Little Common). Bus use and car-sharing also unlikely in reality.
- Construction – mud on the road and spoil deposited elsewhere.
- Foul sewerage – no capacity and upgrades required meaning more road works.
- Climate change – no solar panels, electric charging points unacceptable if generation is from non-renewable sources. No mention of insulation.
- Noise levels – need for closed thermal glazing will lead to intolerably hot houses. More effective noise mitigation should be considered.
- Ecology – conditions will not be adhered to.
- Access and Congestion – Dangerous access on a bend. The Planning Inspectorate’s decision to allow the appeal was flawed, the access will be hazardous. Accidents caused by regular delays and single track lanes used as rat runs. Impact on air pollution unacceptable.

7.0 LOCAL FINANCE CONSIDERATIONS

- 7.1 The proposal is for a type of development that is CIL liable. The total amount of CIL money to be received is subject to change, including a possible exemption, but the development could generate approximately £71,383. – 1,179sqm of market housing proposed
- 7.2 The proposal would not provide New Homes Bonus, because the outline application was refused by this Local Planning Authority and planning permission granted at appeal.

8.0 APPRAISAL

- 8.1 Outline planning permission was granted at appeal in November 2018. The new junction proposals were not a reserved matter and were considered and approved in detailed by the appeal decision.
- 8.2 The principle of development, the suitability of the access and the impact of the development on congestion were considered and approved by the outline planning permission. The Inspector’s decision letter provides the reasons for her decision and highlights those issues to be considered as part of the reserved matters submission as follows:
- The Inspector carried out an Appropriate Assessment under the Habitats Regulations. She concluded that with conditions 7(ix) and 9 in place to provide mitigation to avoid any changes to water quality or quantity at the protected Pevensey Levels site, there would be no adverse effect on the integrity of the SAC/Ramsar site arising from the development. It would be for reserved matters to ensure that the development would be carried out and subsequently operated in accordance with details approved at reserved matters stage. These details have been submitted and are

considered by this report and the relevant Appropriate Assessment (as an AA should be carried out at each approval stage).

- That the detailed road junction proposed is acceptable and would not lead to highway safety being unacceptably affected by the development. condition 4 requires the approved access to be installed.
- That affordable housing (30%) provision on-site would be secured by condition 5. These details are not provided, but will be required to be submitted and approved prior to any development taking place.
- While not in a 'fully sustainable location', the development would provide a genuine choice of travel modes. Conditions 13 and 14, for which details are under consideration through this report, were imposed in that regard.
- While the landscape impact of development would cause a degree of harm, development here would be consistent with key characteristic of the High Weald (development on a ridgeline) and the landscape impact of the layout, scale and appearance of the development would be considered through reserved matters. This is considered by this report.
- That there would be no harm to the neighbouring Upper Barnhorn Manor, a listed building from development. The impact on the listed building is therefore not considered further under this reserved matters submission.
- That suitable living conditions for future residents in terms of noise could be achieved through noise barriers and other issues relating to living conditions would be considered by reserved matters. These matters are considered in this report.

Habitats Regulations

- 8.3 The Habitats Regulations prohibit a council from permitting any plan or project that may adversely affect a Special Area of Conservation (SAC) or Ramsar Site (European Sites) unless the legal test is satisfied. Where the council is satisfied that a plan or project may affect a European Site the Council as the 'competent authority' must undertake an Appropriate Assessment (AA) in consultation with the 'appropriate nature conservation body' (in England this is Natural England) and other 'relevant bodies' such as the Environment Agency.
- 8.4 The Applicant must provide sufficient information to enable the Council to undertake the AA, demonstrating what factors can be introduced to mitigate and negate the likely effects. Paragraph 70(3) of the Regulations states that *"Where the assessment provisions apply, outline planning permission must not be granted unless the Council is satisfied (whether by reason of the conditions and limitations to which the outline planning permission is to be made subject, or otherwise) that no development likely adversely to affect the integrity of a European site or a European offshore marine site could be carried out under the permission, whether before or after obtaining approval of any reserved matters"*.
- 8.5 The Applicant has provided a *Report to Inform a Habitats Regulations Assessment* as part of their reserved matters submission as well as a *Flood Risk and Drainage Assessment Report* pursuant to condition 9. The Local Lead Flood Authority/Pevensy & Cuckmere WLMB, while raising no objection to the Reserved Matters submission, initially required additional information, to satisfy condition 9, regarding groundwater monitoring, the non-inclusion of permeable paving in the attenuation volume provision calculation, topography survey and further details of the outfall.

- 8.6 The Applicant provided this additional information (an Addendum to the Habitats Regulations information and amended Flood Risk Assessment and Drainage Strategy). Groundwater monitoring was carried out between February and May 2019. A SuDs system providing permeable pavement, a detentions basin, swale and retention pond is proposed. Sump filter chambers would capture roof runoff and retain silt, while the retention pond and detention basin would utilise a layer of dense vegetation for containment attenuation.
- 8.7 The maintenance and management proposals in the submission are for a Management Company to take on the responsibility. However, the Pevensey and Cuckmere Water Level Management Board has since confirmed to the Applicant that they will adopt the surface water drainage system (the two attenuation ponds, the drainage within and between the ponds and the outfall on the southern boundary). This ensures that a water company, accountable to OFWAT (the Water Services Regulation Authority) will take on the responsibility. This requirement can be secured under condition 9.
- 8.8 An Appropriate Assessment has been drafted in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended), based on the information provided by the Applicant and the advice of the Local Lead Flood Authority/Pevensey & Cuckmere WLMB. Natural England has been consulted on the Appropriate Assessment and they advise that:
- “Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.”*
- 8.9 Taking account of the advice of the Local Lead Flood Authority/Pevensey & Cuckmere WLMB and Natural England it is therefore concluded that the Appropriate Assessment can be passed. Therefore, reserved matters must be granted if the proposals are in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004).

Reserved Matters

- 8.10 Officers provided pre-application advice to the Applicant in relation to the layout, scale, appearance and landscaping proposals. The Applicant instructed an urban design to consider layout options, which comprised linear, courtyard and village green approaches. The Applicant was advised to follow the village green approach, as it would provide a positive central feature for the new community containing trees and, from the south, would break-up the mass of the development in long views. The Applicant was asked to remove the most southerly dwellings and provide parking between dwellings rather than on their frontage, to reduce the extent of hard-standing.
- 8.11 The Applicant developed proposals based on the village green option and the results is the reserved matters proposals. It is considered that the layout works well, with on-plot parking and appropriate boundary treatments providing clear distinction between public and private spaces. At the front of

the site, terraced houses create 'villas' that provide a welcoming gateway as well as providing a noise barrier for the dwellings to the rear. The internal road layout and parking numbers and proposals have been agreed by the Highways Authority and RDC's waste officer confirms that the layout is suitable for waste vehicles. The layout provides for sustainable urban drainage, ecological mitigation and enhancement and an appropriate landscape impact. The proposals accord with Policies OSS4, EN1 and EN3, of the Rother Local Plan Core Strategy and Policies DEN4 and DEN5 of the Rother Development and Site Allocations Local Plan.

- 8.12 The scale of the development reflects the expectations of the outline permission and the village green approach and structural landscaping around the edges and to the south of the site ensure that the development will sit in the landscape appropriately. The County Landscape Architect raised no objection. The proposals accord with Policies OSS4, EN1 and EN3, of the Rother Local Plan Core Strategy.
- 8.13 Officers raised concerns with the appearance of the dwellings during the application process – requiring more consistency and distinction in the use of brick, tile-hanging and weatherboarding. The Applicant has responded positively and the proposals are now considered to provide a development of high quality. The proposals accord with Policies OSS4 and EN3, of the Rother Local Plan Core Strategy.
- 8.14 In terms of landscaping, the aim within the southern part of the site is to provide a mosaic of habitat to provide for the protected species identified on the site (reptiles). A native species hedgerow is provided and native species trees (rowan, crab apple or wild cherry) are proposed in both front gardens and on the western boundary. Close-board fencing, initially proposed in highly visible areas has been replaced by brick piers with close-board inserts which is considered appropriate. The soft and hard landscaping proposals proposed, as amended, are considered to be successful and to provide a high quality environment as well as green infrastructure, in response to the ecological requirements of the site. The proposals accord with Policies OSS4 and EN3, of the Rother Local Plan Core Strategy and Policies DEN4 and DEN5 of the Rother Development and Site Allocations Local Plan.

Other Matters

- 8.15 Condition 5, imposed on the outline planning permission, requires 30% affordable housing to be provided on-site and for details of this to be provided and approved prior to commencement of development. These details are not provided as part of this submission, however the Applicant advises that it is their intention to meet this requirement and that they are liaising with a number of affordable housing providers. The Applicant advises that plots 4-6, 10-13 and 22-23 will be affordable housing, providing five 2-bedroom and four 3-bedroom dwellings. This would provide affordable housing in clusters of no more than four dwellings.
- 8.16 A noise assessment has been submitted to consider whether all properties can be provided with a suitable level of internal amenity in terms of mitigation of noise from Barnhorn Road. The strategy is for the front elevation of the frontage properties to provide a noise barrier for all residential properties including the rear gardens of the frontage properties and properties to the south. The Environmental Health Officer has confirmed that the noise

mapping is satisfactory and that, with mitigation, the development will comply with the appropriate British standard. Suitable external noise levels in private gardens would be achieved. Internal noise conditions can be achieved for the frontage properties through trickle vents. The Applicant advises that details of the vents can be provided in response to a condition and the Environmental Health Officer agrees this. An acoustics, ventilation and overheating assessment will be required to be submitted and approved. A condition is also required to ensure that the proposed pumping station does not result in unacceptable noise levels, particularly at night. With conditions, the proposals accord with Policy DEN7 of the Development and Site Allocations Plan.

- 8.17 Sussex Police raised concerns that rear accesses and footpaths could result in security risks through easy access to rear gardens. The Applicant has liaised directly with Sussex Police on this issue. The proposals have been amended to provided lockable gates to the footpaths serving the rear of the properties. In relation to the footpaths that provide access to the wildlife mitigation areas, both high rear fences and hedging is proposed between the rear gardens and the footpaths and no rear gates are proposed. This is considered acceptable.
- 8.18 In response to RDC's waste and recycling comments, the Applicant advises that the proposed bin storage areas in back gardens can be reviewed to seek to minimise travel distances. This can be required by a planning condition.

Condition Submission Details

- 8.19 Submissions of details have been made in response to a number of conditions imposed on the outline planning permission. These are considered below:
- Condition 7. The Construction Management Plan, amended version submitted 13.10.20 has been agreed by Highways England and meets the requirements of the Habitats Regulations in terms of avoiding impact on the protected Habitats Asset during construction. It is recommended that it is approved.
 - Condition 8. The Arboricultural Report, dated May 2020 meets the requirement for the protection of trees during construction. It is recommended that it is approved.
 - Condition 9. The Flood Risk and Drainage Assessment Report, amended version submitted 29.10.20 and associated drawings have been agreed by the Local Lead Flood Authority/Pevensy & Cuckmere WLMB and Natural England. The one outstanding issue is the adoption of the SuDs by Pevensy & Cuckmere WLMB. It is recommended that the document is approved with the exception of the management and maintenance section, for which confirmation of adoption by Pevensy & Cuckmere WLMB is required.
 - Condition 11. The Reptile Mitigation Closing Statement, dated June 2020, appropriately explains the details for translocation of the protected reptiles (common lizards and slow worms) and it is recommended that it is approved.

- Condition 12. The Soft Landscape Proposals and Enclosures Plan (PLG/1629/20C), submitted 29.10.20 meets the requirements of this condition to provide details of boundary treatments and it is recommended that it is approved.
 - Condition 13. The Highways Authority raised concerns with the Residential Travel Plan. The Applicant has submitted an amended version, but this has not yet been agreed. It is recommended that the Travel Plan is not approved yet.
 - Condition 14: The Highways Authority confirms that the electric vehicle charging infrastructure proposed is appropriate. It is recommended that the details set out in paragraph 2.3.5 of the Transport Statement Addendum, dated June 2020 are approved.
-

9.0 PLANNING BALANCE AND CONCLUSION

- 9.1 This reserved matters submission follows the grant of outline planning permission for the site. The access details were approved as part of the outline permission. This submission proposes 29 dwellings and provides details relating to the reserved matters of scale, layout, appearance and landscaping as well as detailed surface water drainage proposals and information to inform an Appropriate Assessment under the Habitats Regulations.
- 9.2 As the competent authority, the Local Planning Authority must undertake an Appropriate Assessment. If this is passed, then the Local Planning Authority can consider the merits of the reserved matters proposals. The Local Lead Flood Authority/Pevensy & Cuckmere WLMB and Natural England have reviewed the proposals and advise that they will avoid impact on the protected Pevensy Levels SSSI/SAC/Ramsar site. As such the Appropriate Assessment is passed and it is recommended that planning committee adopt the Appropriate Assessment.
- 9.3 The reserved matters submission responds successfully to the policy requirements and expectations of the conditions imposed on the outline planning permission and accords with paragraphs 127 and 177 of the National Planning Policy Framework, Policies OSS4, EN1, 3, 5, 7 and SRM2 of the Rother Local Plan Core Strategy and Policies DHG6, DEN4 and 5 of the Rother Development and Site Allocations Local Plan.
- 9.4 It is recommended that the Appropriate Assessment is adopted, reserved matters is granted and that details submitted in relation to conditions 8, 9 (apart from maintenance and management of the SuDs), 11, 12 and 14 are approved.
-

RECOMMENDATION: GRANT (RESERVED MATTERS) including adoption of the Appropriate Assessment and details submitted under conditions 8, 9 (apart from maintenance and management of the SuDs), 11, 12 and 14.

CONDITIONS:

1. The development hereby permitted shall be carried out in accordance with the following approved plans and details:

4377 - LP Site Location Plan

J0027708 110 Rev 13 - Illustrative Masterplan

J0027708 112 Rev 4 - Street Scenes

J0027708 113 Rev 6 - Site Levels Plan – Sheet 1

J0027708 114 Rev 7 - Site Levels Plan – Sheet 2

J0027708 115 Rev 1 - Roof Plan

J0027708 201 Rev 2 - House Type 1 (Brick) Plot 15 Elevations Floor Plans

J0027708 202 Rev 3 - House Type 1 (Tile Hanging) Plot 2 Elevations Floor Plans

J0027708 203 Rev 2 - House Type 2 (Tile Hanging) Plots 11 & 12 Elevations Floor Plans

J0027708 204 Rev 2 - House Type 2B (Brick) Plots 10 & 13 Elevations Floor Plans

J0027708 205 Rev 2 - House Type 3D (Tile Hanging) Plots 26 & 27 Elevations Floor Plans

J0027708 206 Rev 3 - House Type 3D (Tile Hanging) Plots 22 & 23 Elevations Floor Plans

J0027708 207 Rev 2 - House Type 3A (Brick) Plots 24 & 25 Elevations Floor Plans

J0027708 208 Rev 2 - House Type 3A (Tile Hanging) Plots 17 & 18 Elevations Floor Plans

J0027708 209 Rev 2 - House Type 4 (Tile Hanging) Plot 3 Elevations Floor Plans

J0027708 210 Rev 2 - House Type 4 (Cladding) Plots 14 & 16 Elevations Floor Plans

J0027708 211 Rev 2 - House Type 5 (Cladding) Plots 19 & 28 Elevations Floor Plans

J0027708 212 Rev 2 - House Type 5 (Cladding) Plot 20 Elevations Floor Plans

J0027708 213 Rev 2 - House Type 6 (Cladding) Plots 21 & 29 Elevations Floor Plans

J0027708 214 Rev 4 - House Type Gateway Villa 1 (Brick and Render) Plots 4-6 Elevations Floor Plans

J0027708 215 Rev 2 - House Type Gateway Villa 2 (Brick and Render) Plots 7-9 Elevations Floor Plans

J0027708 216 Rev 3 - House Type 3A (Tile Hanging) Plot 1 Elevations Floor Plans

PLG/1629/20C - Soft Landscape Proposals and Enclosures

Reason: For the avoidance of doubt and in the interests of proper planning.

2. No development above ground shall begin until a glazing and ventilation scheme to protect the dwellings on plots 1-13 against noise from Barnhorn Road (A259) has been submitted to and approved by the Local Planning Authority and the dwellings shall be completed in accordance with the approved scheme prior to their occupation. The scheme shall be based on the submitted Site Noise Assessment-Final Report-2109W-SEC-00002-06, dated July 2020, and shall include details of trickle ventilation alongside an overheating assessment.

Reason: To preserve the residential amenities of the occupiers having regard to Policy OSS4 (i) of the Rother Local Plan Core Strategy and Policy DEN7 of the Rother Development and Site Allocations Local Plan.

3. No development above ground shall take place until details of the sound power level of the pumping station and any mitigation provided by enclosures has been submitted to and approved in writing by the Local Planning Authority and the approved scheme thereafter installed and retained. The scheme shall be based on the submitted Site Noise Assessment-Final Report-2109W-SEC-00002-06, dated July 2020, and include a full BS4142:2014+A1:2019 assessment.

Reason: To safeguard the amenities of the area and plot 21 in particular, in accordance with Policy OSS4 (i) of the Rother District Local Plan and Policy DEN7 of the Rother Development and Site Allocations Local Plan.

4. No development above ground level shall take place until details/specifications of all external materials for the dwellings and hard landscapes areas have been submitted to and approved by the Local Planning Authority, and the development shall thereafter be completed in accordance with the approved details:

Reason: To ensure a high building appearance and architectural quality, in accordance with Policies OSS4 (iii), EN1 and EN3 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.

5. No development above ground level shall take place until amended locations for the bin storage areas within the back gardens of Plots 2, 5, 8, 11, 12 and 15 have been submitted to and approved by the Local Planning Authority, and the development shall thereafter be completed in accordance with the approved details:

Reason: To reposition bin storage areas closer to the road frontages to minimise travel distances while ensuring a high quality environment in accordance with Policy EN3 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.

6. No dwelling shall be occupied until the parking and turning areas have been provided in accordance with the approved Site Levels Plans, Drawing Nos. J0027708 113 Rev 6, dated 14.06.2020 and J0027708 114 Rev 7, dated 29.06.2020 and the areas shall thereafter be retained for that use and shall not be used other than for the parking and turning of motor vehicles.

Reason: To provide on-site parking and turning areas to ensure that the proposed development does not prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policy TR4(i) of the Rother Local Plan Core Strategy.

7. The development shall not be occupied until the garden sheds/cycle store have been provided in accordance with the approved Site Levels Plans, Drawing Nos. J0027708 113 Rev 6, dated 14.06.2020 and J0027708 114 Rev 7, dated 29.06.2020 and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles and the storage of domestic items.

Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development in accordance with Policies OSS4 (ii) & TR3 of the Rother Local Plan Core Strategy.

8. The dwelling(s) hereby approved shall meet the requirement of no more than 110 litres/person/day water efficiency set out in Part G of Schedule 1 of the Building Regulations 2010 (as amended) for water usage. The dwelling(s) hereby permitted shall not be occupied until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwelling(s) has been constructed to achieve water consumption of no more than 110 litres per person per day.
Reason: To ensure that the dwelling(s) is built to acceptable water efficiency standards in line with sustainability objectives and in accordance with Policy SRM2 (v) of the Rother Local Plan Core Strategy and Policy DRM1 of the Rother Development and Site Allocations Local Plan.
9. The dwellings hereby permitted shall not be occupied until it has/they have been constructed in accordance with Part M4(2) (accessible and adaptable dwellings) of Schedule 1 of the Building Regulations 2010 (as amended) for access to and use of buildings.
Reason: To ensure that an acceptable standard of access is provided to the dwelling(s) in accordance with Policy OSS4 (i) of the Rother Local Plan Core Strategy and Policy DHG4 of the Rother Development and Site Allocations Local Plan.

NOTES:

1. The following details submitted pursuant to conditions imposed on outline permission RR/2016/3206/P are approved by this decision notice:

Condition 7: The Construction Management Plan, amended version submitted 13.10.20.

Drainage Scheme BPS Drawing No. DR-D-0200-S4 Rev P02 dated 09/12/2020

Drainage Details 1 BPS Drawing No. DR-D-0220-S4 Rev P01 dated 09/12/2020

Drainage Details 2 BPS Drawing No. DR-D-0221-S4 Rev P01 dated 09/12/2020

Drainage Details 3 BPS Drawing No. DR-D-0222-S4 Rev P01 dated 09/12/2020

Condition 8: The Arboricultural Report, dated May 2020.

Condition 9: The Flood Risk and Drainage Assessment Report, with the exception of the management and maintenance section, for which confirmation of adoption by Pevensey & Cuckmere WLMB is required.

Condition 11: The Reptile Mitigation Closing Statement, dated June 2020.

Condition 12: The Soft Landscape Proposals and Enclosures Plan (PLG/1629/20C), submitted 29.10.20.

Condition 13: The Travel Plan (amended), dated Nov 2020 is not approved by this permission as it is still under consideration.

Condition 14: The electric vehicle charging infrastructure proposed by paragraph 2.3.5 of the Transport Statement Addendum, dated June 2020.

2. All conditions and notes of the outline permission RR/2016/3206/P continue to apply to this development.
3. The development is subject to the Community Infrastructure Levy (CIL). Full details will be set out in the CIL Liability Notice which will be issued in conjunction with this decision. All interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.
4. The Applicant is advised that it is their responsibility to notify their Building Control Body (Local Authority or Approved Inspector) that conditions triggering the optional technical standards for Water Efficiency are attached to this planning permission and that development should be built accordingly. Enforcement action may be taken without further notice if the relevant standards are not achieved.

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that have been received and subsequently determining to approve the details in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

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Application reference:	RR/2020/1410/P	
Application address:	South of Barnhorn Road & West of Ashridge Court, Bexhill on Sea, East Sussex	
Application description:	Reserved matters relating to residential development for 29 dwellings (outline permission RR/2016/3206/P), appearance, landscaping, layout and scale as well as the discharge of planning conditions 7 (Construction Method Statement), 8 (tree protection measures), 9 (foul and surface water drainage), 11 (translocation protected species), 12 (boundary treatment), 13 (Residential Travel Plan) and 14 (Electric Vehicle Charging Infrastructure).	
Status of Application:	Pending decision (outline permission granted 23 November 2018)	
Proximity to SPA/SAC/Ramsar:	Circa 430m to nearest boundary of Pevensey Levels SAC and Ramsar designations from proposed site	
Lead Planning Officer: Jeff Pyrah		
Stage 1 - details of the plan or project		
European site potentially impacted by planning application, plan or project:	YES (impact on water quality and water levels) Pevensey Levels SAC and Ramsar Site	
Is the planning application, project or plan directly connected with or necessary to the management of the site?	No	

Are there any other projects or plans that together with the planning application being assessed could affect the site?

Yes. There are other planning allocations or planning permissions in both Rother and Wealden districts that could have water quality or water resources impacts on the Pevensey Levels that could act in combination.

Stage 2 - HRA screening assessment

Test 1: the significance test – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

Following the recent CJEU ruling, ‘People Over Wind, Peter Sweetman v Coillte Teoranta’, we can no longer take into account any avoidance and mitigation measures as part of the application at this stage of HRA. For applications in the hydrological catchment area of the Pevensey Levels the Council’s “*Habitat Regulations Assessment Likely Significant Effects and Appropriate Assessment*” September 2018 concludes that without mitigation it is not possible to assume that development would not have likely significant effects on the SAC/Ramsar Site in terms of water quality and water levels. Therefore when considering such applications, even where a scheme of mitigation is proposed assessment would progress to Stage 3.

Stage 3 - HRA – Appropriate Assessment

Test 2: the integrity test – If there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made.

Section 1: Conservation objectives for the site (SAC)

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of the habitats of qualifying species
- The structure and function of the habitats of qualifying species
- The supporting processes on which the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Qualifying Features:

S4056. *Anisus vorticulus*; Little whorlpool ram's-horn snail

(Ramsar)

From EA's "Pevensey Levels SSSI Water Level Management Plan" December 2006

Maintain water levels in Main River and IDB watercourse at 0.3m below mean field level throughout the year;

- For the rest of the site, maintain water levels 0.3m below mean field level throughout the year as a minimum;
- Restore winter flooding to the site; and
- Restore the functioning of the ditch system

Qualifying Features:

Ramsar criterion 2

The site supports an outstanding assemblage of wetland plants and invertebrates including many British Red Data Book species.

Ramsar criterion 3

The site supports 68% of vascular plant species in Great Britain that can be described as aquatic. It is probably the best site in Britain for freshwater molluscs, one of the five best sites for aquatic beetles *Coleoptera* and supports an outstanding assemblage of dragonflies *Odonata*.

Section 2: Assessment Matrix

Identification of the potential effects and their impacts on the Conservation Objectives

Potential Effect	Site Conservation Objectives	Qualifying Features	Potential for Impact?	Relevant Mitigation Measures
CONSTRUCTION PHASE				
Increase in pollutant loads (including sediment, nutrients, oxygen demanding substances, road salts, heavy metals, bacteria and viruses entering the water environment)	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The populations of qualifying species; - Distribution of qualifying species. - Maintaining 	<p>All qualifying features including:</p> <p>Lesser Whirlpool Ram's Horn Snail (SAC)</p> <p>Outstanding assemblage of wetland plants and</p>	<p>Yes.</p> <p>Direct impact. without mitigation, flora and fauna and their habitat dependent on maintenance of water quality and levels would be at risk from:</p> <ul style="list-style-type: none"> - High sediment loads from construction that could smother habitats and species; and - Excessive input of nutrients that could lead to 	<p>The following safeguarding measures are proposed in the submitted Construction Method Statement (Part 8.0) to avoid this risk:</p> <ul style="list-style-type: none"> - Although no evidence of contamination was identified during the site investigation works carried out on February 2019, should any suspected sources of contamination be identified during construction, works within the area of the suspected contamination would be suspended to enable testing to be carried out. In the event that following testing contamination is confirmed, the contaminated soils would be removed from site prior to works continuing within the affected area; - The Site Induction given to all operatives would

	<p>watercourse water levels</p> <ul style="list-style-type: none"> - Restore the functioning of the ditch system. 	<p>invertebrates, including many British Red Data Book species (Ramsar)</p> <p>Supports 68% of Aquatic vascular plant species in Great Britain, invertebrates including fresh water molluscs, aquatic beetles and dragon flies (Ramsar)</p>	<p>eutrophication (depletion of oxygen in water).</p> <p>Without appropriate mitigation there is a particular risk to the water environment from the importation of fill material to raise land levels in parts of the site.</p>	<p>include a section setting out the sensitivity of hydrology on the site and the need to avoid activities which could lead to detrimental effects.</p> <ul style="list-style-type: none"> - As set out in Section 9 all fuel, oil and chemicals would be stored in compliance with HSE recommendations. - The Site Induction would also reinforce that any fuel spills would be reported to the site manager and acted on immediately to ensure these do not reach offsite watercourses. - A procedure for checking and corrective action, this would include regular inspections of storage of possible contaminants and the monitoring of these procedures would be put in place. - In addition to the silt traps incorporated within the proposed drainage, further temporary silt traps would be utilised within the wheel wash area, to intercept silt and other possible pollutants. These would be regularly inspected and cleaned as necessary throughout the construction and would be removed and safely disposed of on completion of the development works.
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OPERATIONAL PHASE (ON COMPLETION)

Potential Effect	Site Conservation Objectives	Qualifying Features	Potential for Impact?	Relevant Mitigation Measures
<p>Deterioration in water quality from increase in pollutant loads from surface water run-off (including sediment, nutrients, oxygen demanding substances, road salts, heavy</p>	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; The populations of qualifying species; - Distribution of 	<p>All SAC and Ramsar qualifying features</p>	<p>Yes. Direct impact. Without mitigation, flora and fauna and their habitat dependent on maintenance of water quality and levels would be at risk from:</p> <ul style="list-style-type: none"> - High sediment loads that could smother habitats and species; and 	<p>The submitted Flood Risk and Drainage Assessment Report proposes that:</p> <p>Surface water would be collected via rainwater diffuser units from areas of permeable paving or gullies along roads and would then be channelled into an infiltration pond planted with a section of reedbed. Water flows would be released from this pond at a controlled rate to a swale within the base of the second detention basin (forming additional storage during high rainfall events) before</p>

<p>metals, bacteria and viruses</p>	<p>qualifying species. - Maintaining watercourse water levels - Restore the functioning of the ditch system</p>		<p>- Excessive input of nutrients leading to eutrophication</p>	<p>discharge to the offsite watercourse. - All surface water would be subject to at least two treatment stages before discharge from the site. - Sump filter chambers would be provided to each plot to capture roof runoff and retain silt, preventing ingress to the main drainage network and the pond; - The infiltration pond and infiltration basin would act to hold surface water run-off, enabling any silt or contaminants to settle and be retained within the basins; - This would be assisted by the basins being underlain with soil with good contaminant attenuation potential of at least 300mm in depth; - In addition, the balancing pond would be specifically planted with a reedbed section to filter pollutants and encourage the breakdown of sediment; - Details of planting within the infiltration pond and infiltration basin are proposed (landscape proposals at Appendix 5524/1); - Surface water would be discharged to the offsite watercourse at an agreed flow of 3.0l/s.</p> <p>The LLFA/PCWLMB advises that they are satisfied that the information provided is satisfactory and that the proposed development is capable of managing flood risk effectively.</p>
<p>Deterioration in water quality from increase in surface water temperature</p>	<p>- Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats;</p>	<p>All SAC and Ramsar qualifying features</p>	<p>Yes, direct impact. A rise in surface water temperature could cause stress or mortality to aquatic organisms; eutrophication and the extent and distribution of species and their habitat.</p>	<p>The application site is over 400m from the protected site and no further measures to avoid impact are necessary.</p>

	<ul style="list-style-type: none"> - The supporting processes on which the habitats of qualifying species rely; - The populations of qualifying species; 			
Change in water flow into wetlands and altered water levels within it (increase or decrease)	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The supporting processes on which the habitats of qualifying species rely; - The populations of qualifying species; 	All SAC and Ramsar qualifying features	Yes, direct impact without appropriate mitigation to ensure that the Levels do not become inundated through flash flooding due to run off from hard surfaces or conversely, a reduction in the volume of surface water draining from the site into the Levels.	<p>Surface water would be managed through the use of two ponds in series before discharging into the adjacent watercourse at 3 l/s for all rainwater events.</p> <p>In accordance with 2016 EA guidance, the drainage proposals are designed to accommodate an allowance increase of 40% for climate change.</p>
Wetlands invaded by aggressive, highly tolerant, non-native vegetation	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The supporting processes on which the habitats of 	All SAC and Ramsar qualifying features	Yes, indirect and direct impact. Inappropriate planting within the scheme has the potential to find its way into the habitats of the Levels, invading and smothering the qualifying feature native flora and fauna and disrupting the structure and function of those habitats.	All planting is native except within the central area, contained by the residential plots. No known invasive species have been specified.

	<p>qualifying species rely;</p> <ul style="list-style-type: none"> -The populations of qualifying species. 			
<p>Failure for the proposed SUDs to be properly managed and maintained for the lifetime of the development</p>	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; -The structure and function of habitats; -The populations of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels 	<p>All SAC and Ramsar qualifying features</p>	<p>Yes, direct impact failure to properly maintain the SUDs system would lead to the infiltration of contaminants into water environment of the Levels and potentially, changes in water levels</p>	<p>A management company will be responsible for the development. An ongoing maintenance schedule is submitted.</p> <p>This would include:</p> <ul style="list-style-type: none"> - Sweeping and removal of vegetation growth from permeable paving areas; - Regular inspections of drainage features for damage or blockages; - Cleaning out of silt traps; - Jet washing of underground pipework; - Vegetation management.
<p>Failure of the foul drainage system</p>	<p>Maintaining or restoring the extent and distribution of the habitats of qualify species;</p> <ul style="list-style-type: none"> - The structure and function of habitats; - The populations of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels - Restore the 	<p>All SAC and Ramsar qualifying features</p>	<p>Yes, direct impact, Failure of an on-site foul treatment package or the pumps taking effluent to the mains sewer network could have an impact on the water quality of the Levels and the flora and fauna species that it supports</p>	<p>All new foul drainage would discharge to an existing public sewer, to be treated by Southern Water. Southern Water is obligated to accommodate the capacity upgrades to facilitate any future permitted development at the site, and as such, a foul water solution connecting to existing treatment works will be delivered. A pump will be required. A back-up pump would be provided.</p> <p>Under Condition 9 of the outline planning permission, no dwelling shall be occupied until the drainage works to serve the development have been completed and made operational. As such, only once the foul water drainage works have been completed can the development be occupied.</p>

	functioning of the ditch system.			
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Stage 4 – Summary of the Appropriate Assessment. To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Conclusion

Having considered the likely effects and the proposed mitigation and avoidance measures proposed that would be secured and thereafter maintained for the lifetime of the development by condition, Rother District Council conclude that with mitigation the project would not have an Adverse Effect on the integrity of the European protected site.

Specifically, the applicant has progressed the drainage strategy approved by the outline planning permission to provide a Construction Method Statement to avoid impact during construction (a requirement of outline planning permission condition 7) and a drainage design that would collect surface water via rainwater diffuser units from areas of permeable paving or gullies along roads and channel this into an infiltration pond planted with a section of reedbed. Water flows would be released from this pond at a controlled rate to a swale within the base of the second detention basin (forming additional storage during high rainfall events) before discharge to the offsite watercourse. All surface water would be subject to at least two treatment stages before discharge from the site. The drainage proposals are designed to accommodate an allowance increase of 40% for climate change. A management company will be responsible for the development. An ongoing maintenance schedule is submitted. Foul water will discharge to an existing public sewer, via a pumping station on site.

The LLFA confirms that they are satisfied that the information provided is satisfactory and that the proposed development is capable of managing flood risk effectively.

The Council's HRAs that support the Core Strategy address the strategic effect of growth across Rother 'in-combination' with growth in other authority areas over the same time period. The Core Strategy HRAs were focused on the overall quantum and broad distribution of the growth. The DaSA HRAs identifies if any particular site allocations and policies have the potential to cause an adverse effect on the European designated sites, either in isolation of 'in combination' with other plans or projects and to determine whether site-specific mitigation measures are required. The DaSA 'in combination' assessment concluded that there would be no adverse effects due to the policy protection requiring appropriate SuDS for all relevant sites. Similarly, Wealden and Eastbourne have undertaken their own HRAs to support their respective Local Plans vis-à-vis development targets.

The monitoring and management of SuDS would ensure the SuDS would continue to be effective in line with the requirements set out in Policy DEN5. Therefore, it can be concluded that an adverse effect on the integrity of the SAC and Ramsar site would be avoided 'in combination' with other development proposals in Rother, Wealden and Eastbourne districts.

Having made this appropriate assessment of the implications of this project for the European Sites in view of their conservation objectives, and having consulted Natural England and fully considered any representation received (see below) and the representations of all other relevant

consultees, the authority may now agree to the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Natural England

Summary of Natural England's comments:

The appropriate assessment concludes that the local planning authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the Pevensey Levels Special Area of Conservation (SAC) and Ramsar site. Specifically the local planning authority agrees that the potential impact pathway of increased contaminated surface run-off is sufficiently mitigated. In the construction phase the required mitigation is detailed in the submitted construction method statement. During the operational phase of development this mitigation is provided by the implementation of the proposed surface water drainage scheme which will be monitored and managed in perpetuity.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Signed

On behalf of Rother District Council

Date

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Rother District Council

Report to - Planning Committee
Date - 11 March 2021
Report of the - Head of Strategy & Planning
Subject - Application RR/2020/2285/P
Address - The Hurst, Netherfield Hill,
BATTLE
Proposal - Proposed conservatory to front elevation

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **REFUSE (FULL PLANNING)**

Head of Service: Tim Hickling

Applicant: Mr & Mrs K. Dixon
Case Officer: Miss Harriet Nurse
(Email: harriet.nurse@rother.gov.uk)

Ward Member(s): Councillors Mrs V. Cook and Councillor K.M. Field

Reason for Committee consideration: Councillor K.P. Dixon's application.

Statutory 8 week date: 12 February 2021
Extension of time agreed to: 12 March 21

1.0 SUMMARY

1.1 This proposal is for a conservatory on the front elevation of the dwelling. The main issues to consider are the effect of the proposal on the amenities of adjoining neighbours, the effect of the proposal on the locality and on the setting of the Listed Building adjacent. The application is recommended for refusal due to the harm to local character.

2.0 SITE

2.1 This application relates to a detached property to the north east side of Netherfield Hill on the outskirts of the town of Battle. The property is located within the countryside and is within the High Weald Area of Outstanding Natural Beauty (AONB). The dwelling is positioned approximately 16.3m to the north east of its nearest neighbour, a Grade II Listed Building, Le Rette Cottage. The dwelling is set over 90m from a public footpath to the west and open to views from the road.

3.0 PROPOSAL

- 3.1 This application seeks permission for a proposed conservatory to be positioned on the front elevation.
- 3.2 The conservatory would project out to the front by 4m, have a width of 4.2m, have a pitched roof reaching a maximum height of 3.5m and has an eaves height of 2.3m.
- 3.3 The proposed materials would include brick and upvc framework under a grey glass roof.

4.0 HISTORY

- 4.1 None.

5.0 POLICIES

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:
- OSS4: General Development Considerations
 - EN1: Landscape Stewardship
 - EN2: Stewardship of the Historic Built Environment
 - EN3: Design Quality
 - RA3: Development in the Countryside
- 5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:
- DHG9: Extensions, Alterations and Outbuildings
 - DEN1: Maintaining Landscape Character
 - DEN2: High Weald AONB
- 5.3 Battle has resolved to undertake a neighbourhood plan. However, despite this progressing, it is not yet adopted and there are no policies considered to have any weight to the determination of this proposal.
- 5.4 The National Planning Policy Framework, High Weald Management Plan and Housing Design Guide are also material considerations.

6.0 CONSULTATIONS

- 6.1 Battle Town Council raise no objection to this application.
-

7.0 APPRAISAL

7.1 There are three issues for consideration; impacts to neighbours, impacts on the character of the area within the AONB and impacts on the setting of the Listed Building.

7.2 *Impacts upon the amenities of adjoining properties.*

7.2.1 The nearest neighbouring property (Le Rette Cottage) is positioned to the south west over 16 metres from the host dwelling and separated by the driveway to Rathvinden. Given the separation distance, the proposal does not appear to cause a harmful impact on this neighbours' residential amenities, including matters such as overlooking, loss of light or reduced outlook.

7.3 *The effect of the proposal on the character and appearance of the locality.*

7.3.1 Typically, conservatories would be sited on the rear of a property, screened from public view. This is not because they are inherently unattractive structures but rather, they seldom reflect the architectural features of the buildings there attached too. They tend to look incongruous when considering their heavily glazed appearance, the typical design of a principal elevation and how a dwellinghouse presents itself to a street.

7.3.2 In this instance, although setback from the road, the front elevation is visible from the roadside. As such, the conservatory proposed would also be visible and form an incongruous addition to the front elevation. This is because it be a prominent feature and would not respect or respond positively to the form, proportions, materials or details of the design or character of the existing dwelling. The conservatory is large, mostly glazed, covering around a third of the width of the dwelling and projecting forward of the garage projection on the western side of the frontage. The existing elevation has a pleasing design and proportions, mostly brick or weatherboarded façade, with a catslide roof extending over the garage projection. The proposed conservatory would be an anomaly in all aspects of its size, design and materials. As such it would not be in keeping with the host building. The design would detract from the view of the principal elevation.

7.3.3 A conservatory may be acceptable on the rear rather than to the front, given the open frontage of the dwelling. Furthermore, a front extension could be achieved if an alternative type and design of extension were considered, that reflected the building's architecture more appropriately. The design as presented is, however, poor in respect of its size, appearance, details and relationship with the front elevation and as such it would be an unsympathetic and incongruous addition, out of character of the existing dwelling and surrounding area.

7.3.4 The proposed materials – UPVC and significant glazing – are also uncharacteristic to the AONB and unsympathetic to the existing dwelling and setting of the adjacent listed building which has an overtly traditional High Weald character. Overall, the proposal would not conserve or enhance the landscape or scenic beauty of the High Weald AONB.

7.4 *Impacts on setting of Listed Building*

- 7.4.1 The rural setting of the listed cottage, Le Rette Cottage, has historically been eroded with the development of the host dwelling. However, it is considered that the proposal would have further negative impacts on the setting of the Listed Building due to the size and design being unsympathetic to the character of the dwelling and area.

8.0 SUMMARY

- 8.1 The proposed conservatory would appear as an incongruous addition within the street scene and would fail to conserve or enhance the landscape character and scenic beauty of the High Weald AONB. Therefore, the proposal fails to comply with Policies OSS4, EN1, EN2 and EN3 of the Local Plan Core Strategy, Policies DHG9, DEN1 and DEN2 of the Development and Site Allocations Local Plan and Paragraphs 127 and 130 of the National Planning Policy Framework and should be refused.

RECOMMENDATION: REFUSE (FULL PLANNING)

REASON FOR REFUSAL:

1. The proposed conservatory by virtue of its size, design, materials and positioning forward of the principal elevation would undermine and detract from the character and appearance of the dwelling and the open front gardens forming the setting of the adjacent listed building, Le Rette Cottage. The proposal would appear as an incongruous addition within the street scene and would fail to conserve or enhance the landscape character and scenic beauty of the High Weald AONB. The development is therefore contrary to Policies OSS4, EN1, EN2, EN3 and RA3 of the Local Plan Core Strategy, Policies DHG9, DEN1 and DEN2 of the Development and Site Allocations Local Plan and Paragraphs 127 and 130 of the National Planning Policy Framework.

NOTE:

1. This refusal relates to the proposals as shown on the following plans: Location Block Plan, Drawing No. 6723 / LBP dated November 2020; and Proposed Floor Plan and Elevations, Drawing No. 6723 / 1 / A dated November 2020.

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason for refusal, thereby allowing the applicant the opportunity to consider the harm caused and whether or not it can be remedied as part of a revised scheme.

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Rother District Council

Report to	-	Planning Committee
Date	-	11 March 2021
Report of the	-	Head of Strategy and Planning
Subject	-	Application RR/2020/2373/P
Address	-	Unit 12, The Colonnade, The Promenade, BEXHILL
Proposal	-	Change of use from Class E1 (Commercial, business and service) to Virtual Reality Flying Experience (sui generis) with ancillary retail.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT (FULL PLANNING)**

Head of Service: Tim Hickling

Applicant: Mr A. Hedger
Agent: N/A
Case Officer: Mr J. Pyrah (Email: jeff.pyrah@rother.gov.uk)
Parish: BEXHILL
Ward Member(s): Councillors C.A. Bayliss and P.C. Courtel

Reason for Committee consideration: Head of Strategy and Planning referral: COUNCIL PROPERTY

Statutory 8 week date: 22 March 2021

1.0 SUMMARY

- 1.1 The application seeks planning permission for change of use of Unit 12 within The Colonnade from retail (Class E(a)) to a virtual reality flying experience.
 - 1.2 This entertainment and tourism use is encouraged by policies for the Bexhill Town Centre (outside of the Primary Shopping Area) and the Bexhill Cultural Area and would complement and diversify the existing retail, restaurant and café uses of the Colonnade. As such planning permission should be granted.
-

2.0 SITE

- 2.1 The site is Unit 12 within The Colonnade. The Colonnade is a listed structure (Grade II) built in 1911. The central section is a single storey curved colonnade,

consisting of 11 bays, of which this site forms one. The unit is vacant but was occupied by a retailer until September 2020.

3.0 PROPOSAL

- 3.1 The Applicant proposes to use the space to house a virtual reality simulator (4sqm) ride unit, with a capacity for two rides, which will feature a 5-6 minute flying experience over the main landmarks of the 1066 coastline. Customers will also have to opportunity to pose in front of a green screen wall and have their photo taken which would be superimposed onto flying scenes and to buy souvenirs related to the experience. The Applicant advises that *it is believed that there are currently no other virtual reality flying rides of this type in the world – it would therefore be marketed as a ‘world first’*.
- 3.2 This is an entertainment use which falls outside of any of the Use Classes defined by the Town and Country Planning (Use Classes) Order 1987 (as amended). The proposal therefore requires planning permission for change of use from the existing retail use (Class E(a)) to the specific sui generis use described above. Similar uses such as a cinema, theatres or amusement arcade are specifically excluded from classification and are ‘sui generis’.
-

4.0 HISTORY

- 4.1 RR/2009/2834/3R & RR/2009/2835/L – Redevelopment of the existing King George V Colonnade to provide a mix of flexible A3 restaurant/café space and A1 retail space together with updated accommodation for the coastal officer. APPROVED. 10 March 2010.
-

5.0 POLICIES

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:
- BX1: Overall Strategy for Bexhill
 - BX2: Bexhill Town Centre
 - OSS4: General Development Considerations
 - EC6: Tourism Activities and Facilities
 - EC7: Retail Development
- 5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:
- BEX12: Bexhill Town Centre
 - BEX15: Bexhill Cultural Area
-

6.0 CONSULTATIONS

- 6.1 RDC – Acquisitions, Transformation & Regeneration – **NO OBJECTION**

6.1.1 The proposed use of a virtual reality flying experience with ancillary retail will be welcomed within one of the kiosks complementing the retail experience.

6.2 Planning Notice

6.2.1 Bexhill Chamber of Commerce and Tourism advises that they and their members who occupy other units in The Colonnade welcome this new and exciting addition to our seafront as it will diversify the areas offer and attract a family led demographic to the area.

7.0 LOCAL FINANCE CONSIDERATIONS

7.1 None.

8.0 APPRAISAL

8.1 The application requires planning permission for change of use from the existing retail use (Class E(a)) to a specific permission for a virtual reality flying experience. No physical changes to the listed (Grade II) structure are proposed and there are therefore no heritage considerations.

8.2 The material planning issues are the impact of the change from the existing retail use on the town centre and cultural area and a consideration of any amenity issues generated by the use.

Impact of Proposed Use

8.3 Development and Site Allocations Local Plan (DaSA) Policy BEX12 resists the loss of significant town centre uses from the Town Centre while Core Strategy Policy BX2(i) promotes a co-ordinated town centre initiative to improve its use for shopping, services and leisure. DaSA Policy BEX15 advises that Bexhill Cultural Area will be the primary focus for arts, culture and tourism activities within the town and Core Strategy Policy EC6 encourages proposals relating to tourism activities and facilities where they (ii) support active use along the coast, consistent with environmental and amenity factors.

8.4 The proposed tourism use accords with these policies, providing an active use in this important tourist location with Bexhill's Cultural Area and Town Centre. As the Bexhill Chamber of Commerce and Tourism advises, it will diversify the offer and attract families. It will also complement the retail, café and restaurant uses provided in The Colonnade. A condition is recommended requiring the unit to revert to retail use if and when the permitted use ends.

Amenity Considerations

8.5 The virtual flying experience ride unit will be housed in a partitioned space within the unit. This experience will be provided by virtual headsets with small speakers built into two special seats. This entertainment use will not generate excessive noise levels and is compatible with the uses anticipated in The Colonnade.

9.0 PLANNING BALANCE AND CONCLUSION

- 9.1 The application seeks planning permission for the change of use of Unit 12 within The Colonnade from retail (Class E(a)) to a sui generis use as a virtual reality flying experience providing a flyover of 1066 landmarks.
- 9.2 This tourism use complements the retail, restaurant and café uses of The Colonnade and encouraged by policies for the Bexhill Town Centre (outside of the Primary Shopping Area) and the Bexhill Cultural Area. The use would not harm the amenities of adjoining properties. As such the proposal accords with Core Strategy Policies BX2 and EC6 and Development and Site Allocation Local Plan Policies BEX12 and 15.

RECOMMENDATION: It be **RESOLVED** to **GRANT (FULL PLANNING)**

CONDITIONS:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: In accordance with section 91 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the Site Location Plan, Block Plan, Floorplan and Description of Proposal document which were submitted with the application.
Reason: For the avoidance of doubt and in the interests of proper planning.
3. The planning use of Unit 12 of The Colonnade will revert to Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting this order with or without modification), when the use as a virtual reality flying experience, hereby approved, ceases.
Reason: To protect the Bexhill Town Centre and Bexhill Cultural Area and enable proper consideration of future proposals in accordance with Policies BEX12 and BEX15 of the Rother Development and Site Allocations Local Plan.

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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Rother District Council

Report to: Planning

Date: 11 March 2021

Title: Undetermined Major Planning Applications

Report of: Tim Hickling, Head of Strategy and Planning

Ward(s): All

Purpose of Report: To update the Planning Committee

Officer Recommendation(s): It be **RESOLVED:** That the report be noted.

RR/2015/2264/P Michael Tyler Factory, Woodlands Way, Westfield
 Outline: Redevelopment of site to provide residential development comprising 40 units, landscaping and a LAP.

Status: Delegated 30 May 2019. Section 106 Obligation with applicant and we are still awaiting their responses.

RR/2017/2452/P 11 Ellerslie Lane, Moleynes Mead, Bexhill
 Outline: Redevelopment of land with 24 No. unit residential development including new access road, associated parking and external amenity areas.

Status: Delegated 14 April 2018. The application has been in abeyance pending completion of the legal agreement (Section 106). However, there has been no progress on the part of the applicant and site owner. There is a further and more recent application on this site ref: RR/2020/565/P (different applicant). The applicant has recently confirmed that they presently do not wish to withdraw the 2017 application.

RR/2017/382/P Hodson's Mill, Northbridge Street, Salehurst / Robertsbridge
 Erection of 96 No. residential dwellings (Use Class C3), non-residential floorspace comprising 280sqm (Use Class A3) and 920sqm (Use Class B1), and associated access, car/cycle parking, open amenity space, strategic landscaping and green infrastructure and including restoration works to the Mill Building and Oast House.

Status: Delegated 18 April 2019. The application has been in abeyance pending completion of the legal agreement (Section 106). However, there had been no progress on the part of the applicant and site owner. The applicant was contacted to seek confirmation that the

application can be withdrawn. The response; however was that the applicant wishes to pursue matters and has instructed a solicitor to resume negotiations in respect of the legal agreement. Matters are currently progressing with regard to completing the legal agreement.

RR/2018/3064/P

Churchill Farm, The Street, Sedlescombe

Outline: Erection of ten dwellings, new access and access road and relocation of the 30mph speed limit.

Status: The applicant is in negotiation with the adjacent site (Gate Cottage, RR/2019/1332/P) regarding the proposals for a joint shared access. Once this is resolved and amended plans submitted it can then proceed to report.

RR/2019/2242/P

Barnhorn Green, Bexhill

Amendments to five areas of the approved scheme RR/2015/3115/P resulting in revised mix and quantum of dwellings increasing from 67 to 83 units including 30% affordable.

Status: Delegated to approve 19 May 2020 - Section 106 negotiations ongoing. 1 month to decision.

RR/2019/2738/P

The Paddock, Northiam

Construction of 34 No. dwellings with access, landscaping and parking.

Status: Delegated to approve – 13 November 2020. Section 106 instructed November 2020, early stages. 2-6 months to decision.

RR/2019/430/P

Bexhill Leisure Centre, Down Road, Bexhill

Outline: Mixed use development comprising a leisure centre (D2 Use), ancillary car parking and up to 52 dwellings (C3 Use) including matters of access with all other matters reserved.

Status: Delegated 17 December 2019 – Section 106 delayed by Rother District Council needing to acquire ownership from East Sussex County Council, but Section 106 is being drafted. 3-4 months to decision.

RR/2020/1572/P

River Rother – Land at, (relating to project known as Folkestone to Cliff End Schemes – Rother Tidal Walls East), Rye/Playden/East Guldeford/Camber/Icklesham
Improvement of the existing linear flood embankments and construction of a realigned section of embankment at Camberfield for the creation of new inter-tidal habitat.

Status: Ongoing discussions with the applicant (Environment Agency) and Natural England in respect of the Habitat Regulations Assessment.

RR/2020/2260/P

Clavering Walk – Land at, Bexhill

Reserved Matters application pursuant to outline application RR/2018/3127/P to consider appearance, landscaping, layout and scale in respect of the erection of 70 dwellings and associated car parking, open space and infrastructure.

Status: Awaiting amended submissions regarding drainage/habitat regulations submission and heritage. Further consultation will take place. HRA AA will be required. 2-3 months to decision.

RR/2020/565/P

11 Ellerslie Lane, Moleynes Mead - Land at, Bexhill

Redevelopment of land to provide 28 dwellings (6 x 4-bed 2 storey homes, 15 x 3-bed 2 storey homes, 4 x 2-bed 2 storey homes, 1 x 3-bed 1 storey home, 1 x 2-bed maisonette, 1 x 1-bed maisonette) and associated new access roads, parking and external amenity areas.

Status: Negotiations on the proposed development have been progressing with the applicant and amended plans have been received. These have been re-advertised and relevant re-consultations undertaken. The application will be report to a forthcoming meeting of the Planning Committee.

RR/2020/585/P

Singehurst - Land at, Pashley Road, Ticehurst

Erection of 10 residential dwellings comprising of 2 x two bed houses, 2 x three bed bungalows, 4 x three bed houses and 2 x four bed houses together with associated development.

Status: Amended plans currently being advertised and are under consideration.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Chief Executive:	Malcolm Johnston
Report Contact Officer:	Tim Hickling – Head of Strategy and Planning
e-mail address:	tim.hickling@rother.gov.uk
Appendices:	N/A
Relevant previous Minutes:	N/A
Background Papers:	N/A
Reference Documents:	N/A

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Rother District Council

Report to: Planning

Date: 11 March 2021

Title: Planning Statistics for the Quarter October – December 2020 (including summary of planning statistics for 2020/2021)

Report of: Tim Hickling, Head of Strategy and Planning

Ward(s): All

Purpose of Report: To update the Planning Committee

Officer

Recommendation(s): It be **RESOLVED:** That the report be noted.

MHCLG Statistics PS1 & PS2 Returns 1 October – 31 December 2020 (3rd Qtr)

1.0	Total number of planning applications Received during the quarter:	310
2.0	Total number of planning applications Determined during the quarter:	321
	% Percentage of applications determined	
2.1	% of applications for major developments issued within agreed timeframe	86%
2.2	% of applications for minor developments issued within agreed timeframe	80%
2.3	%of other planning applications issued within agreed timeframe	81%
3.0	Number of planning applications on hand and not determined at the end of the quarter:	493
4.0	Applications not included in MHCLG PS1 & PS2 Returns (Miscellaneous applications) 1 October – 31 December 2020 (3rd Qtr)	

i.e Prior notifications, Discharge of Condition, Lawful Development Certificates, Minor Amendments, Works to Trees, Consultations from neighbouring authority or ESCC

4.1	Total number of miscellaneous applications received during quarter	137
4.2	Total number of miscellaneous applications determined during quarter	99
4.3	Number of miscellaneous applications on hand and not determined at the end of the quarter	111*
	*Where received date from 1 April 2020	
5.0	Total number of applications on hand at end of quarter	
5.1	Total number of applications on hand	604
6.0	Planning Application Appeals 1 October – 31 December 2020 (3rd Qtr)	
6.1	Number of planning appeals on hand (no decision):	40
6.2	Number of Planning appeals lodged:	18
6.3	Planning Appeal Decisions:	
	Allowed:	2
	Allowed in part:	0
	Dismissed:	11
7.0	Pre Application Enquiries 1 October – 31 December 2020 (3rd Qtr)	
7.1	Number of pre applications received:	96
7.2	Number of valid pre applications received:	71
7.3	Number of pre applications enquiries completed:	75
8.0	Planning Enforcement October – December 2020 (3rd Qtr)	
8.1	Number of complaints received:	87
8.2	Number of complaints resolved:	44
8.3	Number of active complaints on hand:	451

9.0 Local Land Charge Searches October – December 2020 (3rd Qtr)

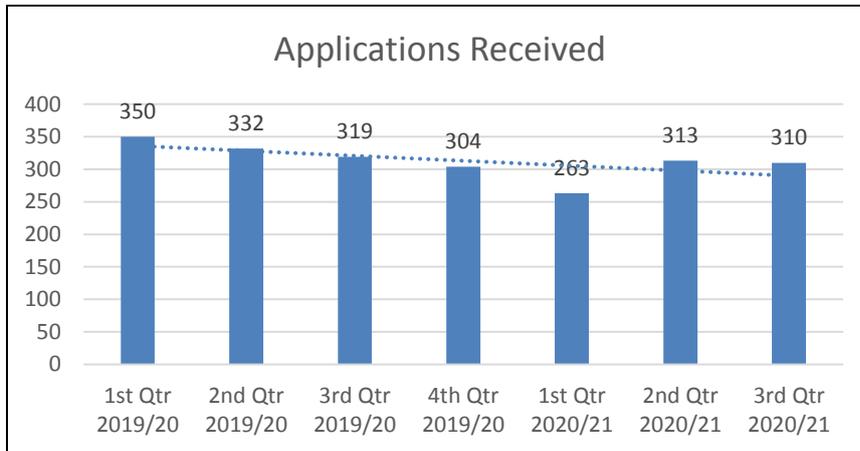
9.1 Number of Local Land Charge searches received: 1008

9.2 Number of Local Land Charges completed: 941

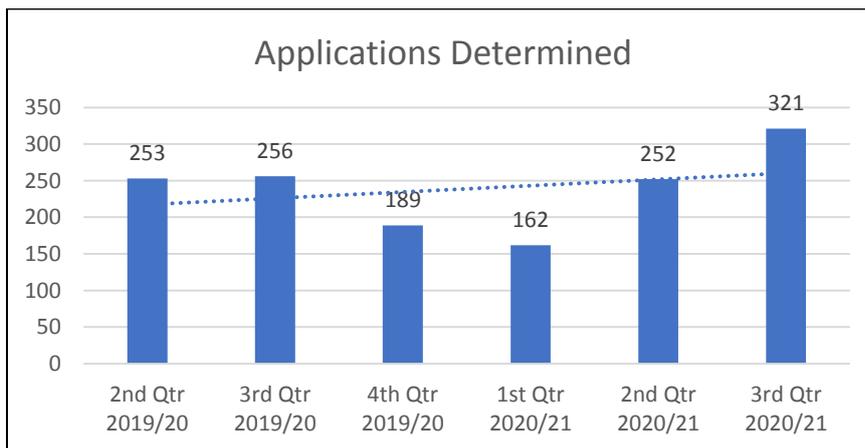
Summary of Planning Statistics 1 April 2019 – 31 December 2020

Planning Applications

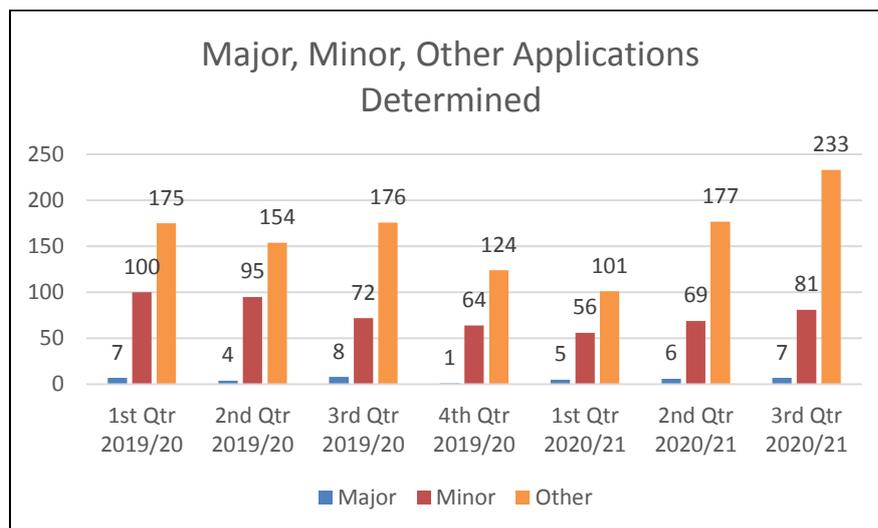
1.0 Applications received:



2.0 Total number of planning applications determined:

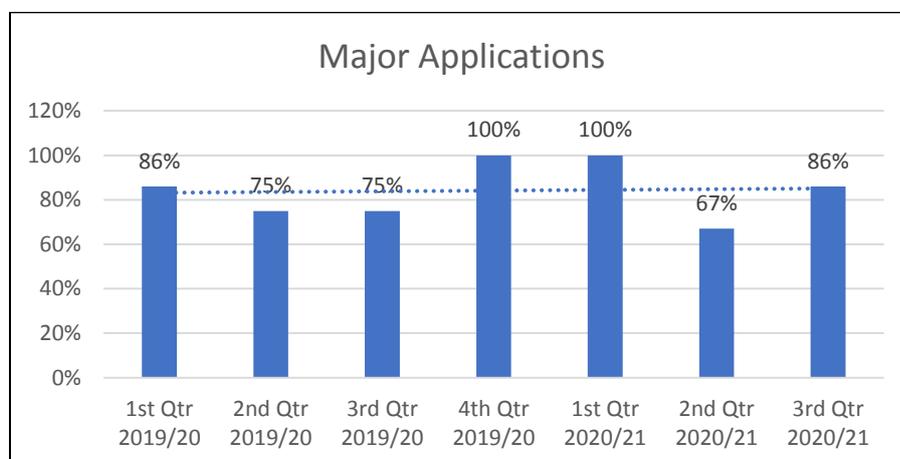


Category of Applications Determined:

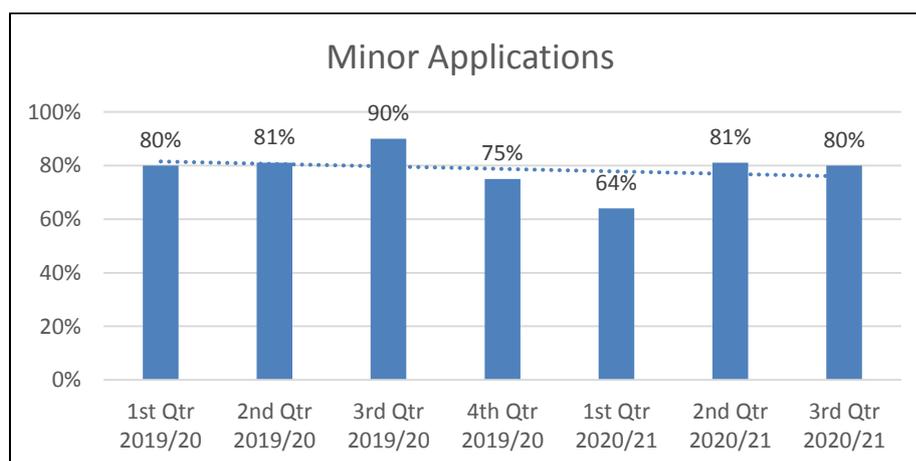


2.0 Percentage of planning applications determined within agreed timeframe

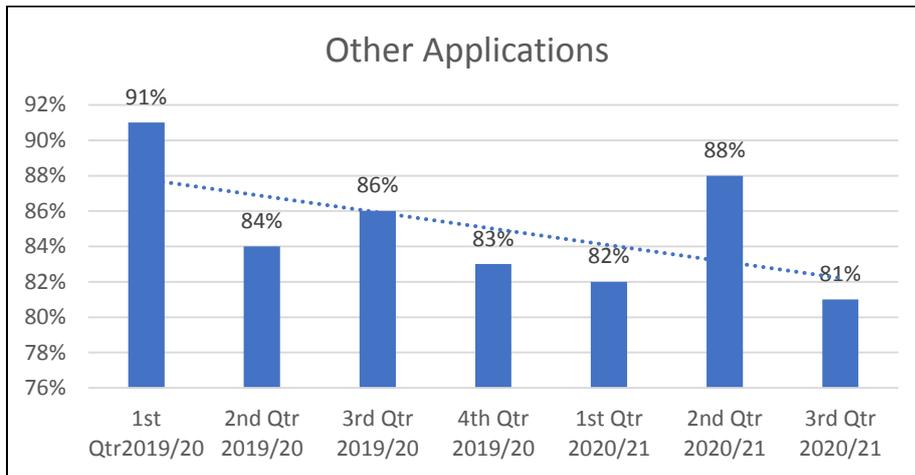
2.1 Major applications



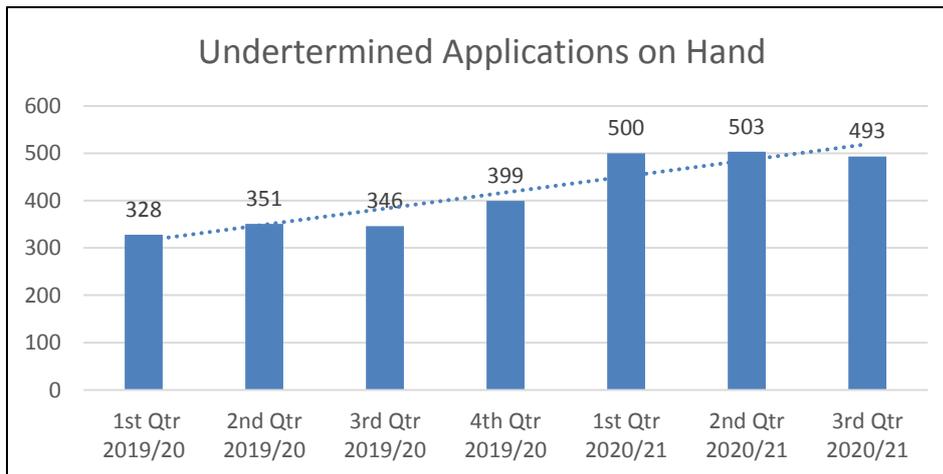
2.2 Minor applications



2.3 Other applications

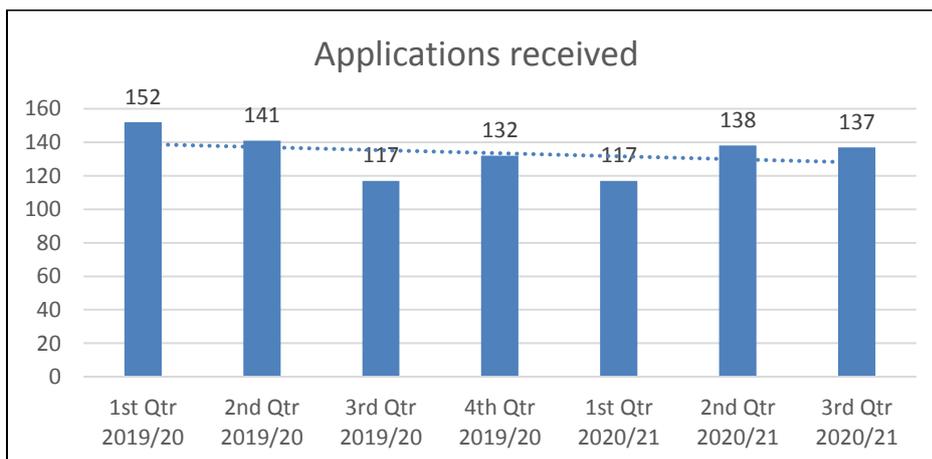


3.0 No of applications on hand and not determined at the end of the quarter

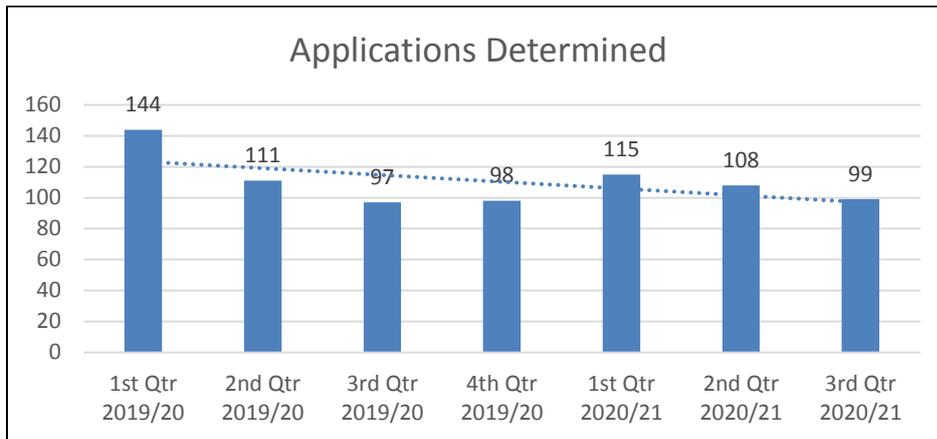


4.0 Applications not included in MHCLG PS1 & PS2 Returns (Miscellaneous applications)

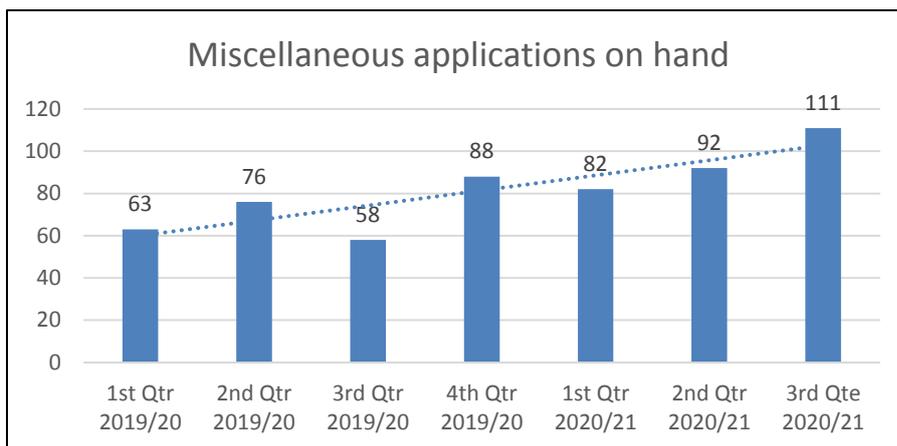
4.1 Received



4.2 Determined

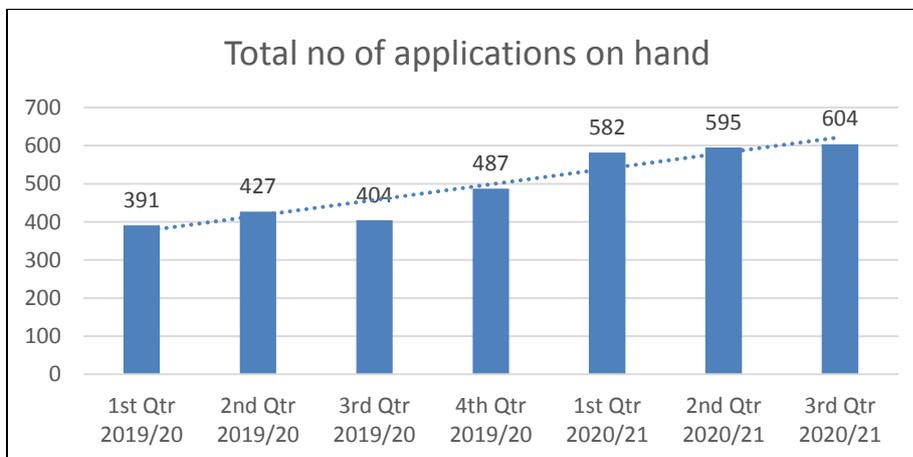


4.3 Number of miscellaneous applications on hand



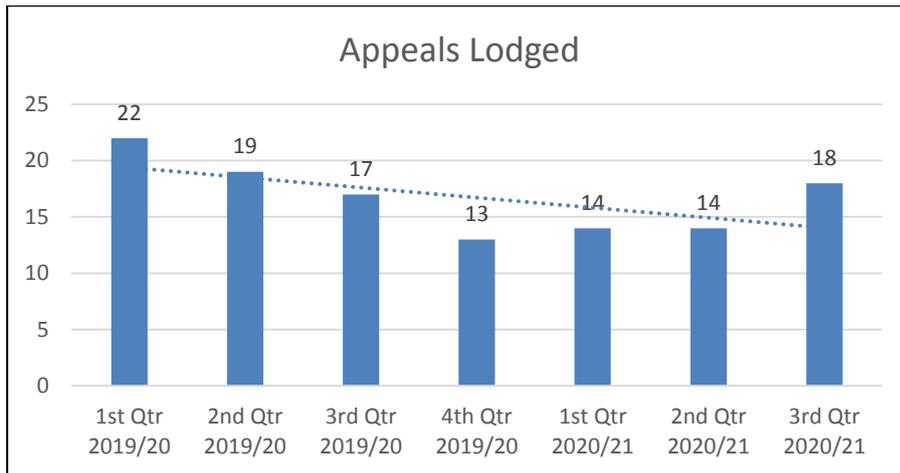
5.0 Total number of applications on hand

5.1 Applications on hand

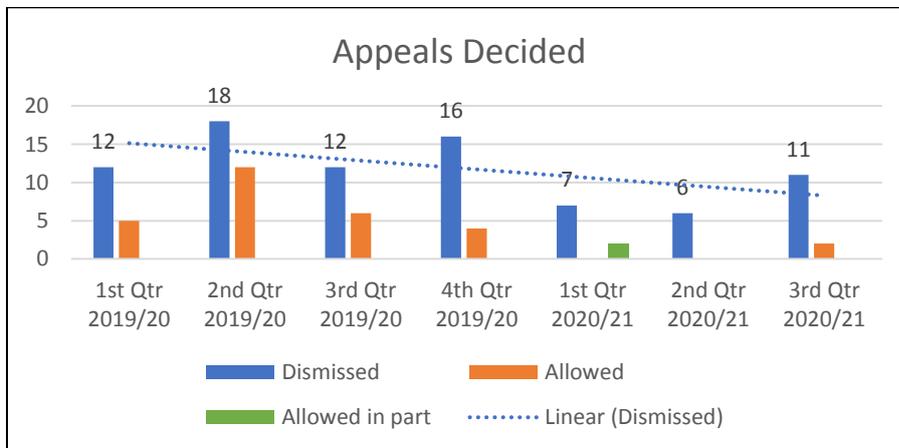


6.0 Planning Appeals 1 April 2019 – 31 December 2020

6.2 Appeals Lodged

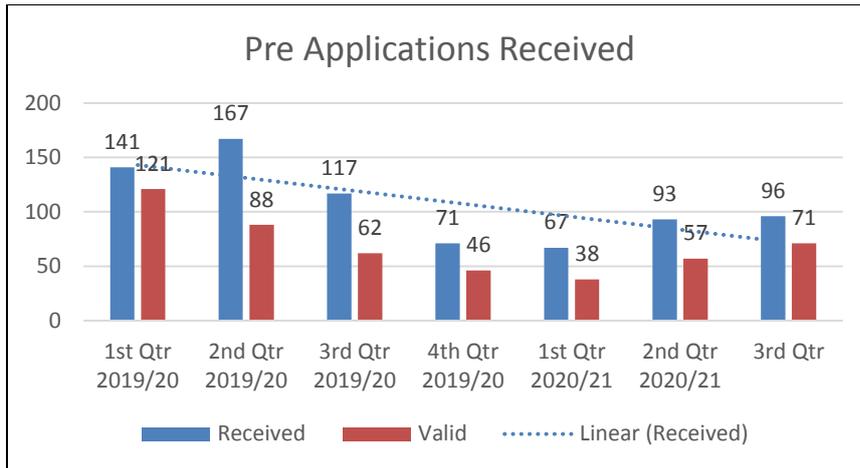


6.3 Appeals Decided

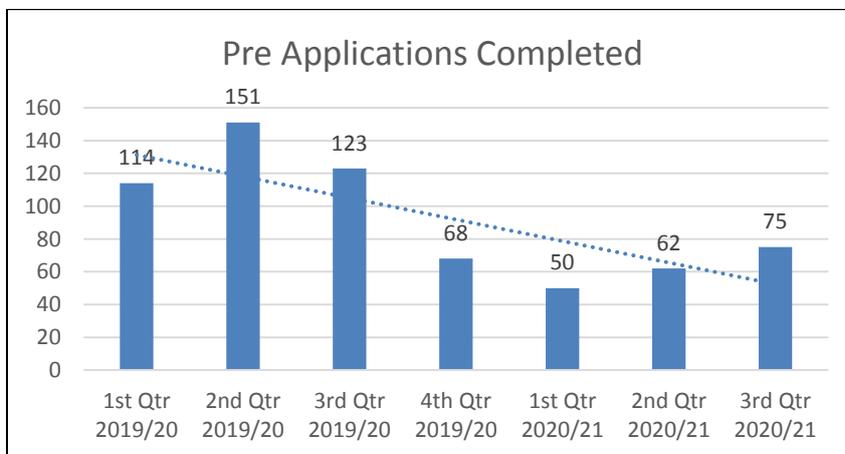


7.0 Pre Application Enquiries

7.1 & 7.2 Number of pre application enquiries received and validated:

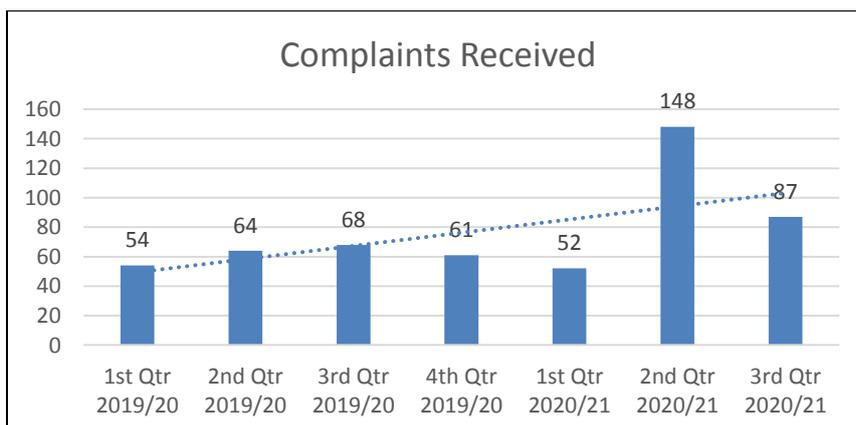


7.3 Number of pre applications enquiries completed

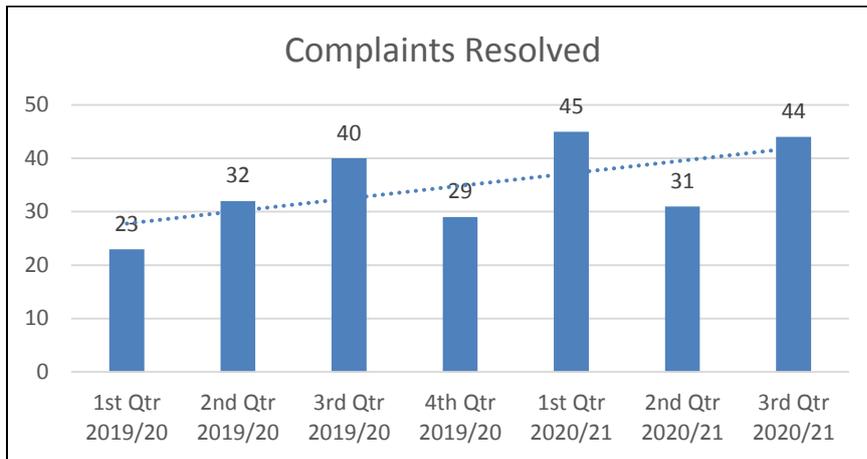


8.0 Planning Enforcement Complaints 1 April 2019 – 31 December 2020

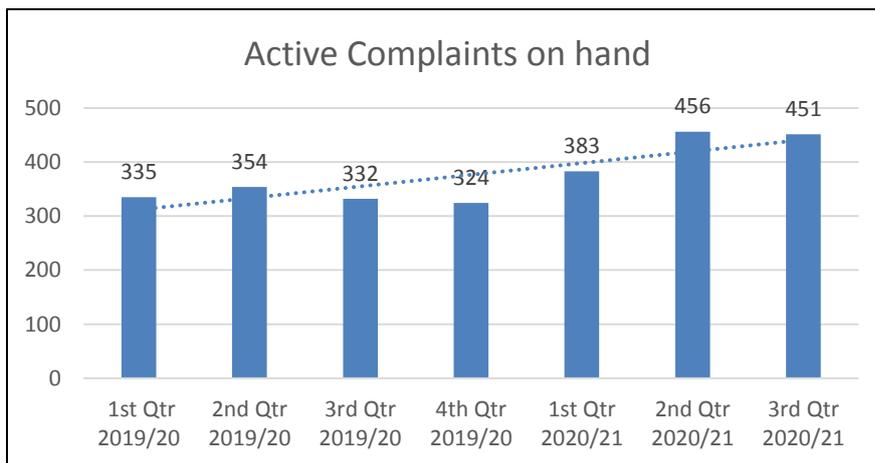
8.1 Complaints received



8.2 Complaints resolved

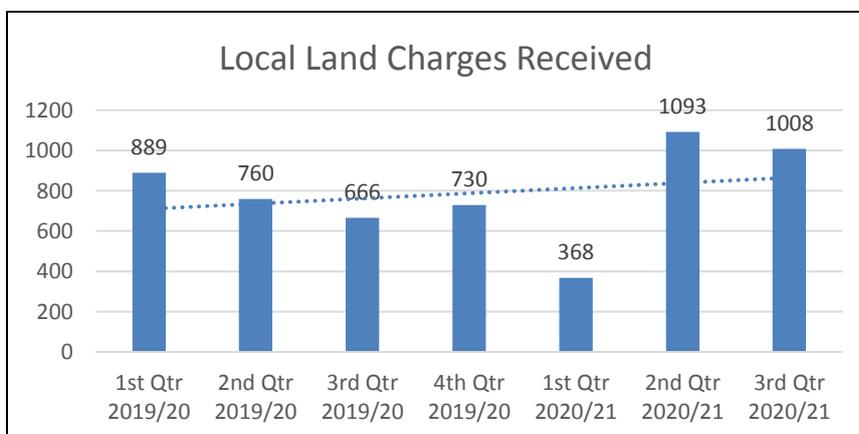


8.3 Active complaints on hand

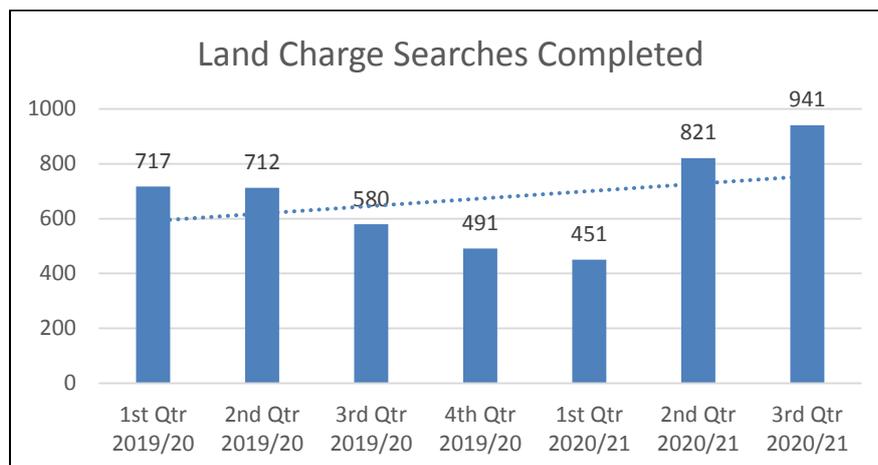


9.0 Local Land Charge Searches

9.1 Local Land Charge Searches Received



9.2 Local Land Charge Searches Completed



Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Chief Executive:	Malcolm Johnston
Report Contact Officer:	Tim Hickling – Head of Strategy and Planning
e-mail address:	tim.hickling@rother.gov.uk
Appendices:	N/A
Relevant previous Minutes:	N/A
Background Papers:	N/A
Reference Documents:	N/A

Rother District Council

Report to: Planning

Date: 11 March 2021

Title: Appeals

Report of: Tim Hickling, Head of Strategy and Planning

Ward(s): All

Purpose of Report: To update the Planning Committee

Officer Recommendation(s): It be **RESOLVED:** That the report be noted.

APPEALS LODGED

RR/2020/164/P (Delegation)	BATTLE: 25 Tollgates, Battle Demolition of dwelling and erection of four detached dwellings with associated access, parking and landscaping. Mr Simon Bowyer
RR/2020/651/P (Delegation)	BATTLE: 74A Hastings Road, Sierra Lodge, Battle Change of Use from a detached garage to a holiday let with one allocated parking space and bin store area. Ms Esther Sefaah
RR/2020/396/T (Delegation)	BEXHILL: 44 Collington Rise, Oakwood, Bexhill Horse Chestnut - Remove approximately 6ft all round to remove dead branches. Mr Peter Bennett
RR/2020/1451/P (Non-determination)	BEXHILL: Birk Dale Hall, Birk Dale, Bexhill Change of Use, subdivision and conversion of existing hall (Day Nursery / Creche - D1 Use) into two self-contained dwellings (C3 Use) including the addition of a single storey side infill extension at ground floor level, a large single dormer to south side at 1st floor level, five barrel vault dormer windows to the north side at 1st floor level and associated boundary enclosure walls. Mrs P. Gates
RR/2020/2092/P (Non-determination)	FAIRLIGHT: 28 Waites Lane, Sundial Cottage, Fairlight Dormer loft conversion to the rear of the property. Mr Michael Saba

RR/2017/457/P (Committee - Decision)	FAIRLIGHT: Former Market Garden, Lower Waites Lane, Fairlight Construction of 16 houses together with associated parking, access and wildlife area. Gemselect Limited
RR/2019/951/P (Delegation)	PEASMARSH: 1 Brickfield, Main Street, Peasmarsh Extension to form new dwelling and two-storey rear extension for existing dwelling. Mr Peter Bedborough
RR/2019/1901/P (Delegation)	PEASMARSH: 1 Brickfield, Main Street, Peasmarsh Proposed extension to form self-contained dwelling. Mr Peter Bedborough
RR/2020/174/P (Delegation)	TICEHURST: Cherry Tree Nursery, Hawkhurst Road, Flimwell, Ticehurst Demolition of existing buildings and erection of 8 No. dwellings with access, parking and landscaping. Cherry Tree Farm Investments

APPEALS STARTED

RR/2020/1406/P (Delegation)	PEASMARSH: Lyndhurst, Main Street, Peasmarsh Variation of Conditions 6 and 7 imposed on RR/2017/1843/P to allow the annexe to be used by friends and family members not living in the main residence, as allowed by planning appeal APP/U1430/A/09/2100179. Mr Terence Denman
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APPEALS ALLOWED

NONE

APPEALS DISMISSED

RR/2019/2750/T (Delegation)	BEXHILL: 44 Collington Rise, Oakwood, Bexhill T1 – Sycamore Tree – Reduction of height and trimming to in rear garden. Mr P. Bennett
RR/2019/2137/T (Delegation)	IDEN: Orchard Field, Grove Lane, Iden T1 – Oak – Fell. Mrs Stella Halmshaws

APPEALS WITHDRAWN

RR/2019/1814/T
(Delegation)

SALEHURST/ROBERTSBRIDGE: 1 Blenheim Court,
George Hill
T1 – Horse Chestnut Tree – Fell.
Mrs A. Stevens

FORTHCOMING HEARINGS/INQUIRIES

NONE

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Chief Executive:	Malcolm Johnston
Report Contact Officer:	Tim Hickling – Head of Strategy and Planning
e-mail address:	tim.hickling@rother.gov.uk
Appendices:	N/A
Relevant previous Minutes:	N/A
Background Papers:	N/A
Reference Documents:	N/A

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