



Planning Committee

- Date and Time - **Thursday 12 August 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 - **Council Chamber, Town Hall, Bexhill-on-Sea**
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Councillors appointed to the Committee:

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

Substitute Members: J. Barnes, R.B. Thomas and H.L. Timpe.

AGENDA

1. **MINUTES**

To authorise the Chairman to sign the minutes of the meeting of the Planning Committee held on the 15 July 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 **WITHDRAWN APPLICATIONS**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Head of Service Strategy and Planning to advise Members of those planning applications on the agenda which have been withdrawn.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/2020/2260/P - CLAVERING WALK - LAND AT BEXHILL** (Pages 3 - 30)

8. **RR/2021/1608/P - FORMER ASHWOOD NURSING HOME, HEATHFIELD ROAD, BURWASH COMMON, BURWASH** (Pages 31 - 56)

9. **RR/2020/1798/P - FORMER ASHWOOD NURSING HOME, HEATHFIELD ROAD, BURWASH COMMON, BURWASH** (Pages 57 - 82)

10. **RR/2021/381/P - 37 NINFIELD ROAD, SUSSEX COURT, BEXHILL** (Pages 83 - 96)

11. **APPEALS** (Pages 97 - 100)

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

Tuesday 7 September 2021 at 9:00am departing from the Town Hall, Bexhill.

Malcolm Johnston
Chief Executive

Agenda Despatch Date: 4 August 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

Rother District Council

Report to	-	Planning Committee
Date	-	12 August 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.

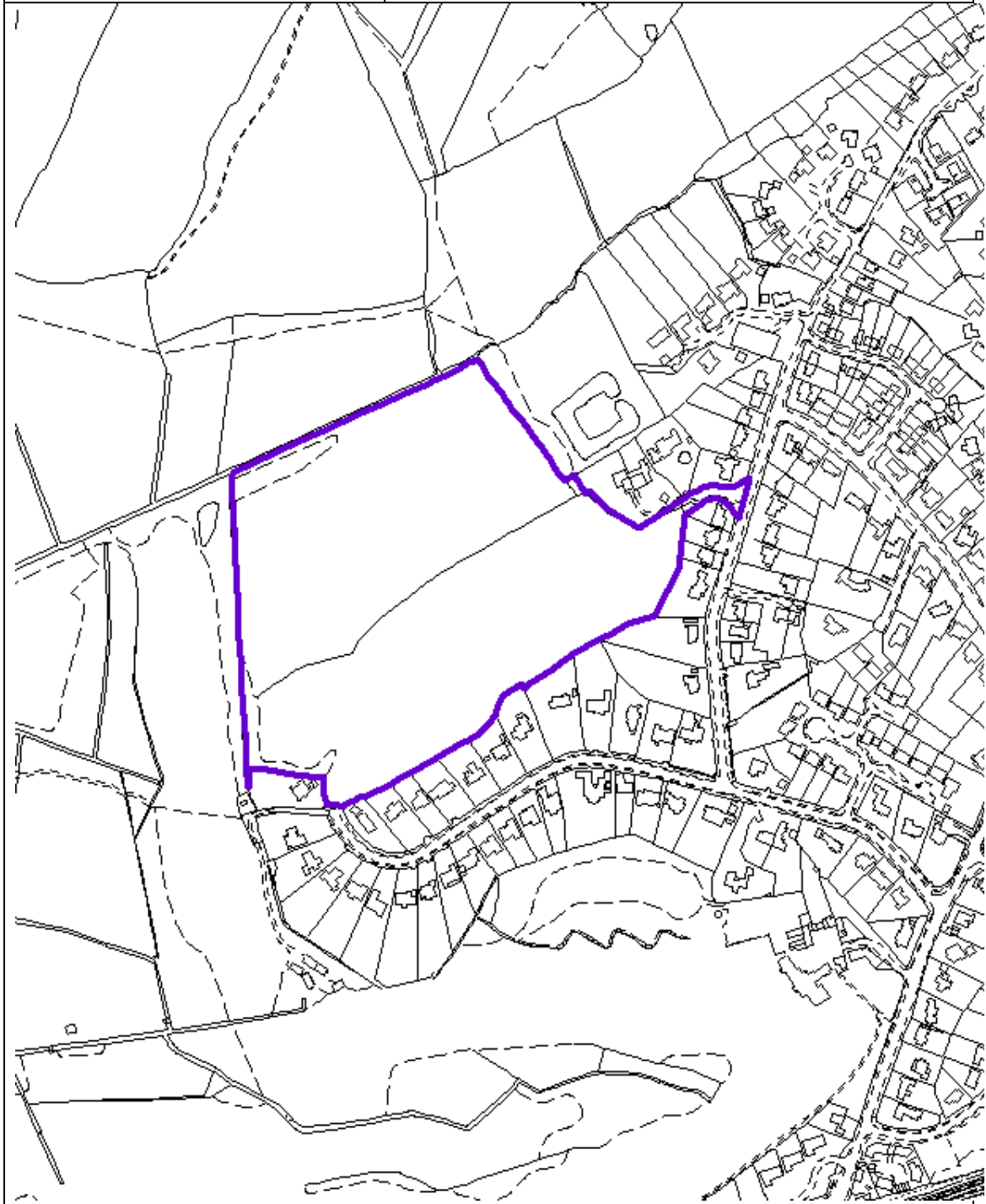
Applications requiring the applicant entering into an obligation under section 106 of the Town & Country Planning Act 1990 (as amended) are also delegated.

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/2020/2260/P	BEXHILL	Clavering Walk – Land at Bexhill.	3
8	RR/2021/1608/P	BURWASH	Former Ashwood Nursing Home Heathfield Road Burwash Common Burwash TN19 7LT	31
9	RR/2020/1798/P	BURWASH	Former Ashwood Nursing Home Heathfield Road Burwash Common Burwash TN19 7LT	57
10	RR/2021/381/P	BEXHILL	37 Ninfield Road Sussex Court, Bexhill TN39 5AB	83

SITE PLAN RR/2020/2260/P	BEXHILL CLAVERING WALK – LAND AT.
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Rother District Council

Report to	-	Planning Committee
Date	-	12 August 2021
Report of the	-	Head of Strategy and Planning
Subject	-	Application RR/2020/2260/P
Address	-	Land at Clavering Walk, Bexhill BEXHILL
Proposal	-	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.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT (RESERVED MATTERS)**, including agreement of the **Appropriate Assessment**

Head of Service: Tim Hickling

Applicant: Bellway Homes Limited (South London)
Agent: Savills UK
Case Officer: Mr J. Pyrah (Email: jeff.pyrah@rother.gov.uk)
Parish: BEXHILL – ST MARKS
Ward Member(s): Councillors S.J. Errington and K.M. Harmer

Reason for Committee consideration: Member referral: S.J. Errington –

1. proximity of the site to the Pevensey levels and concern regarding the construction and long-term management of the drainage system to ensure protection in perpetuity;
2. considerable public interest; and
3. one of three proposed developments within close proximity to the Pevensey Levels.

Statutory 13 week date: 12 February 2021
Extension of time agreed to: 16 August 2021

1.0 SUMMARY

1.1 This reserved matters submission follows the grant of outline planning permission for the site. Detail of the proposed access with Clavering Walk were approved as part of the outline permission. While the outline planning permission approved development of up to 85 dwellings, this submission proposes 70 dwellings and provides details relating to the reserved

matters of scale, layout, appearance and landscaping as well as 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/Pevensey & 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 Council as competent authority can pass the Appropriate Assessment.
- 1.3 The reserved matters submission responds successfully to relevant development plan policy requirements and to the expectations of the conditions and legal agreement (Unilateral Undertaking) imposed on the outline planning permission.
- 1.4 It is recommended that the Appropriate Assessment is agreed and reserved matters is granted.

1.5 **PROPOSAL DETAILS**

PROVISION	
No of houses	70
No of affordable houses	21
CIL (approx.)	£1,761,085.64
New Homes Bonus (approx.)	£0 (outline permission granted at appeal)

2.0 SITE

- 2.1 The application site comprises 8.1ha of agricultural land lying immediately to the north of the rear gardens to the detached houses on the north side of Clavering Walk. To the west and north, the site immediately adjoins the designated Pevensey Levels Special Area of Conservation (SAC), Ramsar Site and SSSI that to the west comprises the Cooden Beach Golf Club and to the north beyond the Cole Stream, small fields and woodland belts. To the south east, the site backs onto the gardens of houses on Maple Walk. To the east there is a small group of ‘back land’ houses and an area of woodland within which Cooden Moat, a Scheduled Ancient Monument lies close to the boundary with the application site.
- 2.2 The application site itself is divided into two fields with a significant hedgerow on embankment separating the two on an east – west alignment. Other trees are confined to the edges of the site. Public footpath Bexhill 138 passes through the southern side of the site from a stile in the south west corner at the turning head of Clavering Walk to Maple Walk. A second public footpath, Bexhill 125a runs from Maple Walk in a northerly direction on the eastern edge of or outside of the site, through the edge of the woodland to the east past the Moat.
- 2.3 The site lies outside of but adjacent to the existing town development boundary.

3.0 PROPOSAL

- 3.1 The reserved matters submission follows the granting of outline planning permission in February 2020 for development of up to 85 dwellings. This reserved matters submission proposes 70 dwellings (21 of which would be affordable dwellings). The layout responds to outline planning permission condition 5, which requires the scheme to be in broad conformity with the approved parameters plan. This shows a scheme served by a single access point from Clavering Walk, with a single spine road (following the principle line of the existing public right of way) and spurs off to the north with the northern field providing public open space incorporating planting, footpaths, boardwalks, play spaces and a Sustainable Urban Drainage System (SuDS). The details of the junction with Clavering Walk were submitted and approved through the appeal decision.
- 3.2 Dwellings on the main spine road are provided in larger plots, with gaps and side gardens and smaller plots are provided within mews-type streets to the north. All dwellings would be two storey in height and are designed to meet the Nationally Described Space Standards. All garages are single storey and, it is noted, offer additional parking over and above the ESCC requirement for the scheme.
- 3.3 The applicant proposes a range of materials and dwelling styles, with varied roof forms, porches, bay windows and chimneys. Mature planting would be retained along the southern boundary and an acoustic fence is proposed.
- 3.4 Following the original reserved matters submission, two amended submissions have been made. The first was submitted on 9 April 2021 and the second was submitted on 3 June 2021 and it is this submission that is under consideration at this committee meeting. This submission provided amended drawings; an updated drainage technical note; updated addendum to inform a Habitat Regulation Assessment; an updated Ecological Mitigation Plan (EMP); an updated Arboricultural Method Statement; a Construction Traffic Management Plan; Highways Technical Note and a Travel Plan.
- 3.5 The updated drainage strategy responds to the comments of the LLFA and includes an updated Geotechnical Technical Summary to calculate the worst-case groundwater level (or water pressure) at each of the SuDS components and an updated Groundwater Technical Summary to assess the continuous shallow groundwater level data recorded over a 12-month period.
- 3.6 In response to comments from the Urban Design officer (23/04/2021) the hard and soft landscaping has been updated; garages amended to 45 degrees roof pitches to match the surrounding house type gable pitches; tile-hanging features wrap fully around all elevations; architectural details on a number of the dwellings including eaves, bay window and porch canopies have been updated; a number of boundary definition issues (including hedges and in some cases low fences on a number of plots) have been addressed; proposed block paving has been extended to the

junction mouth of the 'mews streets'; mews streets have an increased amount of hard surfacing; and an acoustic fence has been introduced west of the entrance area (so that it would run along the full length of the boundary with existing rear gardens).

- 3.7 As required by the outline planning permission, this reserved matters submission is accompanied by existing and finished ground levels and finished ridge heights (condition 6).
- 3.8 A separate conditions details application has been submitted. These condition details are not under consideration through this committee report, but where relevant the details have informed the consideration of this reserved matters application.
- 3.9 The applicant has held meetings with Bellway Opposition Action Group (BOAG) both prior and post submission of the reserved matters. The case officer has also attended these meetings and the case officer has separately had regular, scheduled, telephone conversations with BOAG's secretary to ensure an open decision-making process. As part of the pre-application process, the applicant presented their draft design proposals to Councillors (via an online meeting) prior to submitting their reserved matters.
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4.0 HISTORY

- 4.1 RR/2018/3127/P - OUTLINE: Residential development of up to 85 dwellings (with all matters reserved except for means of access from Clavering Walk). APPROVED (AT APPEAL) 13 February 2020. Details of access to the site approved, with all other matters reserved.
- 4.2 RR/2017/1705/P – OUTLINE: (Spindlewood) Residential development for circa 160 dwellings with all matters reserved other than access. APPROVED (AT APPEAL) 27 July 2021. Details of access to the site approved, with all other matters reserved. Full award of costs against the Council.
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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 (as amended, July 2021) 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 119-120: require that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses
- Paragraph 124: achieving the appropriate density of development
- Paragraphs 126-135: achieving well-designed places
- Paragraph 180: enhancement of biodiversity

6.0 CONSULTATIONS

6.1 Natural England – **NO OBJECTION**

They advise that without appropriate mitigation being secured, the proposal would have an adverse effect on the integrity of Pevensy Levels Special Area of Conservation (SAC) and Ramsar; and would damage or destroy the interest features for which Pevensy Levels Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, mitigation needs to be secured as set out within the Appropriate Assessment:

- Sustainable Drainage System (SuDS) should be installed prior to the construction of impermeable surfaces.

- Both impermeable geotextile membrane and puddle clay liner should be used to line the swales and attenuation basins.
- An outlet flow control must be installed to maintain the surface water discharge rate, to ensure that the discharge rate into the Cole Stream is equivalent to the greenfield rate of the site.
- SuDS design to incorporate five stages of treatment.
- All elements of the SuDS treatment train to be managed and maintained in perpetuity by Pevensey and Cuckmere Water Level Management Board (PCWLMB) or Specialist Management Company.

Natural England advise that they have seen evidence to prove that the PCWLMB will in principle agree to adopt the management and maintenance of the SuDS. However, if the PCWLMB do not agree to adoption after planning permission has been granted, then Natural England requires a named and reputable Specialist Management Company to be used for the management and maintenance of the SuDS, so that protection of the Pevensey Levels may be secured in perpetuity. Natural England should be consulted again if a Specialist Management Company is to be used instead of the PCWLMB.

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 [the draft version which is before this committee] concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. 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 LLFA/PCWLMB advises that the additional information [submitted June 2021] is satisfactory and assures them that the proposed development layout can be drained without increasing flood risk on or offsite.

They advise that the applicant has approached the Water Level Management Board about the possibility for the Board to adopt the proposed ponds and swales, which it is considering.

The LLFA/PCWLMB advises that the applicant provided more detail on the assessment of groundwater and its potential impact on the proposed attenuation ponds and swales. This has resulted in the provision of 600mm puddle clay with 400mm ballast above it. The calculations supporting this

proposal appear to confirm that this will be enough to maintain the structural integrity of the ponds and swales.

The LLFA/PCWLMB advises that the groundwater study indicates that there is a high risk of groundwater going into the confined aquifer during the construction of the basin. Therefore, they advise that, to ensure that the groundwater levels are low enough to not be impacted by the construction of the basin, groundwater monitoring is undertaken to confirm this.

Condition 17

Alongside their reserved matters application, the applicant has submitted details pursuant to condition 17 of planning permission RR/2018/3127/P (granted under appeal APP/U1430/W/19/3234340). **The condition details are not being considered by this report**, but for information, the LLFA/PCWLMB advises that more detail is required to satisfactorily address the condition.

They advise that detail is required to consider concerns (that have been raised by BOAG) regarding: the factor of safety used in the calculations and whether these measures will be enough if climate change results in increased ground water levels; the potential for overland surface water flows from the application site to the neighbouring property, The Beeches; the proposed swale which will connect into the Cole Stream; and private drainage around plots 52 to 60 (which would be at a lower level).

6.3 Highway Authority – **NO OBJECTION**

In summary:

Overall, I have no major concerns regarding the development proposal. However, I recommend that any approval should take into account these comments and include the conditions listed and those secured at Outline stage.

The access arrangements and associated off site works are acceptable in principle; however, this is subject to detailed design at s278 stage. The detail design would also be subject to a Road Safety Audit and any further issues raised would need to be addressed in a satisfactory manner as part of the s278 Legal Agreement with ESCC.

The spine road through the site generally has a 5.5m wide carriageway with 2m wide footways on both sides. Uncontrolled crossing points have been provided which connect with the footpath network through the development. The side roads have been designed as 4.1 metre shared surfaces. The shared surfaces are accessed via a ramp and will be surfaced with block paving. The vertical deflection and change of surfacing should indicate to drivers they are entering a shared surface and should help reduce speeds.

Pedestrian links have been provided throughout the landscaped areas forming part of the development. These are two metres wide and travel throughout the site. The alignment of the Public Right of Way (PRoW) has been retained in its existing form and improved as part of the wider internal layout.

The layout is generally acceptable to the highway authority; however, a number of points are raised which would require further consideration at S38 stage.

Using the ESCC Car Parking Demand Calculator, the car parking requirement for the mix of dwellings proposed is 144 spaces with 120 allocated and 24 unallocated/visitor spaces. This figure is based on all larger dwellings (3 bed+) being allocated 2 parking spaces and smaller dwellings and flats being allocated 1 parking space. If all dwellings are allocated 2 parking spaces the overall parking requirement is 159 spaces (140 allocated and 19 unallocated/visitor spaces).

The proposed layout shows a total provision of 159 parking spaces across the development. This equates to an average of 2 spaces per dwelling, and 14 visitor spaces. 42 garages are also provided in addition to the parking demand calculations.

It would in most cases be sufficient to provide smaller dwellings (below 3 bed) and flats with only 1 allocated parking space; however, given that a significant number of the parking spaces proposed are provided in a tandem arrangement, which are less likely to be fully utilised, the slight over provision in parking is acceptable.

A 6m minimum manoeuvring space is provided behind most of the parking spaces, where this is not provided wider spaces are required to allow ease of movement.

The overall car parking provision is acceptable; however, for guidance it should be noted that parking spaces would need to meet the required minimum dimensions to be counted towards the overall provision.

Each plot requires the provision of a secure cycle storage facility, either in the rear garden of each house or within the garage.

A Preliminary Draft Residential Travel Plan (TP) has been prepared to support development at the site and maximise opportunities for travel by non-car modes. The TP sets out the aims of the document, in addition to the measures and mitigation proposals which are being implemented at the site to encourage sustainable modes of travel. It also sets out a series of targets and monitoring framework for the ongoing implementation of the TP. The Draft Travel Plan covers most of the main points required; however, a full travel plan will need to be submitted and agreed at a later stage.

Historic England

Historic England advises that they note that the play area has been retained in the design but moved to the south-western part of the northern field and that a play area in that location would have no effect on the scheduled monument.

They advise that they commented in their earlier letter that the application was not supported by information regarding effects on the hydrology of the scheduled monument. They now note that a Drainage Technical Note has been provided, which includes a Hydrogeological Risk Assessment that

addresses the question of recharge to the scheduled monument's moat (page 20). This concludes that any reduction in recharge to the moat as a result of the development would be negligible. Historic England comment that the conclusions in the Hydrogeological Risk Assessment appear to be based on incomplete data. Water level data for the moat was only collected between December 2019 and April 2020, rather than over a twelve month period. No data was available over the summer, when the risk of desiccation of well-preserved organic archaeological remains is greatest. Notwithstanding the absence of some data in the report, Historic England advises that they accept its findings that the surface water catchment of the moat is largely outside the proposed development area, and that there would be little reduction in recharge to the moat as a result of the proposals.

Historic England note that the Heritage Statement provided addresses one Grade II listed building: Barnhorne Manor, while the scheduled monument is considered in the Desk Based Assessment. They recommend that you consult your own heritage advisors with regard to that report and effects on Barnhorne Manor.

An archaeological Desk Based Assessment (DBA) has been provided, which addresses effects on the scheduled monument. The DBA provides an assessment of the setting and significance of the scheduled monument, and potential impacts on it, sufficient to satisfy the requirements of the NATIONAL PLANNING POLICY FRAMEWORK. The DBA finds that the proposed development will result in a slight loss of significance to the scheduled monument, which we agree with. The DBA concludes that the adverse effect would be 'negligible' and would be offset by implementation of the CMP. Historic England advises that they think that the harm to the scheduled monument is low, but not negligible.

Conservation Management Plan

Historic England advises that they welcome the applicant's willingness to produce a CMP that accords with the content they have suggested. However, they advise that the Advice Note provided does not answer their previous comment that a CMP should be produced at this stage. They advise that the full range of management needs for the scheduled site have not been agreed at this stage, and other issues such as unauthorised metal detecting may also need to be addressed.

Because there is no CMP, Historic England advise that they have concerns regarding the application on heritage grounds and that the issues and safeguards outlined in their advice need to be addressed in order for the application to meet the requirement to avoid harm in paragraph 190 of the NATIONAL PLANNING POLICY FRAMEWORK. They reiterate that a Conservation Management Plan is required in support of this development and that the CMP should be produced to the satisfaction of stakeholders including Historic England, and the practical and financial means for enacting the work required by that CMP should be secured. They advise that if a CMP is not submitted in support of this application, that a condition should be applied that it shall be agreed in advance of development on the site.

In summary, the County Ecologist advises that provided the mitigation and enhancement measures set out in the Ecological Mitigation Plan are implemented, and subject to the approval of Natural England, the Reserved Matters application can be supported from an ecological perspective.

The Ecological Mitigation Plan proposes that an updated badger survey should be undertaken prior to the commencement of construction, this is supported. It is noted that local residents observe that badger activity on site may be greater than that recorded in 2018 and recorded in the submitted Ecological Appraisal. In my opinion, if increased badger activity is recorded during the updated survey, the scheme has amply scope to provide sufficient mitigation that will meet best practice guidelines and ensure the safeguarding of badgers on site.

6.5 ESCC Landscape Architect – **NO OBJECTION**

The County Landscape Architect advises that it is noted that the design and layout of the development has evolved in consultation with the local planning authority and community. The application is supported by a Landscape and Public Realm Strategy the implementation of which should ensure that the development is well integrated with the local area.

She advises that the proposed landscape masterplan would provide a high quality and well treed setting for the development and the revisions to the detailed planting proposals are acceptable and that the submitted Arboricultural Method Statement is acceptable.

The following further comments were provided in response to questions from BOAG:

- I did not consider it necessary to comment on the proposed density as I had assumed that this would have been dealt with in the discussions with Rother District Council's Design Officer. The appeal decision allowed for up to 85 units on the site and the proposed layout for 70 units would deliver a lower density than the maximum number that could be put forward. The provision of garden space is generous and also allows for defensible space at the front of each property. The layout allows for landscape buffers to the existing houses and the mature hedgerow trees.
- I have reviewed the Landscape and Ecological Masterplan and can confirm that it is acceptable from a landscape point of view.

6.6 ESCC County Archaeologist – **NO OBJECTION**

Advice summarised as follows:

The applicant's archaeological contractor has completed a geophysical survey across all accessible areas of the site and subsequently undertaken the first stage of intrusive archaeological investigation (trial trench evaluation) within the northern area of the site where open amenity space is proposed. Both site investigations were undertaken prior to the determination of the outline planning application.

The remainder of the trial trench evaluation has yet to take place in accordance with the submitted written scheme of investigation (approved

by the Archaeology Section, ESCC as a pre-determination document, but not yet approved pursuant to condition 7 above). The findings of the investigation undertaken so far did not identify any archaeological remains associated with the designated heritage asset of Cooden Moat (Scheduled Monument List Entry 1012918), but did identify extensive remains of the First World War Cooden Camp. There is a very high likelihood that further remains exist within the southern area of the site which has not yet been subject to intrusive archaeological investigation (in the first instance completing the trial trench evaluation followed by appropriate mitigation fieldwork, publication and archive deposition pursuant to condition 8 above).

We are in agreement with the Inspector's outline planning decision letter judgement (that any possibility of finding further archaeological remains associated with Cooden Camp can be dealt with by condition and that any finds do not need to be preserved in situ and Cooden Camp is not a non-designated heritage asset) but wish to point out that other, earlier archaeological remains may come to light during the course of further investigation required under outline planning permission conditions 7 and 8. Therefore, there remains a risk that archaeological remains demonstrably of equivalent significance to scheduled monuments may be identified and therefore considered subject to the same policies as those for designated heritage assets (National Planning Policy Framework footnote 63). Based on the evidence exposed in the northern part of the site, this scenario seems unlikely, but is not impossible. We therefore wish to draw your attention to Condition 9 above which specifically provides assurance under appeal consent APP/U1430/W/19/3234340 for the preservation in-situ of significant archaeological remains. We therefore advise that the trial trench evaluation should first be completed across the remaining southern area of the site in order to confidently establish whether archaeological remains demonstrably of equivalent significance to scheduled monuments exist. If the applicant is unwilling to proceed with this work ahead of the determination of this reserved matters application, then there may be a subsequent conflict with the provision of Condition 9, but we are happy to defer to the planning authority's expertise on this perceived technicality. In furtherance of this recommendation, we shall be available in the first instance to advise the applicant on how they can best fulfil archaeological condition 8 and 9 of their planning permission and, following completion of the trial trench evaluation, provide a brief setting out the scope of required mitigation.

6.7 Southern Water – **NO OBJECTION**
(no additional comments)

6.8 Environment Agency
Advises that they are not a statutory consultee for reserved matters applications. Due to workload prioritisation, we have taken the decision to no longer provide comments on these consultations.

6.9 Sussex Police – **NO OBJECTION**
In summary – advises that the on-plot and on-street parking locations would keep the street layout free and unobstructed, however raises the concern that the small amount of visitor parking available could lead to illegal parking, obstruction of emergency and refuse vehicles and the

disruption to the resident's harmony. Recommends additional visitor parking is made available. Recommends that the location for the proposed play area is re-considered to avoid loitering and misuse of the facility and its equipment [the play area has been relocated]. Provides general advice regarding footpaths and lighting.

6.10 RDC Waste & Recycling – **NO OBJECTION**

"I have sent the plans to Biffa and they do not foresee any issues with regards to waste and recycling collections here".

6.11 Planning Notice

249 objections to the proposals as first submitted have been received. The concerns raised are summarised as follows:

- Change to drainage system from the outline proposals – pumping station.
- Impact on Pevensy Levels – at risk due to this development and won't be protected in perpetuity. Climate change means uncertain future rainfall levels.
- Unfair to require residents to finance management company – also further chance of failure of drainage system due to costs.
- Density too high, number of dwellings should be reduced. Would not make a positive contribution to the area and create an urban edge.
- Only small length of acoustic fence proposed – should be along length of existing rear gardens.
- Not enough facilities in Little Common to support more development.
- Inadequate travel plan with incorrect distances to nearest bus stops (actually much further away than stated). Existing roads do not have pavements and not suitable for walking/cycling.
- Impact of development on trees and wildlife (badgers particularly).
- Impact on WW1 Cooden Camp.
- Impact of lighting on existing residents rear windows and gardens.
- Impact on golf course from flooding and inadequate capacity of the Cole Stream.
- Traffic movements on surrounding roads unacceptable and harmful to amenity. Private roads will be damaged by increased traffic.
- Poor site choice – should be left as a meadow; unsustainable; the site floods; outside of development boundary.

6.12 84 objections were submitted in response to consultation on amended proposals submitted by the applicant. These objections are summarised as follows:

- Ground water levels are too high. The revised proposals are unclear and the future protection of the Levels is not secured.
- The proposed density is too high and would be out of character in this area, with bland, unimaginative design.
- Clavering Walk and Cooden Sea Road junction sight lines are hazardous and will be made worse by the anticipated additional traffic.
- The site's historic interest would be compromised. Hydrological changes will harm the moat.
- The SuDS should be adopted by an official body such as Pevensy and Cuckmere Water Level Management Board.
- The new houses should not use gas or oil boilers – green energy alternatives should be investigated.

- There are insufficient services in Little Common to serve the development.
- The development will lead to increased air pollution.
- Tidal flooding is a risk that has not been properly considered.

6.13 The BOAG Local Action Group has made detailed objections to each of three consultations. Their response to the second revised proposals (June 2021) are summarised as follows:

- The design is based on 'inferred' groundwater levels. In the absence of actual groundwater levels, the evidence provided in relation to the location of the SuDS remains limited and uncertain.
- Worst-case groundwater levels are based on the winter of 2019-2020 and the Factor of Safety remains 'just met'. There is inadequate contingency in place to mitigate future risks.
- Assumptions relating to ground conditions, and the level of mitigation this provides (i.e. levels of hydraulic continuity and confinement), are based on limited evidence and remain a 'matter of judgement'.
- A Habitats Regulations assessment 'may not have lacunae and must contain complete, precise and definitive findings'. We do not believe the information provided meets this demanding assessment standard.
- Seek assurance regarding the inclusion of the proposed geotextile membrane in pond 1.
- Seek assurance that the assumption and proposals for the swale are safe both for the present and long term.
- Seek assurance that the golf club and properties in the south-west corner of the site will not be subject to an increased risk of flooding.
- A condition is necessary to require construction of the SuDS during the summer months.
- A condition is necessary to require adoption of the SuDS by PCWLMB or an alternative suitable public water body.
- The proposed design does not meet the policy requirements to be of high-quality and contribute positively to the character of the site and surrounding area.
- We wish to place on record our safety concerns relating to the Clavering Walk/Cooden Sea Road junction visibility splays. As 'late evidence' the technical note on behalf of BOAG was not 'heard' at the Inquiry and has not been considered by ESCC Highways. This remains a major concern for local residents.
- We very much welcome the commitment to provide an acoustic fence – and are grateful that it has been extended as requested. We would ask that the provision of the acoustic fence is conditioned and includes the requirement for consultation and agreement with affected residents.
- We acknowledge that the Parking Provision accords with ESCC standards. We note again the recommendation for additional visitor parking from Sussex Police. As their recommendation for additional visitor parking has not been addressed, we ask that that the parking provision proposals are re-considered.
- The existing S106 agreement makes provision for a Heritage Asset Management Company and requires a strategy for the long-term ownership and governance of the Heritage Asset. We believe that this is a significant requirement, which should mitigate the harm

caused to the Moat and help to protect its long term survival. We would ask that the Planning Committee are made aware of this requirement, the current lack of visibility of a strategy for the long term ownership, governance and funding of the asset, and the recommendation from Historic England for a conditioned approval.

- We note that no proposals on the timing of the remaining trial trench evaluation have been submitted by Bellway Homes and ask that the advice of the County Archaeologist is brought to the attention of the Planning Committee for their consideration. The County Archaeologist advises that “If the applicant is unwilling to proceed with this work ahead of the determination of this reserved matters application then there may be a subsequent conflict with the provision of Condition 9”.
- We ask that an updated badger survey is undertaken (as set out in paragraph 5.5.4 of the Ecological Mitigation Plan) and ask for confirmation that this will take place.
- We ask that the references to doggy dipping and use of chemicals in the Landscape and Ecological Management Plan (LEMP) are removed.
- The development is speculative. It is outside the development boundary and not in the Local Plan.

6.14 BOAG has subsequently submitted a further objection in response to ongoing liaison. This objection statement, dated 1 August 2021, has also been submitted to Councillors by BOAG. The summary states that:

“The Habitat Regulations have precedence over all other planning considerations. In the determination of this Reserved Matters application the Planning Committee are being asked to make an Appropriate Assessment which concludes that the proposed development, beyond reasonable scientific doubt, will not have any adverse effect on the integrity of the European sites, either alone or in combination with other plans or projects. If this conclusion is reached in the absence of the discharge of Condition 17 and certainty on the long-term management of the SuDS, we respectfully ask that:

- *Further conditions are imposed which secure the resolution of all outstanding mitigation/issues required by PCWLMB and Natural England.*
- *Condition and obligation documents are posted on the Planning Portal for local visibility.*
- *Consultation on the discharge of drainage conditions/obligations is undertaken.*
- *A commitment to a further Appropriate Assessment/s by RDC is made.*
- *The discharge of drainage conditions and obligations is determined by the Planning Committee, and not delegated to Officers”.*

6.15 Bexhill Heritage object on the basis that the development will harm the Scheduled Ancient Monument due to the increased activity in the area from new residents adjacent to it and that there is nothing proposed to prevent damage to it. They consider that a ‘management plan’ will not do. They propose that the site is overlaid with chain link mesh.

- 6.16 The Sussex Area Ramblers object on the basis that the number of proposed dwellings is over development, out of keeping with neighbouring properties and in this rural setting. They consider that there is no proper provision for footpath 138 and that it is not acceptable for it to be along the main route. They consider that the Travel Plan is not adequate and that it is unrealistic to expect residents to walk to Little Common via the roads with pavements and that a footway should be provided along Maple Walk.
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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 £1,761,085.64 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.
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8.0 APPRAISAL

- 8.1 Outline planning permission was granted at appeal in February 2020. 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 details of the access, the suitability of the site and the impact of the development (based on the parameters as set out in the outline planning application) on highways, accessibility, noise and disturbance, heritage, landscape, townscape and the integrity of the Pevensey Levels were considered and approved by the outline planning permission with conditions and a Unilateral Undertaking imposed to ensure identified impacts are avoided or mitigated.
- Habitats Regulations*
- 8.3 The site immediately adjoins the designated Pevensey Levels Special Area of Conservation (SAC), Ramsar Site and lies within its hydrological catchment area.
- 8.4 Section 63 of The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires a competent authority, before deciding to give any consent, permission or other authorisation for a plan or project which is likely to have a significant effect on a European site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.
- 8.5 The appeal Inspector, being the competent authority for that stage of the project, carried out an Appropriate Assessment under the Habitats Regulations. She advised in paragraph 93 of her decision letter that from the evidence before her, which she found to be authoritative and convincing "*I have no reason to depart from the conclusions of the statutory consultees, particularly those of Natural England and the Environment Agency in respect of the matters raised. The proposed*

mitigation measures which are included in the S106 Obligation are intended to avoid or reduce the effects”.

- 8.6 The Inspector imposed condition 17 on her decision to grant outline planning permission. Condition 17 is a pre-commencement condition, requiring drainage details, as set out in the condition wording, to be submitted and approved in writing by the local planning authority prior to commencement of development on site.
- 8.7 Note that only the reserved matters submission and not details submitted to discharge condition 17 are under consideration through this committee report. The applicant will need to submit further details in response to the LLFA/PCWLMB consultation response and these details will need to be approved in writing by the local planning authority prior to any works commencing on site. The Habitats Regulations continue to apply to consideration of pre-commencement conditions and the local planning authority remains the competent authority. Appropriate assessment will be required and sufficient information to demonstrate that the development would not adversely affect the integrity of the European site would need to be provided and the appropriate assessment would need to be passed.
- 8.8 As an appropriate assessment is required at each stage an appropriate assessment of the reserved matters submission, under consideration through this report, is required.
- 8.9 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.
- 8.10 The Applicant submitted an *Addendum to Information to inform a Habitats Regulations Assessment* as part of their reserved matters submission as well as a *Drainage Technical Note*. In response to requests for more information from the Local Lead Flood Authority/Pevensay & Cuckmere Water Level Management Board (PCWLMB) an amended addendum and drainage technical note was submitted in April 2021 with further amendments to both documents submitted in June 2021.
- 8.11 The drainage plan for the Reserved Matters application confirms that five treatment stages will be delivered for the entire built development, comprising an attenuation basin, a swale, a second attenuation basin, a third attenuation basin and a final swale before discharging into the adjacent watercourse at a variable rate to equivalent greenfield rates (flow matching). In accordance with 2016 EA guidance, the drainage proposals are designed to accommodate an allowance increase of 40% for climate change.
- 8.12 The LLFA/PCWLMB advises that the submitted information assures them that the proposed development layout can be drained without increasing flood risk on or off site, subject to further details being submitted and approved to meet the requirements of outline planning permission condition 17. This report does not relate to the requirements of Condition 17.

- 8.13 The SuDS have been offered to Pevensy and Cuckmere Water Level Management Board for adoption and the applicant has advised that this is their preferred option. The Pevensy and Cuckmere Water Level Management Board has advised the applicant that *“we have reviewed the details provided and can advise that in principle the Board will be able to adopt the basins, ponds and swales. This is subject to us agreeing on the detail of the structures, ministerial consent being given to allow the Board to continue with the adoption at this particular site and the Board members’ approval”*. If agreement cannot be reached, under the S106 agreement for the outline planning permission, the appointment of a Specialist Management Company is ultimately subject to the approval of Rother District Council (Schedule 6, Part 1, item 3).
- 8.14 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/Pevensy & Cuckmere WLMB.
- 8.15 Natural England has been consulted on the draft Appropriate Assessment and the drainage proposals and they advise that the Council, as competent authority, is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the [protected] sites in question. They advise that they have considered the draft assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal and that on this basis they concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.
- 8.16 As set out in paragraph 6.1, Natural England provided consultation responses on each of the drainage detail submissions, requiring further information in each of their previous advice letters, before advising that the appropriate assessment could be passed.
- 8.17 Taking account of the advice of the Local Lead Flood Authority/Pevensy & 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 and a further AA will be required when considering Condition 17.

Reserved Matters

- 8.18 Officers provided pre-application advice to the applicant in relation to the layout, scale, appearance and landscaping proposals. In our early comments we highlighted the need for the scheme to reflect the sylvan nature of Clavering Walk and advised that a reduction in the number of dwellings (78 were proposed at that stage) was required to create a contextually appropriate scheme and that as proposed, the scheme was too dense. We encouraged wider plots on the main street and visual gaps opposite the ‘mews streets’ opposite and a reduction in dwellings on the mews streets to bring the closest dwellings away from the existing tree belt that separates the two fields.

- 8.19 The pre-application design workshop processes were positive and the submitted scheme reflects those discussions. In terms of layout, the building placement and spacing along the main street, coupled with the soft landscape design would create a main street with a spacious, green ‘sylvan’ character appropriate for this locality, albeit at in a denser form than that on the existing development on Clavering Walk. In particular, the absence of buildings (other than low garages) opposite the majority of the north/south running ‘mews’ streets would help connect long views from Clavering Walk out to the countryside beyond to the north. It makes sense for the main east-west street to be populated with detached and semi-detached ‘villas’ to reinforce the spacious character of this street and this is balanced by a different character in the ‘mews’ streets to the north of the main street to reinforce a distinctive sense of place in those areas.
- 8.20 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.
- 8.21 The scale of the development reflects the expectations of the outline permission and the approved parameters plan, with dwellings limited to the southern field and multifunctional green space to the north. Concerns have been made regarding the potential for light spill from the new development into the rear gardens and rear elevations of the existing properties. It is recognised that the impact of the new development varies for each existing property, depending on their orientation, height, distance to the boundary and the extent of boundary planting. It is considered that the layout of plots and the relationships of rear elevations and rear gardens is appropriate to all existing properties and residential amenity is not harmed by the layout and scale of development. The type, location and height of street lighting would be controlled by condition. The proposals accord with Policies OSS4, EN1 and EN3 of the Rother Local Plan Core Strategy.
- 8.22 Officers raised concerns, in elevational terms, with the appearance of the dwellings during the application process – requiring more variation in massing and form. The Applicant has responded positively and the proposals are now considered to provide a development of high quality which responds to the context in terms of detailing and materials. For example, cladding materials, such as tile hanging, now wrap around all four elevations and hefty box fascias appear to have been removed (this can be secured by condition). The proposals accord with Policies OSS4 and EN3, of the Rother Local Plan Core Strategy.
- 8.23 In terms of landscaping, native hedging is proposed on the plot boundaries on the main street, providing a strong green enclosure, while a hard landscape treatment helps to emphasise a tighter-knit character on the mews streets. The County Landscape Architect raises no objection and in response to specific questions from BOAG regarding density and

landscape character, she advises that *“the provision of garden space is generous and also allows for defensible space at the front of each property. The layout allows for landscape buffers to the existing houses and the mature hedgerow trees”* (see paragraph 6.5). 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

Heritage

- 8.24 The s106 unilateral undertaking approved by the outline planning permission requires the applicant to submit and gain approval in writing of a Conservation Management Plan (CMP) prior to commencement of development. At this stage the applicant has submitted an Advice Note, but has not submitted that Plan. If the Inspector had considered it necessary for the CMP to be submitted and approved prior to submission of reserved matters, she would have required that. Instead this will be secured through the s106 unilateral undertaking. There is no need for additional conditions as suggested by HE.

Archaeology

- 8.25 The Inspector advises in her paragraph 61 that the presence of the Cooden Camp should not inform the layout of the development (para 61). Para 62 instead states *“The archaeological exploration secured by condition would be a distinct public benefit in hopefully producing further evidence of this military occupation which would enrich the knowledge relating to the men and women whose journey to the Front began at Cooden and to whom a national debt is owed”*.
- 8.26 As such there is no reason that trench evaluation needs to be undertaken prior to the approval of reserved matters. Condition 9 of the outline planning permission only relates to *“significant archaeological remains”* which on the base of evidence (and evidence available at the appeal) is unlikely to be present. The condition is pre-commencement and any issues will need to be dealt with accordingly at that time. It does not preclude the current reserved matters application being determined.

Construction Traffic Management Plan (CTMP)

- 8.27 A CTMP has been submitted and BOAG has provided comments. The applicant has advised that they welcome the constructive feedback and will review/update the CTMP in consultation with ESCC as the Highway Authority. The submission and approval of the CTMP is a requirement of outline planning permission condition 10 and is not under consideration through this report.

Acoustic Fence

- 8.28 A fence (with acoustic properties) is proposed on the southern boundary, where the application site adjoins rear residential gardens. The applicant advises that its exact alignment should be agreed in liaison with residents (because there are parts where the fence should be set slightly within the site to retain existing vegetation and the erection of fencing, if on the boundary line, should be subject to the existing resident’s agreement). An

appropriately worded condition, requiring a 'liaison statement' to set out how this would proceed can be imposed.

BOAG's objections

8.29 BOAG has submitted objections and they also put their detailed technical points regarding drainage to the LLFA/PCWLMB and Natural England before the LLFA/PCWLMB and Natural England provided their final advice. Both the LLFA/PCWLMB and Natural England have no objection to the reserved matters proposals and Natural England advise that the appropriate assessment for this reserved matters submission can be passed.

8.30 BOAG submitted a final response on 1 August 2021 (sent to all Councillors), responded to as follows:

- *Further conditions are imposed which secure the resolution of all outstanding mitigation/issues required by PCWLMB and Natural England – a condition is proposed.*
- *Condition and obligation documents are posted on the Planning Portal for local visibility – this is normal practice for condition and obligation detail submissions.*
- *Consultation on the discharge of drainage conditions/obligations is undertaken – consultation will take place with LLFA/PCWLMB and Natural England with regard to condition 17.*
- *A commitment to a further Appropriate Assessment/s by RDC is made - The Habitats Regulations continue to apply to consideration of pre-commencement conditions and the local planning authority remains the competent authority. Appropriate assessment will be required and sufficient information to demonstrate that the development would not adversely affect the integrity of the European site would need to be provided and the appropriate assessment would need to be passed.*
- *The discharge of drainage conditions and obligations is determined by the Planning Committee, and not delegated to Officers – approval of conditions is a delegated matter, not reported to planning committee.*

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 70 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/Pevensey & 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.

- 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 130 and 180 of the National Planning Policy Framework, Policies OSS4, EN1, 3, 5, 7 and SRM2 of the Rother Local Plan Core Strategy and Policies DEN4 and 5 of the Rother Development and Site Allocations Local Plan.
- 9.4 It is recommended that the Appropriate Assessment is agreed and reserved matters is granted.

RECOMMENDATION: GRANT (RESERVED MATTERS) including agreement of the Appropriate Assessment.

CONDITIONS:

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

022004-BEL-SL-01/C	Presentation Planning Layout
022004-BEL-SL-02/C	Supporting Planning Layout
022004-BEL-SL-03/C	Storey Heights Layout
022004-BEL-SL-04/C	Tenure Layout
022004-BEL-SL-05/C	Unit Type Layout
022004-BEL-SL-06	Location Plan
022004-BEL-SL-LEV01/A	Finished Floor and Ridge Levels
PA-2B-2S-CB-E1/A	The Parkman - Elevations - Country Vernacular - Brick
PA-2B-2S-P1 A3/A	The Parkman - Floor Plans
CS-3B-2S-CB-E1/A	The Coppersmith - Elevations - Country Vernacular Brick
CS-3B-2S-CB-E2	The Coppersmith - Elevations - Country Vernacular Brick
CS-3B-2S-CT-E1/A	The Coppersmith (H) - Elevations - Country Vernacular -
CS-3B-2S-P1/A	The Coppersmith - Floor Plans
FM-3B-2S-CB-E1/A	The Frammer - Elevations - Country Vernacular - Brick
FM-3B-2S-CT-E1/B	The Frammer (H) - Elevations - Country Vernacular - Tile
FM-3B-2S-P1	The Frammer - Floor Plans
FM-3B-2S-CB-E3	The Frammer (H) - Elevations - Country Vernacular - Brick
FM-3B-2S-CB-E4	The Frammer (H) - Elevations - Country Vernacular - Brick
FM-3B-2S-P2	The Frammer (H) - Floor Plans
BU-3B-2S-CB-E1/A	The Butler - Elevations - Country Vernacular - Brick
BU-3B-2S-P1/A	The Butler - Floor Plans
AR-4B-2S-CB-E2/A	The Arkwright (H) - Elevations - Country Vernacular Brick
AR-4B-2S-CB-E3	The Arkwright (H) - Elevations - Country Vernacular - Brick
AR-4B-2S-CT-E1/A	The Arkwright (H) - Elevations - Country Vernacular - Tile
AR-4B-2S-P3 A3/A	The Arkwright (H) - Floor Plans

FC-4B-2S-CB-E1	The Falconer - Elevations - Country Vernacular - Brick
FC-4B-2S-CT-E1	The Falconer - Elevations - Country Vernacular - Tile
FC-4B-2S-P1/A	The Falconer - Floor Plans
022004-GAR04/A	Garage Type 04 Plan and Elevations
022004-GAR05/A	Garage Type 05 Plan and Elevations
022004-GAR06/A	Garage Type 06 Plan and Elevations
022004-GAR07/A	Garage Type 07 Plan and Elevations
022004-BEL-SL-SS01/B	Streetscene 01
022004-BEL-SL-SS02/B	Streetscene 02
022004-BEL-SL-SS03/B	Streetscene 03
022004-BEL-SL-SS04/A	Streetscene 04
022004-BEL-SL-SS05/A	Streetscene 05
022004-BEL-SL-SS06/A	Streetscene 06
022004-BEL-SL-SS07	Streetscene 07
022004-BEL-SL-SS08	Streetscene 08
2916-PP-01 rev P5	Planting Proposals Northern Open Space
2916-PP-02 rev P6	Planting Proposals
2916-PP-03 rev P6	Planting Proposals
2916-PP-04 rev P6	Planting Proposals
2916-PP-05 rev P6	Planting Proposals
2916-PP-06 rev P5	Planting Proposals
2916-PP-07 rev P6	Planting Proposals
2916-DT-01 rev P1	Typical Landscape Details: Soil Profiles and Tree Pit Details in soft landscape
2919-DT-02 rev P1	Typical Landscape Details: Double staked Tree adjacent Main Street
2916-DT-02 rev P1	Typical Landscape Details: Double staked Tree adjacent Main Street
2916-DT-04 rev P1	Typical Landscape Details: Tree Pit in Hard Landscape with tree grill and timber bollards
2916-LA-01 rev P6	General Arrangement Plans Northern Open Space
2916-LA-02 rev P6	General Arrangements Plan
2916-LA-03 rev P6	General Arrangements Plan
2916-LA-04 rev P6	General Arrangements Plan
2916-LA-05 rev P7	General Arrangements Plan
2916-LA-06 rev P6	General Arrangements Plan
2916-LA-07 rev P6	General Arrangements Plan
2916-LA-08 rev P5	Illustrative Landscape Masterplan
2916-LA-09 rev P1	Acoustic Fence

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

2. The details required pursuant to outline planning permission condition 17 shall include:
 - a) A method statement for groundwater protection during construction of the SuDs basins to prevent groundwater impact during construction.
 - b) Confirmation that the proposed mitigation measures will be adequate for the lifetime of the development.
 - c) Measures to capture surface water overland flows such as filter trenches or swales be incorporated along the boundary of the application site with The Beeches to ensure that any overland surface water flows will be directed away from the existing property.
 - d) Proposed levels and erosion protection measures for the Cole Stream and the proposed connecting swale, including topographical survey.

- e) Measures to prevent flood risk to plots 52 to 60, such as an interception swale.
- f) Additional details on overland surface water flows from the application site to neighbouring properties to ensure that surface water overland flows are captured on-site.

Reason: To prevent the increased risk of flooding elsewhere and to protect water quality and levels in the Pevensy Levels Ramsar Site / Special Area of Conservation in accordance with Policies SRM2(iii) and EN7(iii) of the Rother Local Plan Core Strategy; Policy DEN5 of the Rother Development and Site Allocations Local Plan and paragraphs 167, 169 and 182 of the National Planning Policy Framework.

- 3. No development above ground level shall take place until samples and detailed specifications of all external materials for the dwellings and hard landscapes areas have been submitted to and approved in writing 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.

- 4. The pavers for the proposed frontage footpaths to each dwelling shall be laid as broken bond (i.e. staggered pattern, not square grid).

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

- 5. Species details of the proposed mixed nature hedges shall be submitted to and approved in writing by the Local Planning Authority, and the development shall thereafter be completed in accordance with the approved details.

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

- 6. No development above ground level shall take place until drawn details of fascias to porches and bays have been submitted to and approved in writing by the local planning authority and the development thereafter shall be carried out only in accordance with the approved details:

Reason: To ensure a high quality of design and in the interests of maintaining and enhancing the character of the development and the locality in accordance with Policies EN3 and OSS4 of the Rother Local Plan Core Strategy.

- 7. The acoustic fence, as shown on drawing 2916-LA-09-P1, hereby approved, shall be erected in full prior to the occupation of any dwelling. Its exact alignment should be agreed in liaison with residents carried out in accordance with a 'liaison statement' to be submitted and approved by the local planning authority prior to the erection of the fence.

Reason: To safeguard the amenities of the locality in accordance with Policy OSS4 (ii) of the Rother District Local Plan

8. No dwelling shall be occupied until the parking and turning areas have been provided in accordance with the approved drawings 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.
9. No dwelling shall be occupied until the cycle store for that dwelling have been provided in accordance with the approved drawings 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.
10. 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.
11. 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.
12. The new estate roads shall be designed and constructed to a standard approved by the Planning Authority in accordance with Highway Authority's standards with a view to their subsequent adoption as a publicly maintained highway
Reason: In the interest of highway safety and in accordance with Policy TR2 of the Rother Local Plan Core Strategy.
13. Before building commences, the new estate roads shall be completed to base course level, together with the surface water and foul sewers and main services to the approval of the Planning Authority in consultation with the Highway Authority.
Reason: In the interest of highway safety and in accordance with Policy TR2 of the Rother Local Plan Core Strategy.
14. 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 street lighting to be provided, shall be submitted to the Planning Authority and be subject to its approval, in consultation with the Highway Authority.

Reason: In the interest of highway safety and in accordance with Policy TR2 of the Rother Local Plan Core Strategy.

15. Internal Roads - No part of the development shall be occupied until the road(s), footways and parking areas serving that part of the development have been constructed, surfaced and drained in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety and in accordance with Policy TR2 of the Rother Local Plan Core Strategy.

NOTES:

1. All conditions and notes of the outline permission RR/2018/3127/P continue to apply to this development.
2. 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.
3. 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.
4. The Highway Authority would wish to see the roads within the site that are not to be offered for adoption laid out and constructed to standards at, or at least close to, adoption standards.
5. 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.
6. Section 278 Agreement of the Highways Act, 1980 - Works within the Highway The applicant will be required to enter into a Section 278 legal agreement with East Sussex County Council, as Highway Authority, for the off-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 it is an offence to undertake any works within the highway prior to the agreement being in place.

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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Rother District Council

Report to - Planning Committee
Date - 12 August 2021
Report of the - Head of Service – Strategy and Planning
Subject - Application RR/2021/1608/P
Address - Former Ashwood Nursing Home,
Heathfield Road,
Burwash Common
Proposal - Demolition of existing buildings and redevelopment of site to provide 12 residential units, car parking, cycle and refuse facilities and associated works.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **REFUSE PLANNING PERMISSION**

Head of Service: Tim Hickling

Applicant: Artemis Design & Build Ltd
Agent: Ms H. Greenhalgh
Case Officer: Mr M. Worsley
(Email: matthew.worsley@rother.gov.uk)
Parish: BURWASH & THE WEALD
Ward Members: Councillors J Barnes and Mrs E Kirby-Green

Reason for Committee consideration: Service Manager – Strategy & Planning referral: Site history.

Statutory 13-week date: 24 September 2021

1.0 SUMMARY

1.1 The current application is effectively a resubmission of application RR/2020/1798/P which has been appealed against for non-determination. At the May 2021 Planning Committee meeting, it was resolved to not defend the appeal, against officer recommendation. Despite the previous view of the Planning Committee, officers consider the design issues and consequential adverse impact on the High Weald Area of Outstanding Natural Beauty (AONB) and living conditions of occupiers of the proposed dwellings still remain, together with the lack of justification relating to the loss of the nursing home use, and therefore the recommendation is to refuse planning permission. Since consideration of the previous application, additional issues have been raised by consultees which are outlined below and discussed further in the report.

- 1.2 Some updated plans (site layout, street elevations, proposed site plan and phasing plan) have been submitted with the current application to ensure they correspond with the revised elevation plans submitted during the previous application.
- 1.3 In respect of consultee comments, as this is a major application, Environmental Health have advised the need for an air quality assessment is triggered, in accordance with the Sussex Air Quality Guidance. However, as the site is neither in or near to an Air Quality Management Area and is small in scale and nature, a full air quality assessment is not necessary. Instead, an 'emissions mitigation assessment' is requested.
- 1.4 Environmental Health have requested a noise survey, relating to properties next to the A265. They advise that it is best practice to carry this out up front so that it can be used in the site layout and design for the positioning and orientation of buildings or the location of noise sensitive rooms, which could potentially mitigate the impacts of the noise source. However, if this is not possible, the issue can be addressed via a condition.
- 1.5 The Lead Local Flood Authority has retained their objection from the previous application and has requested infiltration testing is provided upfront. They have advised that they are not able to recommend that the provision of the information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere and therefore not able to remove their objection until the applicant has addressed their comments.
- 1.6 The planning agent and applicant have been asked for the additional information requested from Environmental Health and the Lead Local Flood Authority and were advised that additional recommended reasons for refusal would need to be added if it was not submitted. However, the applicant has advised that they wish the application to be reported to the August Planning Committee meeting and cannot provide the requested information at such a late stage. They are happy for the Planning Committee to decide the application on its merits. As the requested information from consultees has not been received, issues relating to drainage and air quality are added to the recommended reasons for refusal.
- 1.7 Other consultee responses, which are of note, include the Highway Authority who have requested a range of conditions if permission is granted. In relation to affordable housing, as per the comments on the previous application, the Housing Enabling and Development Officer has requested that affordable housing is secured on site (two units) with a 20% commuted sum via a Planning Obligation.

1.8 **PROPOSAL DETAILS**

PROVISION	
No of houses	12
No of affordable houses	2 on-site and 20% commuted sum (not secured by S106)
CIL (approx.)	£285,290
New Homes Bonus (approx.)	£80,208

2.0 SITE

- 2.1 The site measures around 0.35 hectares and comprises of a former nursing home set on a corner plot at the junction between Heathfield Road (A265) and the B2181 (Swing Gate Hill). The nursing home is currently vacant following its closure in 2015. The site is located outside of a defined development boundary and therefore, in planning policy terms, is located within the countryside. It also lies within the High Weald AONB.
- 2.2 The existing building is positioned at the southern end of the site close to the Heathfield Road frontage. The accommodation is arranged over three floors, including within the roof, and consists of the original Victorian property to the east with large modern two storey extensions to the west and at the rear. Vehicular access and an area to park is behind the building, via Swing Gate Hill. The northern part of the site is undeveloped.
-

3.0 PROPOSAL

- 3.1 The proposed development is the same as that detailed in application reference RR/2020/1798/P which was appealed against for non-determination (decision pending) and which the Planning Committee have previously resolved not to defend at appeal.
- 3.2 Permission is sought to change the use of the site from a nursing home to residential. This would involve demolishing the existing buildings and erecting a total of 12 residential units to include a block of four flats, a terrace of three dwellings, one pair of semi-detached dwellings, a detached dwelling and two detached self-build dwellings. A 20-space parking court is proposed for the flats and six of the dwellings via the existing access and the self-build units would be served by a new shared access on the northern part of the site. Refuse, cycle facilities and landscaping works are also proposed.
- 3.3 The application follows on from, and has been informed by, pre-application advice on a 14-dwelling scheme for the site. At that stage, the Local Planning Authority raised concerns that too many units were proposed, resulting in a cramped form of development, out of character with its surroundings and this part of the AONB. Concerns were raised over two self-build units proposed on the northern part of the site appearing cramped, together with a large parking area.
- 3.4 Within the accompanying Planning Statement it is explained that, prior to submission of the application, the Applicant undertook extensive consultation with the local community, including Burwash Parish Council, Burwash Common Residents Association, Burwash Save our Fields and local residents. This included attending public meetings with Burwash Parish Council and Burwash Residents Association (pre-COVID), attending 'Zoom' meetings with Burwash Parish Council and Burwash Save our Fields, meeting and liaising with neighbours, email exchanges with Councillors and undertaking a wider consultation exercise with the nearby Burwash Common residents. Exhibition boards were displayed at the site and feedback forms were left so people could comment on the proposal. Twenty feedback forms and some emails were received. The Planning Statement explains that these were generally very positive.

- 3.5 The Planning Statement explains that as a result of the consultation exercise, the Applicant incorporated changes to the proposed development, including:
- Reducing the number of units from 14 to 12.
 - Redesigning the flats on the corner to reduce the massing and give the impression of being a large house.
 - Replacing the four semis facing Heathfield Road with a terrace of three houses, redesigned to front the main road and to reflect the Burwash Common vernacular, together with gardens at the rear.
 - Replace one of the pair of semis with a single detached dwelling.
 - Reduce the amount of car parking and increase the amount of landscaping in the car park.
 - Removed a garage from one of the self-build units and reworked their amenity space.
- 3.6 Accompanying the application is a Planning Statement, a Marketing Report, a Viability Report, a Design and Access Statement, a Landscape and Visual Evidence and Impact Appraisal, an Ecological Assessment, an Arboricultural Implications Assessment, an Historic Environment Record Report, a Flood Risk Assessment and Drainage Strategy, a Transport Statement and a Highway Consultant Technical Note.

4.0 HISTORY

- 4.1 RR/2020/1798/P Demolition of existing buildings and redevelopment of site to provide 12 residential units, car parking, cycle and refuse facilities and associated works – Appeal against non-determination – Planning Committee resolved not to defend – Appeal undetermined.
- 4.2 RR/2019/2772/PIP Change of use of redundant C2 nursing home to provide seven to nine residential units – Withdrawn.
- 4.3 RR/2020/338/PIP Change of use and conversion of redundant C2 nursing home to provide seven to nine residential units – Withdrawn.
- 4.4 RR/2005/3252/P Erection of single storey lobby to form lobby at side – Approved.
- 4.5 RR/2005/588/P Erection of new extension to existing nursing home with alterations to vehicular access (phase 1) and demolition of existing 19th century building and erection of a new extension (phase 2), with provision of 10 parking spaces and formation of new vehicular access – Approved Conditional (not implemented).
- 4.6 RR/2004/1299/P Erection of two storey side and rear extensions and alterations with provision of new vehicular and pedestrian accesses and closure of existing access – Refused.

4.7	RR/2003/1544/P	Erection of additional accommodation and ancillary facilities to side and rear of nursing home and additional car parking and external works – Approved Conditional.
4.8	RR/93/1018/P	Extension to nursing home also extension of curtilage of the property and erection of pavilion – Refused.
4.9	RR/93/0211/P	Extension to nursing home – Refused – Appeal Dismissed.
4.10	RR/89/0480/P	Side extension to provide 8 additional rooms, lift and enlarged owners flat – Approved Conditional.
4.11	RR/85/0393	Single storey rear extension, conversion and change of use of single dwelling to 8-bedroom residential nursing home – Approved Conditional.

5.0 POLICIES

5.1 The following ‘saved’ policy of the adopted [Rother District Local Plan 2006](#) is relevant to the proposal:

- DS3 (development boundaries)

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

- PC1 (presumption in favour of sustainable development)
- OSS1 (overall spatial development strategy)
- OSS2 (use of development boundaries)
- OSS3 (location of development)
- OSS4 (general development considerations)
- RA2 (general strategy for the countryside)
- RA3 (development in the countryside)
- SRM1 (towards a low carbon future) (Note that part (i) was superseded by the Rother District Council Development and Site Allocations (DaSA) Local Plan)
- SRM2 (water supply and wastewater management)
- CO6 (community safety)
- LHN1 (achieving mixed and balanced communities)
- EN1 (landscape stewardship)
- EN3 (design quality)
- EN5 (biodiversity and green space)
- TR3 (access and new development)
- TR4 (car parking)

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

- DRM1 (water efficiency)
- DHG1 (affordable housing)
- DHG3 (residential internal space standards)
- DHG4 (accessible and adaptable homes)
- DHG7 (external residential areas)
- DHG11 (boundary treatments)

- DHG12 (accesses and drives)
- DEN1 (maintaining landscape character)
- DEN2 (AONB)
- DEN4 (biodiversity and green space)
- DEN5 (sustainable drainage)
- DEN7 (environmental pollution)
- DIM2 (development boundaries)
- OVE1 (housing supply and delivery pending plans)

5.4 The Burwash Neighbourhood Plan (BNP) has been examined, with the Examiner's report recommending modifications to enable the BNP to proceed to Referendum. The Local Planning Authority is aiming to issue a decision statement over the coming weeks detailing its intention to send the BNP to referendum, at which point, government guidance states that the plan can be given significant weight in decision-making, so far as the plan is material to the application. Relevant policies within the BNP include:

- GP01 (protection of the AONB landscape) (subject to modifications)
- GP04 (development boundaries) (subject to modifications)
- GP05 (design standards) (subject to modifications)
- GP08 (sustainable development) (subject to modifications)
- EN02 (natural environment protection) (subject to modifications)
- EN04 (dark skies) (subject to modifications)
- IN01 (pedestrian safety) (subject to modifications)
- IN02 (parking) (subject to modifications)

5.5 The National Planning Policy Framework, Planning Practice Guidance (PPG), High Weald AONB Management Plan 2019 – 2024, High Weald Housing Design Guide and Sussex Air Quality Guidance are also material considerations.

6.0 CONSULTATIONS

6.1 Highway Authority – **NO OBJECTION**

6.1.1 The proposed development would result in an increase of vehicle movements. However, the access meets the requirement for the development. Appropriate visibility splays appear achievable from both accesses and could be conditioned. The East Sussex County Council (ESCC) parking calculator recommends that 23.71 parking spaces are provided on-site. 24 spaces are proposed, with adequate on-site turning detailed. In terms of accessibility, the rural location is noted. The comments explain that the nearby bus stops are not up to current standards, with the eastbound bus stop located at the site boundary on Heathfield Road only made up of a flag pole and the westbound bus stop having a shelter hidden by vegetation and not served by a crossing to it, meaning there is little to identify it. A Travel Plan Statement with appropriate mitigation measures is requested to be submitted via condition to inform and encourage sustainable modes of transport. Conditions are also requested in relation to access, visibility, parking drainage and footpath clearance.

6.2 Environment Agency – **GENERAL COMMENTS**

6.2.1 General advice provided relating to flood risk, groundwater and contaminated land, waste, ecology and Environmental Permitting Regulations.

6.3 Southern Water – **ANY COMMENTS WILL BE REPORTED**

6.3.1 Comments on RR/2020/1798/P (summarised): Initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer. No surface water should be permitted to be discharged to the foul sewerage system, in order to protect properties downstream from flooding.

6.4 Environmental Health – **GENERAL COMMENTS**

6.4.1 Noise report requested due to potential noise impact on the future occupiers of the proposed dwellings. Also requests an ‘emissions mitigation assessment’ is carried out. Mitigation can include the promotion of cycling and walking, public transport, car clubs, low emission vehicles and associated infrastructure such as electric vehicle charge points. Conditions are recommended relating to contaminated land (due to it being a brownfield site), securing a Construction Management Plan and limiting the hours deliveries during the construction phase.

6.5 Sussex Police – **NO OBJECTION**

6.5.1 No major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered. Communal parking must be in view of an active room within the property. Advice provided on security measures in relation to boundary treatments and lighting. Access control is recommended for the flats.

6.6 County Archaeologist – **NO OBJECTION**

6.6.1 Conditions recommended relating to a programme of archaeological works.

6.7 ESCC Housing Commissioning Team (Adult Social Care) – **ANY COMMENTS WILL BE REPORTED**

6.8 ESCC – Lead Local Flood Authority – **OBJECT**

6.8.1 *‘...Infiltration testing should be undertaken to BRE365 standard in the location and at the depth of the proposed soakaways. Until this has been carried out, it is not clear that infiltration will be a feasible method for managing surface water runoff from the development.*

Groundwater monitoring should also be carried out between November and April to understand groundwater levels beneath the site. A 1m unsaturated zone should be maintained from the base of the proposed soakaways and the highest recorded groundwater level to avoid groundwater ingress and to ensure that surface water runoff is adequately treated before entering the water table.

Should infiltration not be feasible at the site, the applicant has submitted an alternative drainage strategy, however, this relies on discharging to the foul sewer beneath the highway adjacent to the west of the site. Discharging to the

foul sewer is the least sustainable outfall location for surface water disposal as detailed by the drainage hierarchy in CIRIA SuDS Manual (C753).

We acknowledge that there are no surface water sewers located near the site, however, we require that the applicant engages with Southern Water to confirm that they agree to allow surface water runoff to continue to discharge to the foul system.

We note that Southern Water previously stated in a letter dated 1 January 2021 that 'No surface water should be permitted to be discharged to the foul sewerage system, in order to protect properties downstream from flooding'. We therefore require that the applicant consults Southern Water further to confirm that they agree to the continued discharge of surface water runoff to the foul sewer and to confirm capacity available within the foul sewer for any additional flows.

We are not able to recommend that the provision of the above information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere. We are therefore not able to remove our objection until the applicant has addressed our comments...'

6.9 East Sussex Fire Brigade – **ANY COMMENTS WILL BE REPORTED**

6.10 High Weald AONB Unit – **ANY COMMENTS WILL BE REPORTED**

6.10.1 Comments for RR/2020/1798/P (summarised): The number of units proposed for this site results in a cramped layout particularly at the southern end of the site around the road access. This is dominated by car parking and hard surfaces, resulting in a poor impact on the character of the area and very limited amenity area for residents. It is recommended that the number of units in this area of the site be reduced to address these design problems.

6.11 Clinical Commissioning Group – **ANY COMMENTS WILL BE REPORTED**

6.12 RDC Waste and Recycling – **GENERAL COMMENTS**

6.12.1 No issues regarding waste collections as the truck can reverse into the main part of the development.

6.13 RDC Housing – **GENERAL COMMENTS**

6.13.1 Advice provided relating to securing the affordable housing provision via a Planning Obligation.

6.14 Planning notice

6.14.1 Six letters of objection have been received. The concerns raised are summarised as follows:

- Application is the same as the previous submission.
- Cramped development.
- Too great a density for the size of the site.
- Three storey homes out of character.
- Self builds out of keeping with the AONB.
- Very few amenities in the village.
- Drainage concerns – very high-water table – where will all the excess water go?

- Big impact on neighbouring playing field.
- Insufficient car parking.
- Overspill parking will occur on the roads.
- Pedestrian safety adversely affected.
- Highway safety adversely affected due to so many vehicle movements close to the A265.
- Plot 3 will overlook their property and rear garden.
- Plot 3 is out of keeping with the rest of the development.
- Pavement and verge appear to have been altered.
- A tree originally identified to stay has now disappeared.

6.14.2 One letter of support has been received. The reasons are summarised as follows:

- Will significantly improve housing availability in the local area.
- No doubt the Council's decision will include careful consideration of Artemis Design & Build's capacity to complete.

6.15 Parish Council – **GENERAL COMMENT**

6.15.1 *'Burwash Parish Council generally support this application with particular note to the sensitive design. However, the Planning Committee continue to have reservations about the density and note that reservations outlined by Rother District Council have not been addressed in this new submission.'*

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 £285,290.

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 £80,208 over four years.

8.0 APPRAISAL

8.1 The main issues to consider in the determination of the application include:

- Principle/policy position.
- Loss of a community facility.
- Location.
- AONB and design.
- Living conditions of occupiers.
- Neighbouring amenities.
- Trees, hedgerows and biodiversity.
- Affordable housing and housing mix.
- Highway safety.

8.2 Principle/Policy Position

- 8.2.1 The site is located outside of a recognised development boundary and therefore in policy terms lies within the countryside. The existing building on the site is not considered to be an ‘undesigned heritage asset’ and therefore there would be no objection in principle to its demolition and replacement with another building/buildings.
- 8.2.2 However, being outside a recognised development boundary, the proposal is contrary to Policy OSS2 of the Rother Local Plan Core Strategy, which advocates that development boundaries around settlements will continue to differentiate between areas where most forms of new development would be acceptable and where they would not. Nevertheless, the Council cannot currently demonstrate a 5-year housing supply.
- 8.2.3 Given that there is no neighbourhood plan in force for the parish, Policy OVE1 of the DaSA is applicable. This states:
Until such time as a Neighbourhood Plan for the relevant settlement with an outstanding Core Strategy housing requirement is in force, planning applications will be favourably considered for development proposals in those settlements where:
- (i) they contribute to meeting the housing target for that settlement and accord with the relevant spatial strategy; and*
 - (ii) the site and development proposals are otherwise suitable having regard to other relevant policies of the Core Strategy, including the considerations in OSS2 and OSS3, and of this Plan.*
- 8.2.4 Policy RA1 (v) and associated Figure 12 of the Rother Local Plan Core Strategy require 50 dwellings to be provided within the village of Burwash over the plan period. There is no residual housing requirement for Burwash Common and therefore any housing provided there would not count towards the housing target for Burwash, contrary to Policy OVE1 (i) of the DaSA.
- 8.2.5 Despite the policy conflict outlined above, the Council has currently only 2.87 years of a required 5-year housing supply, which means that the presumption in favour of sustainable development outlined in paragraph 11 d) of the National Planning Policy Framework is applicable to Rother unless, i) the application of policies in the National Planning Policy 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 the National Planning Policy Framework taken as a whole. However, this 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.
- 8.2.6 The site is also considered brownfield land. Paragraph 120 (c) of the National Planning Policy Framework requires substantial weight to be given to the value of using suitable brownfield land within settlements for homes and other identified needs. Whilst there is no residual housing requirement for Burwash Common, it is still considered a small hamlet where paragraph 118 (c) is applicable.

8.3 Loss of a community facility

- 8.3.1 Policy RA1 of the Rother Local Plan Core Strategy states that the needs of the rural villages will be addressed by (iii) ensuring thriving and viable rural communities, by retention of, and support for, local shops, services and public houses in villages.
- 8.3.2 Rother Local Plan Core Strategy Policy CO1: Community Facilities and Services states:
The availability of community facilities to meet local needs will be achieved by:
(iii) Not permitting development proposals that result in the loss of sites or premises currently or last used for community purposes unless:
(a) alternative provision of the equivalent or better quality is available in the local area or will be provided and made available prior to the commencement or redevelopment of the proposed scheme; or
(b) it can be demonstrated there is no reasonable prospect of retention for the current use and that no other community use of the site is suitable or viable.
- 8.3.3 DaSA Policy DCO1: Retention of Sites of Social or Economic Value states:
In accordance with the presumptions set in the Local Plan Core Strategy, proposals that involve the loss or diminution of sites of social or economic value, including those last in such use, must demonstrate that there is no reasonable prospect of a continued use, backed by:*
(i) evidence of a comprehensive and sustained marketing campaign, which clearly indicates a lack of demand for the existing use (or as an alternative commercial or community facility, where appropriate), based on marketing, normally at least 18 months, that offers the land or unit/s for sale, or rental, at a realistic valuation of the site/premises for that use; and
(ii) evidence that clearly demonstrates that the unit is not or is not capable of being financially viable, including alternative commercial or community facilities, where appropriate.
[This includes a community facility, public house, shops outside of defined Town or District Centres, tourist accommodation or attraction and an employment use.]*
- 8.3.4 In respect of the requirements relating to Policy DCO1, Paragraph 3.6 of the DaSA states that:
A comprehensive, sustained campaign must be undertaken, offering the premises for sale or for rent, at a realistic valuation of the premises for the permitted use... Details should accompany relevant planning applications, including a minimum of two independent valuations of the building in its current condition/state.
- 8.3.5 In addition, paragraph 3.8 of the DaSA explains that the Council would normally obtain independent verification of the viability evidence submitted, to be undertaken at the developer's expense.
- 8.3.6 The Planning Statement lists some nearby care homes which are said to provide better alternative accommodation. However, the use proposed to be lost is a nursing home as opposed to a care home. Alternative provision of the community facility is not proposed and therefore to be policy compliant, and for the loss of the nursing home to be acceptable, strong justification which meets the tests set out in Policies CO1 (iii) (b) and DCO1 (i) and (ii) needs to

be provided. In this regard, the Applicant has submitted both a Viability Report and Marketing Report.

8.3.7 The Viability Report has been produced by PT Projects Ltd, a firm of quantity surveyors and cost consultants. It considers the viability of either the full refurbishment of the care home, in its current form, to create a standards compliant facility providing 19 care rooms or alternatively the redevelopment of the care home to create a 44 bedroom unit facility, which had previously received Planning Approval in 2005, although the permission was not implemented and has since expired. The report concludes:

“All options require substantial capital investment at a time of great uncertainty in the sector and it is difficult to see a business opportunity for the Care Home venture or a Community Facility... We would propose in this instance and from a cost investment angle that Care Home refurbishment, new build Care Home development or the potential provision of Community Facility are not viable options.”

8.3.8 The Marketing Report was produced by Crickmay Chartered Surveyors and sets out the marketing of the property since February 2018, where offers in the region of £1m were sought. It states that the site was marketed for continued C2 use, other community uses, as well as other development opportunities. In February 2019, the price of the site was reduced to ‘offers in excess of £750,000’ and up to August 2019 there had been a total of 32 enquiries with only five of them being for continued C2 use. In August 2019, an unconditional offer below the marketing figure was accepted with the sale completing in December 2019.

8.3.9 As required by paragraph 3.8 of the DaSA, during the previous application, the Local Planning Authority sought permission from the planning agent to obtain independent verification of the viability evidence submitted, to be undertaken at the Applicant’s expense. The planning agent responded by explaining that they saw no justification in the overall planning balance for the Council to require a further independent report at the Applicant’s expense, when they had already submitted a report on viability from an independent RICS qualified surveyor. They were of the view that Policy DCO1 allows flexibility and discretion depending on the circumstances of a case. In terms of the application site, the planning agent explains that the nursing home has been shut for six years following de-registration in 2015 after failing an inspection by the CQC in 2014 and 2015 when the Commission deemed the service ‘inadequate’ in all areas. Bearing in mind the marketing and viability evidence submitted in support of the application; the existence of other community uses in Burwash Common, Burwash Weald and Burwash; and the availability of alternative care home facilities in the local area, the agent was of the view that it is questionable what, if any, other community uses could utilise the application site.

8.3.10 Whilst Policy DCO1 of the DaSA allows some discretion over which cases require independent verification, this only relates to the obvious, clear cut cases. Having the viability report independently verified would have allowed the Local Planning Authority to fairly assess the submitted financial details on the two nursing home redevelopment schemes and alternative community uses to make a judgement over the compliance with the relevant policies. However, independent verification was not agreed with the Applicant during the previous application, and no offer to have it independently verified

accompanies the current application, and therefore it has not been satisfactorily demonstrated that the nursing home or alternative commercial or community facilities are not capable of being financially viable, contrary to Policies CO1 (iii) (b) and DCO1 (i) and (ii) of the DaSA.

8.4 Location

8.4.1 Burwash Common contains some services including a local shop, café and garden centre, a cricket club/community centre, a large recreation ground, a children's play area and a church.

8.4.2 There is also a bus stop opposite the site, serving the 231 route, which is a weekday service to Etchingham and Burwash to the east and Heathfield and Uckfield to the west. There are currently seven buses per weekday from Etchingham to Uckfield and six per weekday from Uckfield to Etchingham.

8.4.3 Nevertheless, it is considered that the services within Burwash Common are somewhat limited, which is the reason behind there being no residual housing requirement for Burwash Common within the Rother Local Plan Core Strategy. Occupiers of any dwellings on the site would have some limited access to public transport during the week but would be reliant on private modes of transport at weekends. It is also the case that, whilst there are some limited services within Burwash Common, occupiers would need to travel further afield to access a wider range of facilities and services.

8.4.4 There are some concerns that the development would, to some extent, undermine the aims of local and national planning policies, which seek to direct development, and that of residential accommodation, to settlements where there is ready access to facilities and thus minimises the need to travel and supports the transition to a low carbon future. However, it is acknowledged that there are public transport options and the site is brownfield land. It is also the case that paragraph 105 of the National Planning Policy Framework advises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

8.5 AONB and design

8.5.1 Section 85 of the Countryside and Rights of Way Act 2000 provides that, in exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The essential landscape character of the High Weald AONB that makes it special is described within the Statement of Significance within the AONB Management Plan 2019-2024. The plan also sets objectives for the management of the AONB relating to geology, landform and water systems; settlement; routeways; woodland; field and heath; land-based economy and related rural life; and other qualities.

8.5.2 Paragraph 174 of the National Planning Policy Framework states that decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes and b) recognising the intrinsic character and beauty of the countryside.

8.5.3 Paragraph 176 of the National Planning Policy Framework sets out that great weight should be given to conserving and enhancing landscape and scenic

beauty in AONBs, which have the highest status of protection in relation to these issues. It explains that the conservation and enhancement of wildlife and cultural heritage are also important considerations.

- 8.5.4 Policy OSS4 (iii) of the Rother Local Plan Core Strategy requires that all development respects and does not detract from the character and appearance of the locality.
- 8.5.5 Policy RA2 of the Rother Local Plan Core Strategy sets out the overarching strategy for the countryside outside the main confines of settlements, including: (viii) generally conserving the intrinsic value, locally distinctive rural character, landscape features, built heritage, and the natural and ecological resources of the countryside.
- 8.5.6 Policy RA3 (v) of the Rother Local Plan Core Strategy requires 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, support sensitive land management.
- 8.5.7 Policy EN1 provides for the protection, and wherever possible enhancement, of the district's nationally designated and locally distinctive landscapes and landscape features including (i) the distinctive identified landscape character, ecological features and settlement pattern of the AONB and (v) open landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes.
- 8.5.8 Policy EN3 of the Rother Local Plan Core Strategy states that new development will be required to be of high design quality by:
- (i) Contributing positively to the character of the site and surroundings, including taking opportunities to improve areas of poor visual character or with poor townscape qualities.
 - (ii) Demonstrating robust design solutions tested against the following Key Design Principles as appropriate, tailored to a thorough and empathetic understanding of the particular site and context:
 - (a) Character, Identity, Place-Making and Legibility.
 - (b) Continuity and Enclosure.
 - (c) Quality of Public Realm, Ease of Movement, and 'Secured by Design'
 - (d) Diversity.
 - (e) Landscape Setting of Buildings and Settlements.
 - (f) Design in Context (Understanding and appraisal of site and wider setting, and incorporation of existing site features into proposals).
 - (g) Building Appearance & Architectural Quality.
 - (h) Sustainable Design and Construction.
- 8.5.9 Paragraph 130 of the National Planning Policy Framework sets out a range of criteria relating to design including that developments (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 8.5.10 Turning to the DaSA, Policy DEN1 provides that the siting, layout and design of development should maintain and reinforce the natural and built landscape

character of the area in which it is to be located, based on a clear understanding of the distinctive local landscape characteristics, in accordance with Rother Local Plan Core Strategy Policy EN1. Particular care will be taken to maintain the sense of tranquillity of more remote areas, including through maintaining 'dark skies' in accordance with Policy DEN7.

- 8.5.11 Policy DEN2 of the DaSA states that all development within or affecting the setting of the High Weald AONB shall conserve and seek to enhance its landscape and scenic beauty, having particular regard to the impacts on its character components, as set out in the High Weald AONB Management Plan. Development within the High Weald AONB should be small scale, in keeping with the landscape and settlement pattern; major development will be inappropriate except in exceptional circumstances.
- 8.5.12 The High Weald AONB is characterised by green rolling countryside, of a pastoral nature, punctuated by small areas of woodland, small towns, villages and hamlets. The application site is located outside of the development boundary for Burwash Common, but is positioned amongst other development, with residential properties present to the east and on the opposite side of the road to the west, and the pavilion to the north. On the opposite side of the road to the south are open undeveloped fields.
- 8.5.13 It is proposed to demolish the existing buildings on the site and remove the hardstanding. On the southern part of the site fronting Heathfield Road, a terrace of three two storey dwellings with dormers in the roof together with a block of four flats would be provided, behind which would be areas to park. In the centre of the site, a detached dwelling would be proposed facing out onto Swing Gate Hill, with a pair of semi-detached dwellings behind. These properties would also have dormers in the roof. On the north part of the site would be two self-build units to be served by a new access. These two properties would be of a contemporary design. Mono-pitched roofs are proposed which would increase in height from the front to the rear providing a single storey appearance when viewed from the front, whilst to the rear they would be two storeys with large areas of glazing.
- 8.5.14 The Landscape and Visual Evidence and Impact Appraisal (volume 1) accompanying the application sets out the main opportunities for the site. It advises that higher density development could be provided on the A265 frontage to replace the existing prominent building. Along Swing Gate Hill it explains that there is the opportunity to provide lower density development to retain the pattern of development and vegetation. The other opportunities set out include creating a focal point to the entrance of the settlement on the southwest boundary of the site, together with the retention of boundary vegetation and trees.
- 8.5.15 The proposal has been amended since the pre-application scheme in 2020, where the Local Planning Authority raised layout and design concerns. The scheme has addressed some of those concerns, but not others, and some comments have been superseded by the amendments.
- 8.5.16 The scheme poses many positive elements. The southern road frontage development is generally successful in scale and massing, and terrace 6-8 read well as a late Victorian style terrace, articulated with chimneystacks, although the dormers to these and to units 4 and 5 are quite large, giving a

top-heavy appearance. The apartment block is successfully fragmented in form and massing. However, the gable pediment to the southern elevation appears squat and would be more successful if the pitch were increased to 50 degrees. Unit 3 presents an attractive, active frontage to Swing Gate Hill.

- 8.5.17 The other key layout and design concerns relate to the internal car-parking arrangement within the site and the character created in this area by the proposed approach, together with the plot sizes and garden space afforded to the two self-build units in the northern part of the site.
- 8.5.18 In respect of the internal car-parking, the proposal contains swathes of effectively forecourt car-parking and a large expanse of hardstanding (notwithstanding the range of surface materials proposed for this). There is also a lot of 'left-over' and somewhat ambiguous space around this car-parking area. This approach is more akin to suburban housing estate parking provision and is out of character with the prevailing pattern and character in the High Weald. The same can be said for the consequential lack of definition and enclosure of the southern boundaries of Plots 3, 4, and 5, which is not considered to be an acceptable design approach. Concerns over the parking layout were also raised by the High Weald AONB Unit during the previous application. Additionally, the two car-parking spaces accessed north and south off the entrance into the development are far too near the entrance mouth to be practical.
- 8.5.19 There are also concerns relating to boundary treatments in respect of the proposed close-boarded fences around the rear gardens of Plots 6, 7 and 8, and to the side of Plot 8. They would be viewed very prominently from within the site's internal road and would result in a harsh, suburban appearance.
- 8.5.20 Turning to the two self-build units, there are no concerns with the contemporary architectural approach. However, the two dwellings shown appear cramped and occupy plots disproportionate in size to their footprint, at odds with the more spacious plots in the vicinity. They do not provide for sufficient distance between the dwellings (less than 5m), on elevations which contain the only windows to some habitable rooms, nor does the Plot 2 dwelling have sufficient garden and external amenity space when considering the impact of the canopy coverage of retained trees T12, T10 and T6. As such, this element of the proposal is considered out of character with and harmful to the character and appearance of this part of the AONB.
- 8.5.21 Overall, the scheme submitted is not considered to be of an acceptable standard of design and would be harmful to the character and appearance of the AONB, contrary to Rother Local Plan Core Strategy and DaSA policies, together with the National Planning Policy Framework and High Weald Housing Design Guide.

8.6 Living conditions of occupiers

- 8.6.1 In terms of the nationally prescribed housing standards required by Policy DHG3 of the DaSA, all the proposed dwellings would meet or exceed the standards.
- 8.6.2 DaSA Policy DHG7 requires rear gardens to normally measure at least 10m in length. All the rear gardens would be 10m in length, save for Plot 4, which

would measure around 9.5m in length. However, the garden would be greater in overall area than Plots 7 and 8. Therefore, the slight shortfall in length is not objected to.

- 8.6.3 Despite the private rear garden of the Plot 2 self-build unit meeting the minimum 10m length requirement, there are mature trees on the east boundary which would overshadow most of the garden, which would severely constrain its usability and would result in a poor level of amenity to future occupiers. This type of situation is addressed in paragraph 4.70 of the DaSA and explains that where usability of external space is constrained, such as by sloping ground, orientation, the presence of large trees or where there is a strong, well-established spacious character, larger gardens are more appropriate.
- 8.6.4 The two self-build units would be positioned less than 5m apart. Whilst this may not always present an issue, in this case the facing elevations contain the only windows to some habitable rooms (bedrooms), which would result in a poor level of outlook to occupiers.
- 8.6.5 There are also concerns over the position of an internal footpath to the north of flat 2, which is immediately adjacent to a bedroom window. Other residents using the footpath would be able to walk past the window and have direct views into the bedroom which would create privacy issues and have an adverse impact on the amenity of occupiers of flat 2.
- 8.6.6 Due to the close proximity of the development to the A265, a noise survey has been requested by Environmental Health. They advise that it is best practice to carry this out up front so that it can be used in the site layout and design for the positioning and orientation of buildings or the location of noise sensitive rooms, which could potentially mitigate the impacts of the noise source. However, if this is not possible, the issue can be addressed via a condition, if minded to grant permission.

8.7 Neighbouring amenities

- 8.7.1 Policy OSS4 of the Rother Local Plan Core Strategy requires all development to (ii) not unreasonably harm the amenities of adjoining properties.
- 8.7.2 There are surrounding neighbouring residential properties which would see a change to the appearance of the site brought by the proposed residential redevelopment, with buildings introduced to the northern part of the site where presently there are none. However, the properties to the west are on the opposite side of the road and there would be more than 20m between the buildings which is usually considered sufficient for no unacceptable levels of overlooking to occur. It is also the case that the development would not appear unreasonably overbearing.
- 8.7.3 The property to the east, 'Waypost', is positioned more than 20m from the shared boundary. The separation is considered sufficient for no unacceptable levels of overlooking to occur or for the development to appear overbearing. It is acknowledged that first floor balconies are proposed to the rear of the two self-build units which would face towards the end of the rear garden of Waypost. However, the balconies would be set away from the boundary by around 10m, there is vegetation screening on the boundary and Waypost. No

unacceptable levels of direct overlooking are expected to occur from the balconies.

8.8 Trees, hedgerows and biodiversity

- 8.8.1 Policy EN5 (viii) of the Rother Local Plan Core Strategy requires development to retain, protect and enhance habitats of ecological interest, including ancient woodland, water features and hedgerows, and provides for appropriate management of these features.
- 8.8.2 There are many trees present on the application site and in the garden of the neighbouring property to the east 'Waypost'. The application is accompanied by an Arboricultural Implications Assessment and the neighbouring occupier also submitted an Arboricultural Report assessing trees in the occupiers' ownership during the previous application. The Arboricultural Implications Assessment comments on the neighbouring occupiers' report.
- 8.8.3 The Arboricultural Implications Assessment submitted with the application explains that the development will result in the removal of eight individual trees, one group of two trees and parts of two existing hedgerows. They are explained to be BS category C or U and relatively small and young. Their loss is explained to not have a significant impact on local visual amenity and would be offset by extensive new planting. In respect of the report commissioned by the neighbouring occupiers, the potential impacts are explained to be unfounded. It is stated that the layout and design has taken account of the vegetation on the neighbouring site and impacts would be minimised in accordance with BS5837:2012 recommendations. Tree protection measures and appropriate construction methodologies are recommended, with associated plans and advice provided within appendix documents.
- 8.8.4 The Arboricultural Report previously submitted by the occupier of the neighbouring property assesses the trees in their ownership on the western boundary of their site. This report explains the site in its entirety is home to a collection of rare and unusual trees and plants. Few, if any, native tree species occupy the garden and each single plant has been selected, sourced, (or grown from seed), and planted by the owners representing a great investment both in time and money. The report states that the garden represents far more than simply a physical asset or 'hobby gardening' and must be considered a professionally executed plant collection, likely unique in a private setting. The gardens have matured over the past 20 years to form a unique and unusual private space. The report concludes that there is potential for root damage to some larger trees on the boundary. It notes that unit 7 is close to the western boundary of Waypost. The proximity of the physical structures is thought to present pressure to prune trees in the future and its foundations may disrupt ground water permeation. The paved area to the side of unit 7 is identified as being within the root protection area of a boundary tree. Some form of buffer is suggested. T14 is identified as a high value tree within the garden of unit 7. Protection measures are recommended. A parking space for unit 7 is also identified as being close to the root protection areas of trees. Tree protection measures are recommended.
- 8.8.5 The Arboricultural Implications Assessment submitted with the application and the Arboricultural Report produced by the neighbouring occupier both explain that the development has the potential to impact on trees, although the impact

on those on the neighbouring site is downplayed in the Applicant's assessment. Nevertheless, tree protection measures are proposed, and this could be secured via condition(s) if permission were granted.

8.8.6 In terms of ecology, an Ecological Survey accompanies the application. This concludes that there was no risk of great crested newts being affected by the proposal and that there were no badger field signs or setts present on the site. Some evidence of low-key bat activity was recorded in the existing building, with three droppings found. However, no other evidence of bat roosting was found, and this was confirmed by an emergence survey. In respect of dormice, the hedgerow on the site is explained to be thin and relatively monospecific, with no nests present. The garden area is explained to be too thin and disturbed to serve as a suitable habitat for common reptiles. In summary, the survey explains that there was no evidence of or habitat suitable for protected or notable species within the survey area. However, to minimise the impacts upon biodiversity, enhancement measures are suggested including the provision of bird and bat boxes, log piles for invertebrates, bumble bee nest boxes and a scheme for native species landscaping. These enhancements could be secured via condition if planning permission were granted.

8.9 Highway safety

8.9.1 Policy CO6 (ii) of the Rother Local Plan Core Strategy requires all development avoids prejudice to road and/or pedestrian safety. Policy TR4 of the Rother Local Plan Core Strategy states that proposed development shall (i) meet the residual needs of the development for off-street parking having taken into consideration localised circumstances and having full regard to the potential for access by means other than the car, and to any safety, congestion or amenity impacts of a reliance on parking off-site whether on-street or off-street.

8.9.2 The Highway Authority has advised that the proposed development would lead to an increase in trips at the site. The previous nursing home use (19 bedrooms) would have generated around 35 trips daily, whereas the proposal would generate approximately 54 daily trips. However, they are satisfied that the accesses can provide adequate visibility (2.4m x 120m in both directions).

8.9.3 Parking provision on the site has been a common area of concern from local residents. They are concerned that an inadequate number of spaces are proposed, and vehicles would end up parking on the main road. However, the Highway Authority has advised that the ESCC parking calculator indicates that 23.71 parking spaces should be provided on site. A total of 24 are proposed, and thus adequate parking provision is considered to have been proposed. In addition, secure storage for bicycles is proposed. The Highway Authority has advised that the plans show the parking spaces proposed for the plots 1 and 2 self-build units measure below the recommended space standards. However, there is adequate space to make these slightly larger which could be subject to an appropriately worded condition.

8.9.4 In terms of accessibility, the Highway Authority note the site's rural location and comment that the bus stops on Heathfield Road are not up to current standards. The eastbound bus stop is made up of a flag and pole only and although the westbound bus stop benefits from a shelter, this is hidden by vegetation, with little to identify the stop and there is no crossing point to it.

- 8.9.5 A technical note has been provided by the Applicant in response to the Highway Authority's comments on the previous application. In summary, the technical note explains that the proposed residential development would place a lesser demand on existing public transport infrastructure than the permitted nursing home use, with three daily trips generated as opposed to four. It explains that planning obligations should only be imposed if they meet the relevant tests including that they are necessary to make the development acceptable in planning terms; they are directly related to the development; and they are fairly and reasonably related in scale and kind to the development. The Applicant does not believe the three tests would be met by imposing a requirement to improve the bus stops. They also reference ESCC guidance on Calculating Section 106 Planning Obligations and quote paragraph 4.1.12 which states that the recommended minimum development thresholds for local sustainable accessibility improvements is 15 dwellings or more.
- 8.9.6 The Highway Authority has commented that whilst the overall trips may be acceptable, it is considered that the site may be reliant on private vehicles, and the substandard bus facilities would not encourage the use of sustainable modes of transport. A Travel Plan Statement with appropriate mitigation measures is requested to be submitted via condition to inform and encourage sustainable modes of transport.
- 8.9.7 Turning to other highway matters, if permission were granted, conditions could be imposed relating to access improvements, visibility and parking and turning requirements.

8.10 Other matters

Drainage

- 8.10.1 Drainage details are currently unresolved, with the Lead Local Flood Authority objecting to the details submitted. They have advised that they are not able to recommend that the provision of the information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere and therefore are not able to remove their objection until the applicant has addressed their comments. During the previous application (RR/2020/1798/P) Southern Water advised that their initial investigations indicate that there are no public surface water sewers in the area to serve the development. They state that alternative means of draining surface water from the development are required, which should not involve disposal to a public foul sewer. The applicant has declined to provide any further information relating to drainage. It has therefore not been demonstrated that surface water runoff can be managed without increasing flood risk elsewhere.

Contaminated land

- 8.10.2 If permission is granted, Environmental Health has advised that issues relating to potential land contamination could be dealt with via conditions.

Air quality

- 8.10.3 As this is a major application, Environmental Health have advised that the need for an air quality assessment is triggered, in accordance with the Sussex Air Quality Guidance. However, as the site is neither in or near to an Air Quality Management Area and is small in scale and nature, a full air quality assessment is not necessary. Instead, an 'emissions mitigation assessment' is requested. Proposed mitigation can include the introduction of electric

charge points to encourage the take up of electric vehicles, the provision of high-speed broadband to facilitate home working, the building of cycle paths, car clubs and travel plans. However, the applicant has declined to provide an emissions mitigation assessment. Whilst the proposed development would only result in a relatively small increase in traffic generation, which is likely to create a low or negligible impact, the cumulative impact of these types of development can lead to a creep in the decline in air quality in local areas. Without the issue of air quality being assessed, it has not been demonstrated that air quality in the local area will not be adversely affected, or satisfactorily mitigated against, by the proposed development.

Self-build

8.10.4 In respect of self-build and custom housebuilding, DaSA Policy DHG6 states that on sites of 20 or more dwellings, provision for 5-10% of the total number of dwellings to be provided should be made available as serviced plots for self and custom housebuilders. As the scheme is only proposing 12 dwellings, there is no policy requirement for self-build housing to be provided on site, however this application nonetheless proposes to include two self-build houses. In line with recent changes to the PPG, where the requirement to consider self and custom build schemes in decision making is strengthened, this scheme would help in relation to meeting local need. If permission was granted, the proposed self-build housing should be secured via a Section 106 Planning Obligation and relevant planning condition used.

Archaeology

8.10.5 In relation to archaeology, if permission were granted, conditions could secure a programme of archaeological works.

9.0 PLANNING BALANCE & CONCLUSION

- 9.1 The Council has currently only 2.87 years of a required 5-year housing supply, which means that the presumption in favour of sustainable development outlined in paragraph 11 d) of the National Planning Policy Framework is applicable to Rother unless, i) the application of policies in the National Planning Policy 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 the National Planning Policy Framework taken as a whole.
- 9.2 The proposed development offers many benefits including the re-use of a brownfield site, together with the economic and social benefits associated with the provision of 12 additional dwellings. However, whilst the dwellings would make a useful contribution to the housing stock in the district, they would not count towards the residual housing needs of the village of Burwash given that the Core Strategy sets out that there is no residual housing requirement in Burwash Common.
- 9.3 Despite the benefits outlined, in accordance with paragraph 11 d) i) of the National Planning Policy Framework, the design issues and consequent harm to the AONB provides a clear reason for refusing the development. On top of this, there are concerns relating to the living conditions of future occupiers of some of the proposed units; the development would result in the unjustified

loss of a community facility; and affordable housing has not been secured. It has also not been satisfactorily demonstrated that drainage or air quality issues would be satisfactorily addressed. Having regard to paragraph 11 d) ii) the proposed development is not considered to comply with the National Planning Policy Framework when considered as whole.

- 9.4 The proposed development does not comply with Rother Local Plan Core Strategy or DaSA policies or the various provisions contained within the National Planning Policy Framework when considered as a whole. For the reasons explained, the application could not have been supported.

RECOMMENDATION: REFUSE (FULL PLANNING)

REASONS FOR REFUSAL:

1. The proposed development is not of an acceptable standard of design and would be harmful to the character and appearance of the High Weald Area of Outstanding Natural Beauty. The two self-build dwellings would occupy plots disproportionate in size to their footprint and would appear cramped and out of character with the more spacious plots within the locality. The parking area proposed in the southern part of the site includes large expanses of hardstanding with left over and ambiguous space, which includes a lack of definition and enclosure to Plots 3, 4 and 5, and tall close boarded fencing to the rear of Plots 6, 7 and 8, all of which would result in a very suburban development, out of keeping with the prevailing pattern and character of the High Weald. In addition, large dormers are proposed on the dwellings, resulting in a top-heavy appearance, together with a squat gabled pediment to the south elevation of the apartment block. Overall the development is contrary to Policies OSS4 (iii), EN1 (i) and EN3 (i) (ii) of the Rother Local Plan Core Strategy, Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan and paragraphs 130 and 176 of the National Planning Policy Framework.
2. The proposed development would provide a poor level of amenity to future occupiers of certain units of accommodation. The private rear garden area to the Plot 2 self-build unit would be overshadowed by large trees on the rear boundary, which would severely constrain its usability and would offer a poor level of amenity to future occupiers. The footpath immediately to north of flat 2 would result in other residents being able to walk past the window and have direct views into the bedroom which would create privacy issues and have an adverse impact on the amenity of occupiers of flat 2. In addition, the close proximity of the two self-build units with the facing elevations contain the only windows to some habitable rooms (bedrooms), would result in a poor level of outlook to occupiers. Overall, a poor level of amenity would be afforded to occupiers of some of these units contrary to Policy OSS4 (i) of the Rother Local Plan Core Strategy and Policy DHG7 (i) of the Rother Development and Site Allocations Local Plan.
3. It has not been satisfactorily demonstrated that the nursing home or alternative commercial or community facilities are not capable of being financially viable, contrary to Policy RA1 (iii) of the Rother Local Plan Core Strategy and Policies

CO1 (iii) (b) and DCO1 (i) and (ii) of the Rother Development and Site Allocations Local Plan.

4. Policy DHG1 (iv) (b) of the Rother Development and Site Allocations Local Plan requires 40% on-site affordable housing on schemes of six or more dwellings (reduced to 18% using the Vacant Building Credit). Affordable housing provision has not been secured by way of a legal agreement. The requirement for affordable housing to be a part of new developments is a recognised means whereby the planning system can contribute to improving access to housing for households not able to purchase or rent on the open market. In this way it promotes balanced and inclusive communities. With affordable housing not secured, the proposal fails to meet the policy requirements, contrary to Policy DHG1 (iv) (b) of the Rother Development and Site Allocations Local Plan and paragraph 64 of the National Planning Policy Framework, relating to the Vacant Building Credit.
5. It has not been satisfactorily demonstrated whether surface water runoff can be managed without increasing flood risk elsewhere. No infiltration testing has been carried out and therefore it has not been demonstrated that infiltration will be a feasible method for managing surface water runoff from the development. If infiltration is not feasible at the site, the applicant proposes discharging to the foul sewer beneath the highway. Discharging to the foul sewer is the least sustainable outfall location for surface water disposal and Southern Water raised an objection to this option for the same scheme proposed under application RR/2020/1798/P. As such, it has not been satisfactorily demonstrated that surface water runoff can be managed without increasing flood risk elsewhere contrary to Policy SRM2 of the Rother Local Plan Core Strategy and Policy DEN5 of the Rother Development and Site Allocations Local Plan.
6. It has not been demonstrated that air quality in the local area will not be adversely affected, or satisfactorily mitigated against, by the proposed development contrary to the Sussex Air Quality Guidance 2020 and Policy OSS3 (viii) of the Rother Local Plan Core Strategy.

NOTE:

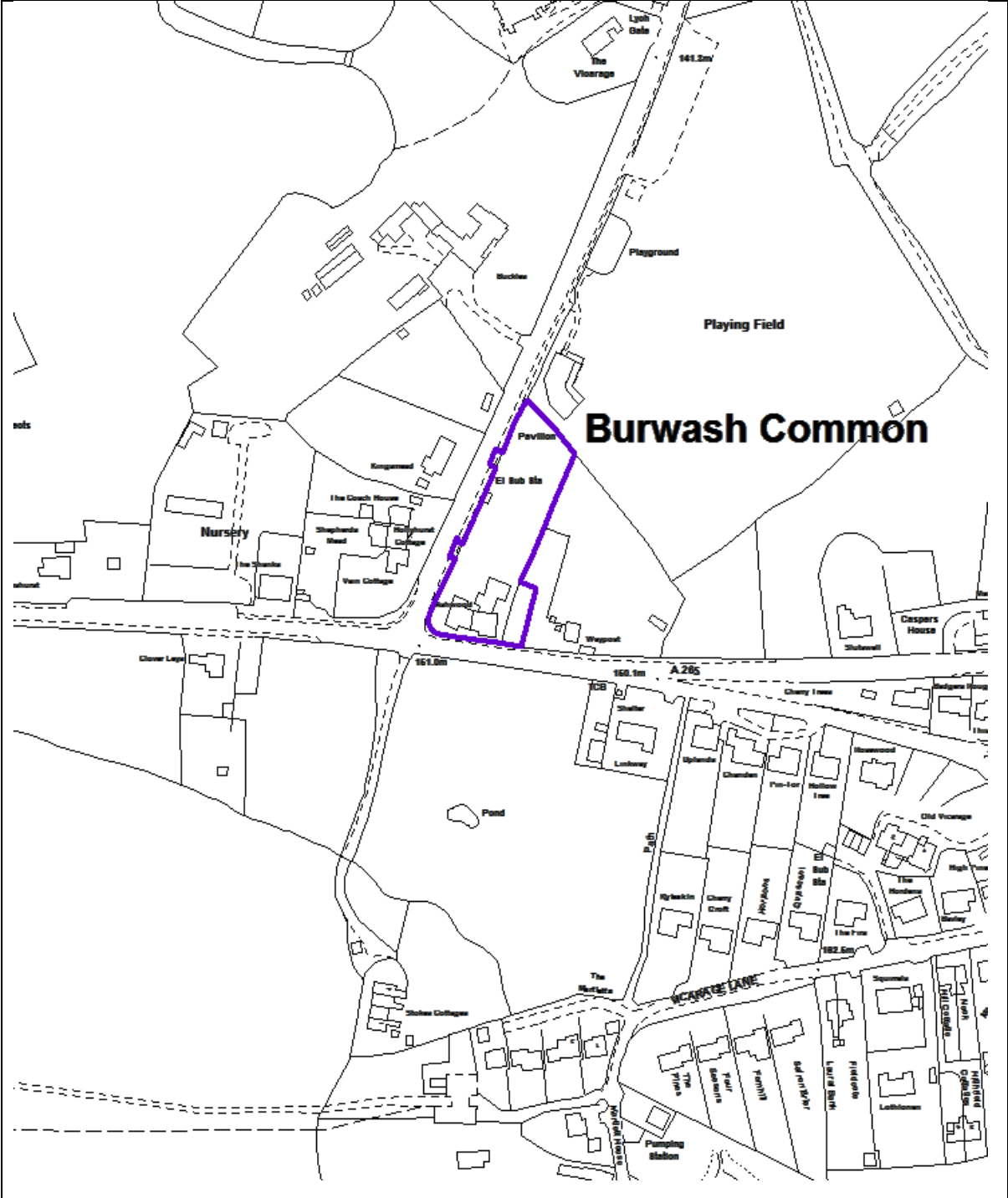
1. The recommendation relates to the following plans:
 - Drawing No. 1531-01 revision C dated 24.09.20
 - Drawing No. 1531-02 dated March 2020
 - Drawing No. 1531-03 dated March 2020
 - Drawing No. 1531-04 revision B dated 24.09.20
 - Drawing No. 1531-05 revision B dated 24.09.20
 - Drawing No. 1531-06 revision B dated 24.09.20
 - Drawing No. 1531-07 revision B dated 24.09.20
 - Drawing No. 1531-08 revision C dated 09.11.20
 - Drawing No. 1532-01 revision C dated 24.09.20
 - Drawing No. 1532-02 dated March 2020
 - Drawing No. 1532-03 dated March 2020
 - Drawing No. 1532-04 revision B dated 24.09.20
 - Drawing No. 1532-05 revision B dated 24.09.20
 - Drawing No. 1532-06 revision C dated 09.11.20
 - Drawing No. 1532-07 revision B dated 24.09.20

Drawing No. 1532-08 revision B dated 24.09.20
Drawing No. 1932/03 revision B dated December 2019
Drawing No. 1932/09 revision D dated 8 February 2021
Drawing No. 1932/11 revision E dated 8 February 2021
Drawing No. 1932/12 revision G dated 22 March 2021
Drawing No. 1932/13 revision D dated 22 March 2021
Drawing No. 1932/14 revision E dated 8 February 2021
Drawing No. 1932/15 revision C dated 8 February 2021
Drawing No. 1932/16 revision B dated 22 March 2021
Drawing No. 1932/17 revision C dated 9 October 2020
Drawing No. PD-MLP-001 Revision E dated 6 October 2020

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 with the proposal and determining the application within a timely manner, clearly setting out the reasons 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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SITE PLAN RR/2020/1798/P	BURWASH FORMER ASHWOOD NURSING HOME, HEATHFIELD ROAD
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Not To Scale

Rother District Council

Report to	-	Planning Committee
Date	-	12 August 2021
Report of the	-	Head of Service – Strategy and Planning
Subject	-	Application RR/2020/1798/P
Address	-	Former Ashwood Nursing Home Heathfield Road Burwash Common
Proposal	-	Demolition of existing buildings and redevelopment of site to provide 12 residential units, car parking, cycle and refuse facilities and associated works.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **DEFEND THE APPEAL AGAINST NON-DETERMINATION ON THE GROUNDS THAT THE PLANNING APPLICATION WOULD HAVE BEEN REFUSED AND THE APPEAL SHOULD BE DISMISSED.**

Head of Service: Tim Hickling

Applicant: Artemis Design & Build Ltd
Agent: Ms H. Greenhalgh
Case Officer: Mr M. Worsley (Email: matthew.worsley@rother.gov.uk)
Parish: BURWASH
Ward Members: Councillors J. Barnes and Mrs E.M. Kirby-Green

Reason for Committee consideration: Member referral: Councillor J Barnes: Housing needs of the parish, density, design and parking.

Statutory 13-week date: 25 February 2021 (Appeal lodged 26 March 2021)

1.0 UPDATE

1.1 This application was previously reported to the May 2021 Planning Committee meeting where instruction was sought from Members on how they wished the appeal against non-determination to be dealt with. The recommendation was to defend the appeal on the grounds that the planning application would have been refused and the appeal should be dismissed. The recommended reasons for refusal related to the unjustified loss of a community facility (a nursing home), harm to the AONB, harm to the living conditions of future occupiers of some of the proposed units and affordable housing not being secured. However, Members resolved not to defend the appeal.

- 1.2 A start date for the appeal against non-determination has not been received from the Planning Inspectorate and the applicant has subsequently submitted a new application for effectively the same development (RR/2021/1608/P) which is also being reported to the August 2021 meeting. As part of the resubmission, new issues have arisen from consultees and therefore the 2020 application is being reported to Members again so that instruction can be given on how they wish the appeal to proceed in light of the additional matters raised by consultees.
- 1.3 For application RR/2021/1608/P, as it is a major scheme, Environmental Health have advised that the need for an air quality assessment is triggered, in accordance with the Sussex Air Quality Guidance. However, as the site is neither in or near to an Air Quality Management Area and is small in scale and nature, a full air quality assessment is not necessary. Instead, an 'emissions mitigation assessment' is requested.
- 1.4 Environmental Health have requested a noise survey, relating to properties next to the A265. They advise that it is best practice to carry this out up front so that it can be used in the site layout and design for the positioning and orientation of buildings or the location of noise sensitive rooms, which could potentially mitigate the impacts of the noise source. However, if this is not possible, the issue can be addressed via a condition.
- 1.5 The Lead Local Flood Authority has retained their objection from the previous application and has requested infiltration testing is provided upfront. They have advised that they are not able to recommend that the provision of the information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere and therefore not able to remove their objection until the applicant has addressed their comments.
- 1.6 The planning agent and applicant have been asked for the additional information requested from Environmental Health and the Lead Local Flood Authority and were advised that additional recommended reasons for refusal would need to be added if it was not submitted. However, the applicant has advised that they wish the application to be reported to the August Planning Committee meeting and cannot provide the requested information at such a late stage. They are happy for the Planning Committee to decide the application on its merits. As the requested information from consultees has not been received, issues relating to drainage and air quality are added to the recommended reasons for refusal.

2.0 SITE

- 2.1 The site measures around 0.35 hectares and comprises of a former nursing home set on a corner plot at the junction between Heathfield Road (A265) and the B2181 (Swing Gate Hill). The nursing home is currently vacant following its closure in 2015. The site is located outside of a defined development boundary and therefore, in planning policy terms, is located within the countryside. It also lies within the High Weald AONB.
- 2.2 The existing building is positioned at the southern end of the site close to the Heathfield Road frontage. The accommodation is arranged over three floors,

including within the roof, and consists of the original Victorian property to the east with large modern two storey extensions to the west and at the rear. Vehicular access and an area to park is behind the building, via Swing Gate Hill. The northern part of the site is undeveloped.

3.0 PROPOSAL

- 3.1 Permission is sought to change the use of the site from a nursing home to residential. This would involve demolishing the existing buildings and erecting a total of 12 residential units to include a block of four flats, a terrace of three dwellings, one pair of semi-detached dwellings, a detached dwelling and two detached self-build dwellings. A 20-space parking court is proposed for the flats and six of the dwellings via the existing access and the self-build units would be served by a new shared access on the northern part of the site. Refuse, cycle facilities and landscaping works are also proposed.
- 3.2 The application follows on from, and has been informed by, pre-application advice on a 14-dwelling scheme for the site. At that stage, the Local Planning Authority raised concerns that too many units were proposed, resulting in a cramped form of development, out of character with its surroundings and this part of the AONB. Concerns were raised over two self-build units proposed on the northern part of the site appearing cramped, together with a large parking area.
- 3.3 Within the accompanying Planning Statement it is explained that prior to submission of the application, the Applicant undertook extensive consultation with the local community, including Burwash Parish Council, Burwash Common Residents Association, Burwash Save our Fields and local residents. This included attending public meetings with Burwash Parish Council and Burwash Residents Association (pre-COVID), attending 'Zoom' meetings with Burwash Parish Council and Burwash Save our Fields, meeting and liaising with neighbours, email exchanges with Councillors and undertaking a wider consultation exercise with the nearby Burwash Common residents. Exhibition boards were displayed at the site and feedback forms were left so people could comment on the proposal. Twenty feedback forms and some emails were received. The Planning Statement explains that these were generally very positive.
- 3.4 The Planning Statement explains that as a result of the consultation exercise, the Applicant incorporated changes to the proposed development, including:
- Reducing the number of units from 14 to 12.
 - Redesigning the flats on the corner to reduce the massing and give the impression of being a large house.
 - Replacing the four semis facing Heathfield Road with a terrace of three houses, redesigned to front the main road and to reflect the Burwash Common vernacular, together with gardens at the rear.
 - Replace one of the pair of semis with a single detached dwelling.
 - Reduce the amount of car parking and increase the amount of landscaping in the car park.
 - Removed a garage from one of the self-build units and reworked their amenity space.

3.5 Accompanying the application is a Planning Statement, a Marketing Report, a Viability Report, a Design and Access Statement, a Landscape and Visual Evidence and Impact Appraisal, an Ecological Assessment, an Arboricultural Implications Assessment, an Historic Environment Record Report, a Flood Risk Assessment and Drainage Strategy, a Transport Statement and a Highway Consultant Technical Note.

4.0 HISTORY

- 4.1 RR/2019/2772/PIP Change of use of redundant C2 nursing home to provide seven to nine residential units – Withdrawn.
- 4.2 RR/2020/338/PIP Change of use and conversion of redundant C2 nursing home to provide seven to nine residential units – Withdrawn.
- 4.3 RR/2005/3252/P Erection of single storey lobby to form lobby at side – Approved.
- 4.4 RR/2005/588/P Erection of new extension to existing nursing home with alterations to vehicular access (phase 1) and demolition of existing 19th century building and erection of a new extension (phase 2), with provision of 10 parking spaces and formation of new vehicular access – Approved Conditional (not implemented).
- 4.5 RR/2004/1299/P Erection of two storey side and rear extensions and alterations with provision of new vehicular and pedestrian accesses and closure of existing access – Refused.
- 4.6 RR/2003/1544/P Erection of additional accommodation and ancillary facilities to side and rear of nursing home and additional car parking and external works – Approved Conditional.
- 4.7 RR/93/1018/P Extension to nursing home also extension of curtilage of the property and erection of pavilion – Refused.
- 4.8 RR/93/0211/P Extension to nursing home – Refused – Appeal Dismissed.
- 4.9 RR/89/0480/P Side extension to provide 8 additional rooms, lift and enlarged owners flat – Approved Conditional.
- 4.10 RR/85/0393 Single storey rear extension, conversion and change of use of single dwelling to 8-bedroom residential nursing home – Approved Conditional.
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5.0 POLICIES

- 5.1 The following 'saved' policy of the adopted [Rother District Local Plan 2006](#) is relevant to the proposal:
- DS3 (development boundaries)

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

- PC1 (presumption in favour of sustainable development)
- OSS1 (overall spatial development strategy)
- OSS2 (use of development boundaries)
- OSS3 (location of development)
- OSS4 (general development considerations)
- RA2 (general strategy for the countryside)
- RA3 (development in the countryside)
- SRM1 (towards a low carbon future) (Note that part (i) was superseded by the Rother District Council Development and Site Allocations (DaSA) Local Plan)
- SRM2 (water supply and wastewater management)
- CO6 (community safety)
- LHN1 (achieving mixed and balanced communities)
- EN1 (landscape stewardship)
- EN3 (design quality)
- EN5 (biodiversity and green space)
- TR3 (access and new development)
- TR4 (car parking)

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

- DRM1 (water efficiency)
- DHG1 (affordable housing)
- DHG3 (residential internal space standards)
- DHG4 (accessible and adaptable homes)
- DHG7 (external residential areas)
- DHG11 (boundary treatments)
- DHG12 (accesses and drives)
- DEN1 (maintaining landscape character)
- DEN2 (AONB)
- DEN4 (biodiversity and green space)
- DEN5 (sustainable drainage)
- DEN7 (environmental pollution)
- DIM2 (development boundaries)
- OVE1 (housing supply and delivery pending plans)

5.4 The Burwash Neighbourhood Plan (BNP) has been examined, with the Examiner's report recommending modifications to enable the BNP to proceed to Referendum. The Local Planning Authority is aiming to issue a decision statement over the coming weeks detailing its intention to send the BNP to referendum, at which point, government guidance states that the plan can be given significant weight in decision-making, so far as the plan is material to the application. Relevant policies within the BNP include:

- GP01 (protection of the AONB landscape) (subject to modifications)
- GP04 (development boundaries) (subject to modifications)
- GP05 (design standards) (subject to modifications)
- GP08 (sustainable development) (subject to modifications)
- EN02 (natural environment protection) (subject to modifications)

- EN04 (dark skies) (subject to modifications)
- IN01 (pedestrian safety) (subject to modifications)
- IN02 (parking) (subject to modifications)

5.5 The National Planning Policy Framework, Planning Practice Guidance (PPG), High Weald AONB Management Plan 2019 – 2024 and High Weald Housing Design Guide are also material considerations.

6.0 CONSULTATIONS

6.1 Highway Authority – **NO OBJECTION**

6.1.1 The proposed development would result in an increase of vehicle movements. However, the access meets the requirement for the development. Appropriate visibility splays appear achievable from both accesses and could be conditioned. The East Sussex County Council (ESCC) parking calculator recommends that 23.71 parking spaces are provided on-site. 24 spaces are proposed, with adequate on-site turning detailed. In terms of accessibility, the rural location is noted. The comments explain that the nearby bus stops are not up to current standards, with the eastbound bus stop located at the site boundary on Heathfield Road only made up of a flag pole and the westbound bus stop having a shelter hidden by vegetation and not served by a crossing to it, meaning there is little to identify it. Improvements to the bus stops are recommended via condition.

6.2 Environment Agency – **GENERAL COMMENTS**

6.2.1 General advice provided relating to flood risk, groundwater and contaminated land, waste, ecology and Environmental Permitting Regulations.

6.3 Southern Water – **GENERAL COMMENTS**

6.3.1 Initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer. No surface water should be permitted to be discharged to the foul sewerage system, in order to protect properties downstream from flooding.

6.4 Sussex Police – **GENERAL COMMENTS**

6.4.1 No major concerns, however, additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered. Desirable for dwelling frontages to be open to view. Vulnerable area such as side and rear gardens need robust defensive barriers by using walls or fencing at least 1.8m high. Gates should be in full view and well lit. Access control recommended for flats. Comment that there is too much permeability into the development. Recommended solution is to remove the footpath from the A265, provide a rear gate for Plot 8, a gated pedestrian access for the flats as well as a gated access into the amenity area for the flats. A covered lockable cycle store is recommended. Advice on lighting is also provided.

6.5 County Archaeologist – **NO OBJECTION**

6.5.1 Conditions recommended relating to a programme of archaeological works.

6.6 ESCC Housing Commissioning Team (Adult Social Care)

6.6.1 No comments received.

6.7 ESCC – Lead Local Flood Authority – **OBJECT**

6.7.1 11 January 2021: Objection due to insufficient information. Infiltration is proposed, but infiltration testing has not been carried out to BRE365 standard. Infiltration should be considered before discharging to a public sewer, which would need Southern Water's agreement. If discharge to the public sewer is the only option, a CCTV survey is requested to ensure it is in a suitable condition. Note that surface water runoff from Plots 1 and 2 will be drained to the Southern Water foul sewer. Suggest a capacity check is undertaken with Southern Water.

6.7.2 29 March 2021: Objection due to insufficient information. Notes that the Applicant has undertaken dye tracing which demonstrates that the site currently drains to the nearby foul sewer. However, they are aware that Southern Water has commented (8 January 2021) that they will not accept discharge to the foul sewer. The proposed outfall to the drainage system is therefore not feasible. Advise that surface water runoff should be discharged through infiltration, with infiltration testing recommended. If infiltration is not feasible, discharge to a nearby watercourse should be considered before discharging to the foul sewer, which requires permission from Southern Water.

6.8 East Sussex Fire Brigade

6.8.1 No comments received.

6.9 High Weald AONB Unit – **OBJECT**

6.9.1 Comment that the number of units proposed for this site results in a cramped layout particularly at the southern end of the site around the road access. This is dominated by car parking and hard surfaces, resulting in a poor impact on the character of the area and very limited amenity area for residents. It is recommended that the number of units in this area of the site be reduced to address these design problems.

6.10 Clinical Commissioning Group

6.10.1 No comments received.

6.11 RDC Waste and Recycling – **GENERAL COMMENTS**

6.11.1 Advice provided relating to bin collection arrangements.

6.12 RDC Housing – **GENERAL COMMENTS**

6.12.1 Agree that by utilising the Vacant Building Credit (VBC), the affordable housing provision to be applied in this case equates to 18%, which requires a total of 2.2

affordable units to be provided. Two affordable dwellings are expected to be provided on-site with the remaining 20% payable as a commuted sum. Advise that two of the three-bedroom houses would be acceptable as the on-site provision. Comment that any Registered Provider is unlikely to accept leasehold of two flats as part of a private block. Advise that in the event that there is no agreed offer from a Registered Provider to acquire the two affordable housing units on-site (up to six months before practical completion) the full affordable housing policy requirement of 2.2 units would instead be required as a commuted sum.

6.13 Planning Notice

6.13.1 25 letters of objection have been received. The concerns raised are summarised as follows:

Character/design

- Town style development in a rural hamlet, within the AONB.
- Outside development boundary.
- Small houses and garden proposed.
- Too many houses proposed.
- Density is too high.
- Properties are too tall.
- Density does not take account of the intrinsic value of the countryside.
- Design should be respectful to the AONB.
- The two self-build plots have very large footprints with a disproportionate amount of private amenity space.
- Modern design of self-build plots not appropriate for the area.
- The flats, the detached property facing Stonegate Road and the self-build units would be overbearing.
- Self-build units would be very close to the adjacent pavilion and playing fields and would adversely impact on it.
- No other terraces or flats in the area.
- Development could adversely impact on rare trees and plants in the neighbouring garden of Waypost (Arboricultural Report submitted by occupiers, which is referenced and summarised within the body of the report).

Impact on neighbours

- First floor balconies of self-build plots are only 7-8m from the neighbouring boundary – overlooking of the neighbour's private garden would occur.
- Plot 3 would overlook Kingsmead and its garden on the opposite side of Stonegate Road.

Highway safety/parking

- More parking required.
- Lack of parking would result in vehicles parking on the main road which would create highway safety issues like Boundary Edge Close.
- Reducing the number of houses would allow more space for parking.
- Only one access should be used.
- Errors and misleading information contained within the Transport Assessment.

Other

- No mention of affordable homes.

- Concern over drainage and runoff and how this would affect the adjacent playing field.
- Nearest primary school (Broad Oak) has recently closed meaning local schools are over stretched, and parents would have to drive even further to take their children to school.
- Lack of amenities in the village.
- Regular power cuts.

6.13.2 Two letters of support have been received. The reasons are summarised as follows:

- More housing in the area is desperately needed.
- Burwash Save our Fields comment that ideally it would have been preferred the scheme to be slightly less dense, but despite this, the group still support the proposal.

6.13.3 Four letters with general comments have been received. The comments are summarised as follows:

- Plot 3 should be reduced in size – no need for another four-bedroom dwelling in the village.
- Too urban in character.
- Density should be reduced so parking can be increased.
- Insufficient parking proposed.
- Boundary Edge Close has a lack of parking – vehicles park on the main road.

6.14 Parish Council – **SUPPORT**

6.14.1 *'The only reservation would be the density.'*

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 £285,290.

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 £80,208 over four years.

8.0 APPRAISAL

8.1 The main issues to consider in the determination of the application include:

- Principle/policy position.
- Loss of a community facility.
- Location.
- AONB and design.
- Living conditions of occupiers.
- Neighbouring amenities.
- Trees, hedgerows and biodiversity.
- Affordable housing and housing mix.
- Highway safety.

8.2 Principle/Policy Position

- 8.2.1 The site is located outside of a recognised development boundary and therefore in policy terms lies within the countryside. The existing building on the site is not considered to be an ‘undesigned heritage asset’ and therefore there would be no objection in principle to its demolition and replacement with another building/buildings.
- 8.2.2 However, being outside a recognised development boundary, the proposal is contrary to Policy OSS2 of the Rother Local Plan Core Strategy, which advocates that development boundaries around settlements will continue to differentiate between areas where most forms of new development would be acceptable and where they would not. Nevertheless, the Council cannot currently demonstrate a 5-year housing supply.
- 8.2.3 Given that there is no neighbourhood plan in force for the parish, Policy OVE1 of the DaSA is applicable. This states:
Until such time as a Neighbourhood Plan for the relevant settlement with an outstanding Core Strategy housing requirement is in force, planning applications will be favourably considered for development proposals in those settlements where:
- (i) they contribute to meeting the housing target for that settlement and accord with the relevant spatial strategy; and*
 - (ii) the site and development proposals are otherwise suitable having regard to other relevant policies of the Core Strategy, including the considerations in OSS2 and OSS3, and of this Plan.*
- 8.2.4 Policy RA1 (v) and associated Figure 12 of the Rother Local Plan Core Strategy require 50 dwellings to be provided within the village of Burwash over the plan period. There is no residual housing requirement for Burwash Common and therefore any housing provided there would not count towards the housing target for Burwash, contrary to Policy OVE1 (i) of the DaSA.
- 8.2.5 Despite the policy conflict outlined above, the Council has currently only 2.87 years of a required 5-year housing supply which means that the presumption in favour of sustainable development outlined in paragraph 11 d) of the National Planning Policy Framework is applicable to Rother unless, i) the application of policies in the National Planning Policy 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 the National Planning Policy Framework taken as a whole. However, this 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.
- 8.2.6 The site is also considered brownfield land. Paragraph 118 (c) of the National Planning Policy Framework requires substantial weight to be given to the value of using suitable brownfield land within settlements for homes and other identified needs. Whilst there is no residual housing requirement for Burwash Common, it is still considered a small hamlet where paragraph 118 (c) is applicable.

8.3 Loss of a community facility

8.3.1 Policy RA1 of the Rother Local Plan Core Strategy states that the needs of the rural villages will be addressed by (iii) ensuring thriving and viable rural communities, by retention of, and support for, local shops, services and public houses in villages.

8.3.2 Rother Local Plan Core Strategy Policy CO1: Community Facilities and Services states:

The availability of community facilities to meet local needs will be achieved by:

(iii) Not permitting development proposals that result in the loss of sites or premises currently or last used for community purposes unless:

(a) alternative provision of the equivalent or better quality is available in the local area or will be provided and made available prior to the commencement or redevelopment of the proposed scheme; or

(b) it can be demonstrated there is no reasonable prospect of retention for the current use and that no other community use of the site is suitable or viable.

8.3.3 DaSA Policy DCO1: Retention of Sites of Social or Economic Value states:

In accordance with the presumptions set in the Local Plan Core Strategy, proposals that involve the loss or diminution of sites of social or economic value, including those last in such use, must demonstrate that there is no reasonable prospect of a continued use, backed by:*

(i) evidence of a comprehensive and sustained marketing campaign, which clearly indicates a lack of demand for the existing use (or as an alternative commercial or community facility, where appropriate), based on marketing, normally at least 18 months, that offers the land or unit/s for sale, or rental, at a realistic valuation of the site/premises for that use; and

(ii) evidence that clearly demonstrates that the unit is not or is not capable of being financially viable, including alternative commercial or community facilities, where appropriate.

[This includes a community facility, public house, shops outside of defined Town or District Centres, tourist accommodation or attraction and an employment use.]*

8.3.4 In respect of the requirements relating to Policy DCO1, Paragraph 3.6 of the DaSA states that:

A comprehensive, sustained campaign must be undertaken, offering the premises for sale or for rent, at a realistic valuation of the premises for the permitted use... Details should accompany relevant planning applications, including a minimum of two independent valuations of the building in its current condition/state.

8.3.5 In addition, paragraph 3.8 of the DaSA explains that the Council would normally obtain independent verification of the viability evidence submitted, to be undertaken at the developer's expense.

8.3.6 The Planning Statement lists some nearby care homes which are said to provide better alternative accommodation. However, the use proposed to be lost is a nursing home as opposed to a care home. Alternative provision of the community facility is not proposed and therefore to be policy compliant, and for the loss of the nursing home to be acceptable, strong justification which meets the tests set out in

Policies CO1 (iii) (b) and DCO1 (i) and (ii) needs to be provided. In this regard, the Applicant has submitted both a Viability Report and Marketing Report.

8.3.7 The Viability Report has been produced by PT Projects Ltd, a firm of quantity surveyors and cost consultants. It considers the viability of either the full refurbishment of the care home, in its current form, to create a standards compliant facility providing 19 care rooms or alternatively the redevelopment of the care home to create a 44 bedroom unit facility, which had previously received Planning Approval in 2005, although the permission was not implemented and has since expired. The report concludes:

“All options require substantial capital investment at a time of great uncertainty in the sector and it is difficult to see a business opportunity for the Care Home venture or a Community Facility... We would propose in this instance and from a cost investment angle that Care Home refurbishment, new build Care Home development or the potential provision of Community Facility are not viable options.”

8.3.8 The Marketing Report was produced by Crickmay Chartered Surveyors and sets out the marketing of the property since February 2018, where offers in the region of £1m were sought. It states that the site was marketed for continued C2 use, other community uses, as well as other development opportunities. In February 2019, the price of the site was reduced to ‘offers in excess of £750,000’ and up to August 2019 there had been a total of 32 enquiries with only five of them being for continued C2 use. In August 2019, an unconditional offer below the marketing figure was accepted with the sale completing in December 2019.

8.3.9 As required by paragraph 3.8 of the DaSA, during the application, the Local Planning Authority sought permission from the planning agent to obtain independent verification of the viability evidence submitted, to be undertaken at the Applicant’s expense. The planning agent responded by explaining that they saw no justification in the overall planning balance for the Council to require a further independent report at the Applicant’s expense, when they had already submitted a report on viability from an independent RICS qualified surveyor. They were of the view that Policy DCO1 allows flexibility and discretion depending on the circumstances of a case. In terms of the application site, the planning agent explains that the nursing home has been shut for six years following de-registration in 2015 after failing an inspection by the CQC in 2014 and 2015 when the Commission deemed the service ‘inadequate’ in all areas. Bearing in mind the marketing and viability evidence submitted in support of the application; the existence of other community uses in Burwash Common, Burwash Weald and Burwash; and the availability of alternative care home facilities in the local area, they are of the view that it is questionable what, if any, other community uses could utilise the application site.

8.3.10 Whilst Policy DCO1 of the DaSA allows some discretion over which cases require independent verification, this only relates to the obvious, clear cut cases. Having the viability report independently verified would have allowed the Local Planning Authority to fairly assess the submitted financial details on the two nursing home redevelopment schemes and alternative community uses to make a judgement over the compliance with the relevant policies. However, independent verification was not agreed with the Applicant and therefore it has not been satisfactorily demonstrated that the nursing home or alternative commercial or community

facilities are not capable of being financially viable, contrary to Policies CO1 (iii) (b) and DCO1 (i) and (ii) of the DaSA.

8.4 Location

- 8.4.1 Burwash Common contains some services including a local shop, café and garden centre, a cricket club/community centre, a large recreation ground, a children's play area and a church.
- 8.4.2 There is also a bus stop opposite the site, serving the 231 route, which is a weekday service to Etchingham and Burwash to the east and Heathfield and Uckfield to the west. There are currently seven buses per weekday from Etchingham to Uckfield and six per weekday from Uckfield to Etchingham.
- 8.4.3 Nevertheless, it is considered that the services within Burwash Common are somewhat limited which is the reason behind there being no residual housing requirement for Burwash Common within the Rother Local Plan Core Strategy. Occupiers of any dwellings on the site would have some limited access to public transport during the week but would be reliant on private modes of transport at weekends. It is also the case that whilst there are some limited services within Burwash Common, occupiers would need to travel further afield to access a wider range of facilities and services.
- 8.4.4 There are some concerns that the development would, to some extent, undermine the aims of local and national planning policies, which seek to direct development, and that of residential accommodation, to settlements where there is ready access to facilities and thus minimises the need to travel and supports the transition to a low carbon future. However, it is acknowledged that there are public transport options and the site is brownfield land. It is also the case that paragraph 103 of the National Planning Policy Framework advises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

8.5 AONB and design

- 8.5.1 Section 85 of the Countryside and Rights of Way Act 2000 provides that, in exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The essential landscape character of the High Weald AONB that makes it special is described within the Statement of Significance within the AONB Management Plan 2019-2024. The plan also sets objectives for the management of the AONB relating to geology, landform and water systems; settlement; routeways; woodland; field and heath; land-based economy and related rural life; and other qualities.
- 8.5.2 Paragraph 170 of the National Planning Policy Framework states that decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes and b) recognising the intrinsic character and beauty of the countryside.
- 8.5.3 Paragraph 172 of the National Planning Policy Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. It

explains that the conservation and enhancement of wildlife and cultural heritage are also important considerations.

- 8.5.4 Policy OSS4 (iii) of the Rother Local Plan Core Strategy requires that all development respects and does not detract from the character and appearance of the locality.
- 8.5.5 Policy RA2 of the Rother Local Plan Core Strategy sets out the overarching strategy for the countryside outside the main confines of settlements, including: (viii) generally conserving the intrinsic value, locally distinctive rural character, landscape features, built heritage, and the natural and ecological resources of the countryside.
- 8.5.6 Policy RA3 (v) of the Rother Local Plan Core Strategy requires 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, support sensitive land management.
- 8.5.7 Policy EN1 provides for the protection, and wherever possible enhancement, of the district's nationally designated and locally distinctive landscapes and landscape features including (i) the distinctive identified landscape character, ecological features and settlement pattern of the AONB and (v) open landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes.
- 8.5.8 Policy EN3 of the Rother Local Plan Core Strategy states that new development will be required to be of high design quality by:
- (i) Contributing positively to the character of the site and surroundings, including taking opportunities to improve areas of poor visual character or with poor townscape qualities.
 - (ii) Demonstrating robust design solutions tested against the following Key Design Principles as appropriate, tailored to a thorough and empathetic understanding of the particular site and context:
 - (a) Character, Identity, Place-Making and Legibility.
 - (b) Continuity and Enclosure.
 - (c) Quality of Public Realm, Ease of Movement, and 'Secured by Design'
 - (d) Diversity.
 - (e) Landscape Setting of Buildings and Settlements.
 - (f) Design in Context (Understanding and appraisal of site and wider setting, and incorporation of existing site features into proposals).
 - (g) Building Appearance & Architectural Quality.
 - (h) Sustainable Design and Construction.
- 8.5.9 Paragraph 127 of the National Planning Policy Framework sets out a range of criteria relating to design including that developments (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 8.5.10 Turning to the DaSA, Policy DEN1 provides that the siting, layout and design of development should maintain and reinforce the natural and built landscape character of the area in which it is to be located, based on a clear understanding of

the distinctive local landscape characteristics, in accordance with Rother Local Plan Core Strategy Policy EN1. Particular care will be taken to maintain the sense of tranquillity of more remote areas, including through maintaining 'dark skies' in accordance with Policy DEN7.

- 8.5.11 Policy DEN2 of the DaSA states that all development within or affecting the setting of the High Weald AONB shall conserve and seek to enhance its landscape and scenic beauty, having particular regard to the impacts on its character components, as set out in the High Weald AONB Management Plan. Development within the High Weald AONB should be small scale, in keeping with the landscape and settlement pattern; major development will be inappropriate except in exceptional circumstances.
- 8.5.12 The High Weald AONB is characterised by green rolling countryside, of a pastoral nature, punctuated by small areas of woodland, small towns, villages and hamlets. The application site is located outside of the development boundary for Burwash Common but is positioned amongst other development, with residential properties present to the east and on the opposite side of the road to the west, and the pavilion to the north. On the opposite side of the road to the south are open undeveloped fields.
- 8.5.13 It is proposed to demolish the existing buildings on the site and remove the hardstanding. On the southern part of the site fronting Heathfield Road, a terrace of three two storey dwellings with dormers in the roof together with a block of four flats would be provided, behind which would be areas to park. In the centre of the site, a detached dwelling would be proposed facing out onto Swing Gate Hill, with a pair of semi-detached dwellings behind. These properties would also have dormers in the roof. On the north part of the site would be two self-build units to be served by a new access. These two properties would be of a contemporary design. Mono-pitched roofs are proposed which would increase in height from the front to the rear providing a single storey appearance when viewed from the front, whilst to the rear they would be two storeys with large areas of glazing.
- 8.5.14 The Landscape and Visual Evidence and Impact Appraisal (volume 1) accompanying the application sets out the main opportunities for the site. It advises that higher density development could be provided on the A265 frontage to replace the existing prominent building. Along Swing Gate Hill it explains that there is the opportunity to provide lower density development to retain the pattern of development and vegetation. The other opportunities set out include creating a focal point to the entrance of the settlement on the southwest boundary of the site, together with the retention of boundary vegetation and trees.
- 8.5.15 The proposal has been amended since the pre-application scheme in 2020, where the Local Planning Authority raised layout and design concerns. The current scheme has addressed some of those concerns, but not others, and some comments have been superseded by the amendments. Also, the Applicant amended some of the elevational appearance of the proposed dwellings during the application in response to issues raised by the Parish Council.
- 8.5.16 The scheme poses many positive elements. The southern road frontage development is generally successful in scale and massing, and terrace 6-8 read well as a late Victorian style terrace, articulated with chimneystacks, although the

dormers to these and to units 4 and 5 are quite large, giving a top-heavy appearance. The apartment block is successfully fragmented in form and massing. However, the gable pediment to the southern elevation appears squat and would be more successful if the pitch were increased to 50 degrees. Unit 3 presents an attractive, active frontage to Swing Gate Hill.

- 8.5.17 The other key layout and design concerns relate to the internal car-parking arrangement within the site and the character created in this area by the proposed approach, together with the plot sizes and garden space afforded to the two self-build units in the northern part of the site.
- 8.5.18 In respect of the internal car-parking, the proposal contains swathes of effectively forecourt car-parking and a large expanse of hardstanding (notwithstanding the range of surface materials proposed for this). There is also a lot of 'left-over' and somewhat ambiguous space around this car-parking area. This approach is more akin to suburban housing estate parking provision and is out of character with the prevailing pattern and character in the High Weald. The same can be said for the consequential lack of definition and enclosure of the southern boundaries of Plots 3, 4, and 5, which is not considered to be an acceptable design approach. Concerns over the parking layout have also been raised by the High Weald AONB Unit. Additionally, the two car-parking spaces accessed north and south off the entrance into the development are far too near the entrance mouth to be practical.
- 8.5.19 There are also concerns relating to boundary treatments in respect of the proposed close-boarded fences around the rear gardens of Plots 6, 7 and 8, and to the side of Plot 8. They would be viewed very prominently from within the site's internal road and would result in a harsh, suburban appearance.
- 8.5.20 Turning to the two self-build units, there are no concerns with the contemporary architectural approach. However, the two dwellings shown appear cramped and occupy plots disproportionate in size to their footprint, at odds with the more spacious plots in the vicinity. They do not provide for sufficient distance between the dwellings (less than 5m), on elevations which contain the only windows to some habitable rooms, nor does the Plot 2 dwelling have sufficient garden and external amenity space when considering the impact of the canopy coverage of retained trees T12, T10 and T6. As such, this element of the proposal is considered out of character with and harmful to the character and appearance of this part of the AONB.
- 8.5.21 Overall, the scheme submitted is not considered to be of an acceptable standard of design and would be harmful to the character and appearance of the AONB, contrary to Rother Local Plan Core Strategy and DaSA policies, together with the National Planning Policy Framework and High Weald Housing Design Guide.

8.6 Living conditions of occupiers

- 8.6.1 In terms of the nationally prescribed housing standards required by Policy DHG3 of the DaSA, all the proposed dwellings would meet or exceed the standards.
- 8.6.2 DaSA Policy DHG7 requires rear gardens to normally measure at least 10m in length. All the rear gardens would be 10m in length, save for Plot 4, which would

measure around 9.5m in length. However, the garden would be greater in overall area than Plots 7 and 8. Therefore, the slight shortfall in length is not objected to.

8.6.3 Despite the private rear garden of the Plot 2 self-build unit meeting the minimum 10m length requirement, there are mature trees on the east boundary which would overshadow most of the garden, which would severely constrain its usability and would result in a poor level of amenity to future occupiers. This type of situation is addressed in paragraph 4.70 of the DaSA and explains that where usability of external space is constrained, such as by sloping ground, orientation, the presence of large trees or where there is a strong, well-established spacious character, larger gardens are more appropriate.

8.6.4 The two self-build units would be positioned less than 5m apart. Whilst this may not always present an issue, in this case the facing elevations contain the only windows to some habitable rooms (bedrooms), which would result in a poor level of outlook to occupiers.

8.6.5 There are also concerns over the position of an internal footpath to the north of flat 2, which is immediately adjacent to a bedroom window. Other residents using the footpath would be able to walk past the window and have direct views into the bedroom which would create privacy issues and have an adverse impact on the amenity of occupiers of flat 2.

8.7 Neighbouring amenities

8.7.1 Policy OSS4 of the Rother Local Plan Core Strategy requires all development to (ii) not unreasonably harm the amenities of adjoining properties.

8.7.2 There are surrounding neighbouring residential properties which would see a change to the appearance of the site brought by the proposed residential redevelopment, with buildings introduced to the northern part of the site where presently there are none. However, the properties to the west are on the opposite side of the road and there would be more than 20m between the buildings which is usually considered sufficient for no unacceptable levels of overlooking to occur. It is also the case that the development would not appear unreasonably overbearing.

8.7.3 The property to the east, 'Waypost', is positioned more than 20m from the shared boundary. The separation is considered sufficient for no unacceptable levels of overlooking to occur or for the development to appear overbearing. It is acknowledged that first floor balconies are proposed to the rear of the two self-build units which would face towards the end of the rear garden of Waypost. However, the balconies would be set away from the boundary by around 10m, there is vegetation screening on the boundary and Waypost. No unacceptable levels of direct overlooking are expected to occur from the balconies.

8.8 Trees, hedgerows and biodiversity

8.8.1 Policy EN5 (viii) of the Rother Local Plan Core Strategy requires development to retain, protect and enhance habitats of ecological interest, including ancient woodland, water features and hedgerows, and provides for appropriate management of these features.

- 8.8.2 There are many trees present on the application site and in the garden of the neighbouring property to the east 'Waypost'. The application is accompanied by an Arboricultural Implications Assessment and the neighbouring occupier has also submitted an Arboricultural Report assessing trees in the occupiers' ownership. The Arboricultural Implications Assessment comments on the neighbouring occupiers' report.
- 8.8.3 The Arboricultural Implications Assessment submitted with the application explains that the development will result in the removal of eight individual trees, one group of two trees and parts of two existing hedgerows. They are explained to be BS category C or U and relatively small and young. Their loss is explained to not have a significant impact on local visual amenity and would be offset by extensive new planting. In respect of the report commissioned by the neighbouring occupiers, the potential impacts are explained to be unfounded. It is stated that the layout and design has taken account of the vegetation on the neighbouring site and impacts would be minimised in accordance with BS5837:2012 recommendations. Tree protection measures and appropriate construction methodologies are recommended, with associated plans and advice provided within appendix documents.
- 8.8.4 The Arboricultural Report submitted by the occupier of the neighbouring property assesses the trees in their ownership on the western boundary of their site. This report explains the site in its entirety is home to a collection of rare and unusual trees and plants. Few, if any, native tree species occupy the garden and each single plant has been selected, sourced, (or grown from seed), and planted by the owners representing a great investment both in time and money. The report states that the garden represents far more than simply a physical asset or 'hobby gardening' and must be considered a professionally executed plant collection, likely unique in a private setting. The gardens have matured over the past 20 years to form a unique and unusual private space. The report concludes that there is potential for root damage to some larger trees on the boundary. It notes that unit 7 is close to the western boundary of Waypost. The proximity of the physical structures is thought to present pressure to prune trees in the future and its foundations may disrupt ground water permeation. The paved area to the side of unit 7 is identified as being within the root protection area of a boundary tree. Some form of buffer is suggested. T14 is identified as a high value tree within the garden of unit 7. Protection measures are recommended. A parking space for unit 7 is also identified as being close to the root protection areas of trees. Tree protection measures are recommended.
- 8.8.5 The Arboricultural Implications Assessment submitted with the application and the Arboricultural Report produced by the neighbouring occupier both explain that the development has the potential to impact on trees, although the impact on those on the neighbouring site is downplayed in the Applicant's assessment. Nevertheless, tree protection measures are proposed, and this could be secured via condition(s) if permission were granted.
- 8.8.6 In terms of ecology, an Ecological Survey accompanies the application. This concludes that there was no risk of great crested newts being affected by the proposal and that there were no badger field signs or setts present on the site. Some evidence of low-key bat activity was recorded in the existing building, with three droppings found. However, no other evidence of bat roosting was found, and

this was confirmed by an emergence survey. In respect of dormice, the hedgerow on the site is explained to be thin and relatively monospecific, with no nests present. The garden area is explained to be too thin and disturbed to serve as a suitable habitat for common reptiles. In summary, the survey explains that there was no evidence of or habitat suitable for protected or notable species within the survey area. However, to minimise the impacts upon biodiversity, enhancement measures are suggested including the provision of bird and bat boxes, log piles for invertebrates, bumble bee nest boxes and a scheme for native species landscaping. These enhancements could be secured via condition if planning permission were granted.

8.9 Affordable housing and housing mix

8.9.1 The application site is located within a rural area and the AONB where Policy DHG1 of the DaSA requires 40% on-site affordable housing on schemes of six dwellings or more.

8.9.2 The application form does not indicate that any affordable housing would be provided. However, the Planning Statement explains that 'some' affordable housing would be included, with the final amount agreed through further discussions. It explains that the Applicant intends to utilise the VBC, and that using the formula set out in national policy, the affordable housing requirement would be 18% for the proposed development.

8.9.3 In respect of the VBC, paragraph 63 of the National Planning Policy Framework explains that to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.

8.9.4 The PPG (Paragraph: 026 Reference ID: 23b-026-20190315) explains that national policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the Local Planning Authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

8.9.5 The PPG sets out that the VBC is calculated by the difference between the proposed and existing floorspace, divided by the proposed floorspace, which is then multiplied by the affordable housing requirement. For this proposal it would be:

- Existing GIA: 710sqm
- Proposed GIA: 1,306.5sqm
- RDC Affordable Housing Requirement: 40%
- Difference between proposed and existing: $1,306.5 - 710 = 596.5\text{sqm}$
- Divided by proposed floorspace: $596.5 / 1,306.5 = 0.45$
- Multiplied by AH policy requirement = $0.45 \times 40\% = 18\%$

The affordable housing requirement would therefore be 18%, as opposed to the 40% required by Policy DHG1, which would equate to 2.2 units. Therefore, two units should be provided on site, with the remaining 0.2 units to be secured via a commuted sum in lieu of on-site provision.

- 8.9.6 In relation to housing mix, Rother Local Plan Core Strategy Policy LHN1 states that in order to support mixed, balanced and sustainable communities, housing developments should (ii) in rural areas, provide a mix of housing sizes and types, with at least 30% one and two bedroom dwellings (being mostly 2-bed). The 12 dwellings proposed comprise of three 2-bed and one 1-bed flats, as well as eight houses (three 4-bed and five 3-bed). This equates to 33% of the units being one and two-bedroom dwellings thereby meeting the 30% target in the rural areas.
- 8.9.7 Whilst the Applicant has indicated that some affordable housing would be provided as part of the scheme, a legal agreement would be required to secure this which was not secured prior to the Applicant submitting the appeal against non-determination. As it stands, there is no mechanism to secure the affordable housing requirement and therefore the scheme is contrary to local and national policy requirements.
- 8.10 Highway safety
- 8.10.1 Policy CO6 (ii) of the Rother Local Pman Core Strategy requires all development avoids prejudice to road and/or pedestrian safety. Policy TR4 of the Rother Local Plan Core Strategy states that proposed development shall (i) meet the residual needs of the development for off-street parking having taken into consideration localised circumstances and having full regard to the potential for access by means other than the car, and to any safety, congestion or amenity impacts of a reliance on parking off-site whether on-street or off-street.
- 8.10.2 The Highway Authority has advised that the proposed development would lead to an increase in trips at the site. The previous nursing home use (19 bedrooms) would have generated around 43 trips daily, whereas the proposal would generate approximately 54 daily trips. However, they are satisfied that the accesses can provide adequate visibility (2.4m x 120m in both directions).
- 8.10.3 Parking provision on the site has been a common area of concern from local residents. They are concerned that an inadequate number of spaces are proposed, and vehicles would end up parking on the main road. However, the Highway Authority has advised that the ESCC parking calculator indicates that 23.71 parking spaces should be provided on site. A total of 24 are proposed, and thus adequate parking provision is considered to have been proposed. In addition, secure storage for bicycles is proposed.
- 8.10.4 In terms of accessibility, the Highway Authority note the site's rural location and comment that the bus stops on Heathfield Road are not up to current standards. The eastbound bus stop is made up of a flag and pole only and although the westbound bus stop benefits from a shelter, this is hidden by vegetation, with little to identify the stop and there is no crossing point to it. To ensure the site is accessible by bus the Highway Authority recommend new flagpoles, bus clearways and raised kerbs are provided to accommodate disabled access. To achieve the kerbing for the westbound stop, a redesigned hard standing is suggested, together with a dropped crossing point to allow access to both bus stops. A condition is suggested to cover these works, which would also be subject to a licence/legal agreement with ESCC.
- 8.10.5 In response to the Highway Authority comments, a technical note has been provided by the Applicant. In summary, this explains that the proposed residential

development would place a lesser demand on existing public transport infrastructure than the permitted nursing home use, with three daily trips generated as opposed to four. It explains that planning obligations should only be imposed if they meet the relevant tests including that they are necessary to make the development acceptable in planning terms; they are directly related to the development; and they are fairly and reasonably related in scale and kind to the development. The Applicant does not believe the three tests would be met by imposing a requirement to improve the bus stops. They also reference ESCC guidance on Calculating Section 106 Planning Obligations and quote paragraph 4.1.12 which states that the recommended minimum development thresholds for local sustainable accessibility improvements is 15 dwellings or more.

- 8.10.6 The technical note has been sent to the Highway Authority for comments, but no response has been received to date.
- 8.10.7 Given the contents of the technical note, it would appear that the suggested improvements to the bus stops may not meet the tests for imposing Section 106 Planning Obligations in that the improvements may not be required to make the development acceptable (given less demand on public transport would be created) and that they may not be fairly and reasonably related in scale or kind to the development. However, confirmation from the Highway Authority would be required.
- 8.10.8 Turning to other highway matters, if permission were granted, conditions could be imposed relating to access improvements, visibility and parking and turning requirements.

8.11 Other matters

Drainage

- 8.11.1 Drainage details are currently unresolved, with the Lead Local Flood Authority objecting to the details submitted. They have advised that they are not able to recommend that the provision of the information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere and therefore are not able to remove their objection until the applicant has addressed their comments. Southern Water also advise that their initial investigations indicate that there are no public surface water sewers in the area to serve the development. They state that alternative means of draining surface water from the development are required, which should not involve disposal to a public foul sewer. The applicant has declined to provide any further information relating to drainage. It has therefore not been demonstrated that surface water runoff can be managed without increasing flood risk elsewhere.

Contaminated land

- 8.11.2 Issues relating to contaminated land could be satisfactorily addressed via conditions if the appeal were allowed.

Air quality

- 8.11.3 For application RR/2021/1608/P, as it is a major scheme, Environmental Health have advised that the need for an air quality assessment is triggered, in accordance with the Sussex Air Quality Guidance. However, as the site is neither in or near to an Air Quality Management Area and is small in scale and nature, a full air quality assessment is not necessary. Instead, an 'emissions mitigation assessment' is

requested. Proposed mitigation can include the introduction of electric charge points to encourage the take up of electric vehicles, the provision of high-speed broadband to facilitate home working, the building of cycle paths, car clubs and travel plans. However, the applicant has declined to provide an emissions mitigation assessment. Whilst the proposed development would only result in a relatively small increase in traffic generation, which is likely to create a low or negligible impact, the cumulative impact of these types of development can lead to a creep in the decline in air quality in local areas. Without the issue of air quality being assessed, it has not been demonstrated that air quality in the local area will not be adversely affected, or satisfactorily mitigated against, by the proposed development.

Self-build

- 8.11.4 In respect of self-build and custom housebuilding, DaSA Policy DHG6 states that on sites of 20 or more dwellings, provision for 5-10% of the total number of dwellings to be provided should be made available as serviced plots for self and custom housebuilders. As the scheme is only proposing 12 dwellings, there is no policy requirement for self-build housing to be provided on site, however this application nonetheless proposes to include two self-build houses. In line with recent changes to the PPG, where the requirement to consider self and custom build schemes in decision making is strengthened, this scheme would help in relation to meeting local need. If permission was granted, the proposed self-build housing should be secured via a Section 106 Planning Obligation and relevant planning condition used.

Archaeology

- 8.11.5 In relation to archaeology, if permission were granted, conditions could secure a programme of archaeological works.

9.0 PLANNING BALANCE AND CONCLUSION

- 9.1 The Council has currently only 2.87 years of a required 5-year housing supply which means that the presumption in favour of sustainable development outlined in paragraph 11 d) of the National Planning Policy Framework is applicable to Rother unless, i) the application of policies in the National Planning Policy 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 the National Planning Policy Framework taken as a whole.
- 9.2 The proposed development offers many benefits including the re-use of a brownfield site, together with the economic and social benefits associated with the provision of 12 additional dwellings. However, whilst the dwellings would make a useful contribution to the housing stock in the district, they would not count towards the residual housing needs of the village of Burwash given that the Core Strategy sets out that there is no residual housing requirement in Burwash Common.
- 9.3 Despite the benefits outlined, in accordance with paragraph 11 d) i) of the National Planning Policy Framework, the design issues and consequent harm to the AONB provides a clear reason for refusing the development. On top of this, there are concerns relating to the living conditions of future occupiers of some of the proposed units; the development would result in the unjustified loss of a community facility;

and affordable housing has not been secured. It has also not been satisfactorily demonstrated that drainage or air quality issues would be satisfactorily addressed. Having regard to paragraph 11 d) ii) the proposed development is not considered to comply with the National Planning Policy Framework when considered as whole.

- 9.4 The proposed development does not comply with Rother Local Plan Core Strategy or DaSA policies or the various provisions contained within the National Planning Policy Framework when considered as a whole. For the reasons explained the application could not have been supported.

RECOMMENDATION: DEFEND THE APPEAL AGAINST NON-DETERMINATION ON THE GROUNDS THAT THE PLANNING APPLICATION WOULD HAVE BEEN REFUSED AND THE APPEAL SHOULD BE DISMISSED.

REASONS THAT THE APPEAL SHOULD BE DISMISSED:

1. The proposed development is not of an acceptable standard of design and would be harmful to the character and appearance of the High Weald Area of Outstanding Natural Beauty. The two self-build dwellings would occupy plots disproportionate in size to their footprint and would appear cramped and out of character with the more spacious plots within the locality. The parking area proposed in the southern part of the site includes large expanses of hardstanding with left over and ambiguous space, which includes a lack of definition and enclosure to Plots 3, 4 and 5, and tall close boarded fencing to the rear of Plots 6, 7 and 8, all of which would result in a very suburban development, out of keeping with the prevailing pattern and character of the High Weald. In addition, large dormers are proposed on the dwellings, resulting in a top-heavy appearance, together with a squat gabled pediment to the south elevation of the apartment block. Overall the development is contrary to Policies OSS4 (iii), EN1 (i) and EN3 (i) (ii) of the Rother Local Plan Core Strategy, Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan and paragraphs 127 and 172 of the National Planning Policy Framework.
2. The proposed development would provide a poor level of amenity to future occupiers of certain units of accommodation. The private rear garden area to the Plot 2 self-build unit would be overshadowed by large trees on the rear boundary which would severely constrain its usability and would offer a poor level of amenity to future occupiers. The footpath immediately to north of flat 2 would result in other residents being able to walk past the window and have direct views into the bedroom which would create privacy issues and have an adverse impact on the amenity of occupiers of flat 2. In addition, the close proximity of the two self-build units with the facing elevations contain the only windows to some habitable rooms (bedrooms), would result in a poor level of outlook to occupiers. Overall, a poor level of amenity would be afforded to occupiers of some of these units contrary to Policy OSS4 (i) of the Rother Local Plan Core Strategy and Policy DHG7 (i) of the Rother Development and Site Allocations Local Plan.
3. It has not been satisfactorily demonstrated that the nursing home or alternative commercial or community facilities are not capable of being financially viable, contrary to Policy RA1 (iii) of the Rother Local Plan Core Strategy and Policies CO1

(iii) (b) and DCO1 (i) and (ii) of the Rother Development and Site Allocations Local Plan.

4. Policy DHG1 (iv) (b) of the Rother Development and Site Allocations Local Plan requires 40% on-site affordable housing on schemes of six or more dwellings (reduced to 18% using the Vacant Building Credit). Affordable housing provision has not been secured by way of a legal agreement. The requirement for affordable housing to be a part of new developments is a recognised means whereby the planning system can contribute to improving access to housing for households not able to purchase or rent on the open market. In this way it promotes balanced and inclusive communities. With affordable housing not secured, the proposal fails to meet the policy requirements, contrary to Policy DHG1 (iv) (b) of the Rother Development and Site Allocations Local Plan and paragraph 63 of the National Planning Policy Framework, relating to the Vacant Building Credit.
5. It has not been satisfactorily demonstrated whether surface water runoff can be managed without increasing flood risk elsewhere. No infiltration testing has been carried out and therefore it has not been demonstrated that infiltration will be a feasible method for managing surface water runoff from the development. If infiltration is not feasible at the site, the applicant proposes discharging to the foul sewer beneath the highway. Discharging to the foul sewer is the least sustainable outfall location for surface water disposal which Southern Water has raised an objection to. As such, it has not been satisfactorily demonstrated that surface water runoff can be managed without increasing flood risk elsewhere contrary to Policy SRM2 of the Rother Local Plan Core Strategy and Policy DEN5 of the Rother Development and Site Allocations Local Plan.
6. It has not been demonstrated that air quality in the local area will not be adversely affected, or satisfactorily mitigated against, by the proposed development contrary to the Sussex Air Quality Guidance 2020 and Policy OSS3 (viii) of the Rother Local Plan Core Strategy.

NOTE:

1. The recommendation relates to the following plans:
 - Drawing No. 1531-01 revision C dated 24.09.20
 - Drawing No. 1531-02 dated March 2020
 - Drawing No. 1531-03 dated March 2020
 - Drawing No. 1531-04 revision B dated 24.09.20
 - Drawing No. 1531-05 revision B dated 24.09.20
 - Drawing No. 1531-06 revision B dated 24.09.20
 - Drawing No. 1531-07 revision B dated 24.09.20
 - Drawing No. 1531-08 revision C dated 09.11.20
 - Drawing No. 1532-01 revision C dated 24.09.20
 - Drawing No. 1532-02 dated March 2020
 - Drawing No. 1532-03 dated March 2020
 - Drawing No. 1532-04 revision B dated 24.09.20
 - Drawing No. 1532-05 revision B dated 24.09.20
 - Drawing No. 1532-06 revision C dated 09.11.20

- Drawing No. 1532-07 revision B dated 24.09.20
- Drawing No. 1532-08 revision B dated 24.09.20
- Drawing No. 1932/03 revision A dated December 2019
- Drawing No. 1932/09 revision D dated 8 February 2021
- Drawing No. 1932/11 revision E dated 8 February 2021
- Drawing No. 1932/12 revision F dated 20 November 2020
- Drawing No. 1932/13 revision C dated 28 September 2020
- Drawing No. 1932/14 revision E dated 8 February 2021
- Drawing No. 1932/15 revision C dated 8 February 2021
- Drawing No. 1932/16 revision A dated 20 November 2020
- Drawing No. 1932/17 revision A dated 9 October 2020
- Drawing No. PD-MLP-001 Revision E dated 6 October 2020

<p>SITE PLAN</p> <p>RR/2021/381/P</p>	<p>BEXHILL</p> <p>37 NINFIELD ROAD, SUSSEX COURT</p>
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Not to Scale

Rother District Council

Report to - Planning Committee
Date - 12 August 2021
Report of the - Head of Service – Strategy and Planning
Subject - Application RR/2021/381/P
Address - 37 Ninfield Road, Sussex Court
BEXHILL
Proposal - Third floor extension to form 2 no. self-contained flats.

[View application/correspondence](#)

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

Head of Service: Tim Hickling

Applicant: Mr J Carroll
Agent: Michael D Hall Building Design
Case Officer: Miss C York
(Email: Chelsea.york@rother.gov.uk)
Parish: BEXHILL

Ward Member(s): Councillors J Carroll and S Coleman

Reason for Committee consideration: Applicant is a Councillor

Statutory 8 week date: 15 April 2021

Extension of time agreed to: 20 August 2021

This application is included in the Committee site inspection list.

1.0 SUMMARY

1.1 The site is located within the development boundary for Bexhill where new residential development is supported in principle. The proposal was amended during the course of the application and the design of the proposed development is considered to be acceptable and would not have an adverse impact on the character or appearance of the area. Subject to conditions the proposal would have an acceptable impact on neighbouring properties. The application is recommended for approval subject to conditions.

1.2 PROPOSAL DETAILS

PROVISION	
No of houses	2
No of affordable houses	0
CIL (approximately)	£5,206.91
New Homes Bonus (approximately)	£13,368

2.0 SITE

- 2.1 37 Ninfield Road is a detached building that has commercial units on the ground floor with two floors of one-bedroom flats above (6 no. units in total). The flats are accessed by an enclosed staircase to the rear of the building and there are external walkways that connect the flats to the stairway.
- 2.2 The building has a mansard slated roof behind a parapet wall with brickwork at ground floor level and render at first floor level with a covered walkway at the front of the commercial units.
- 2.3 The site lies within the development boundary for Bexhill as defined in the Development and Site Allocations (DaSA) Local Plan and within the Sidley District Centre, also defined in the DaSA Local Plan (Policy BEX17).
- 2.4 Sussex House (33 Ninfield Road) lies to the east of the site and is separated from the building by a pedestrian access. Sussex House comprises offices at ground floor and a number of self-contained flats above over 3 storeys.
- 2.5 No. 41-47 Ninfield Road lies to the west and is also separated from the application site by a vehicular access. This building comprises commercial units at ground floor with residential units above.
- 2.6 There are also neighbouring properties to the south in Bodle Crescent.

3.0 PROPOSAL

- 3.1 This application seeks planning permission to create an additional storey to provide 2 no. self-contained one-bedroom flats. The existing stairway would also be extended upwards to provide access to the new flats.
- 3.2 The proposals were amended during the course of the application in line with officer comments. The roof of the third floor extension would be hipped back at the front and rear to create a mansard style roof.
- 3.3 The mansard style roof would be clad in slate. To the flank wall, a dark blue brick is proposed for the upper storey rising from second floor level to the parapet coping. Matching brick is proposed for the stairway.
- 3.4 Car parking would not be provided but provision would be made for secure cycle storage for two bicycles in the stair block. The waste and recycling would not change and would be stored to the side of the stairway.
-

4.0 HISTORY (RELEVANT)

4.1 RR/86/0078 - Outline: demolish existing building and erect 2 shop units with 3 maisonettes over, provide parking service at rear. Approved conditional.

RR/87/1821 - Demolish garden centre. Erect 3 shop units 6 flats with parking served by existing vehicular access. Approved conditional.

5.0 POLICIES

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

- PC1: Presumption in Favour of Sustainable Development
- OSS1: Overall Spatial Development Strategy
- OSS2: Use of Development Boundaries
- OSS3: Location of Development
- OSS4: General Development Considerations
- BX1: Overall Strategy for Bexhill
- BX3: Development Strategy
- EN3: Design Quality
- CO6: Community Safety
- TR3: Access and New Development
- TR4: Car Parking Policy
- SRM1: Towards Low Carbon Future
- SRM2: Water Supply and Wastewater

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

- DHG3: Residential Internal Space Standards
- DHG4: Accessible and Adaptable Homes
- DHG7: External Residential Areas
- DRM1: Water Efficiency
- BEX17: Little Common and Sidley District Centres
- DIM2: Development Boundaries

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

- Corporate Plan
- Housing and Homelessness and Rough Sleeping Strategy

5.4 The National Planning Policy (NPPF) and Planning Policy Guidance are also material considerations.

6.0 CONSULTATIONS

6.1 [Rother District Council Waste and Recycling](#): **NO OBJECTION**

6.1.1 There are no issues with waste and recycling collections here as the bin store position remains the same.

6.2 Rother District Council Environmental Health Service: **NO OBJECTION**

6.2.1 Given the proximity of other existing residential properties, particularly those existing on the first and second floor of 37 Ninfield Road, and to protect the amenity of the residents, a condition to limit noise and vibration from construction works is recommended.

6.3 Rother District Council Private Sector Housing: **NO OBJECTION**

6.3.1 Private Sector Housing has no adverse concerns in relation to the proposed plans submitted. Advice notes are recommended.

6.4 Planning notice

6.4.1 1 letter of objection received. The comments are summarised as follows:

- Blocking my skyline and overlooking my property.

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 £5,206.91.

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 £13,368 over four years.

8.0 APPRAISAL

8.1 The main issues for consideration are:

- Principle of development
- The impact of the development on the character and appearance of the area
- The impact of the development on the neighbouring residential amenities
- Living conditions for future occupiers
- Parking

8.2 Principle of development

8.2.1 The site is within the development boundary for Bexhill. In accordance with policies OSS1, OSS2 and OSS3 of the Core Strategy and Policy DIM2 of the DaSA, new development should be focused within existing development boundaries. New housing within the town is supported by Policies BX1 and BX3. Therefore, the development of the site for housing is acceptable in principle.

8.3 Impact on the character and appearance of the locality

8.3.1 Core Strategy Policy OSS4 requires that all development to (iii) respect and does not detract from the character and appearance of the locality.

- 8.3.2 Policy BX1 of the Core Strategy states that the strategy for Bexhill is to (i) conserve and enhance the town's distinct and independent character.
- 8.3.3 Core Strategy Policy EN3 requires new development to be of high design quality by (i) contributing positively to the character of the site and surroundings, including taking opportunities to improve areas of poor visual character or with poor townscape qualities.
- 8.3.4 The design of the third floor extension was amended during the course of the application in line with officer comments. The extension has been hipped back at the front and rear and as such, it would now have a 'softer' appearance, particularly when the building is viewed from the north-west where it would be most visible. In addition to this, the materials have been amended so that the side walls would have dark blue brickwork which means the extension would appear more as a 'roof', similar to a mansard style extension, like other nearby buildings. The front elevation would be clad with slate to match the second floor of the existing building.
- 8.3.5 It is noted that planning permission has been approved for a number of buildings nearby to create additional storeys with mansard style roof extensions including nos. 21, 38-40, 44 and 46-52 Ninfield Road. Therefore, the amended design of the third floor is considered to be acceptable and would be consistent with the character and appearance of the area.
- 8.3.6 The extension to the rear staircase would be flat roof in design but would match the design of the existing staircase. As such, this is also considered to be acceptable.
- 8.4 Impact upon neighbouring amenity
- 8.4.1 Policy OSS4 (ii) of the Core Strategy states that all development should not unreasonably harm the amenities of adjoining properties.
- 8.4.2 The Council's Environmental Health Service has been consulted on this application and have recommended conditions to protect neighbouring amenity.
- 8.4.3 *No.37*
- 8.4.4 The host building has residential properties on the first and second floors. The Council's Environmental Health Service have recommended that given the proximity of other existing residential properties, particularly those existing on the first and second floor of 37 Ninfield Road, and to protect the amenity of the residents, a condition to limit noise and vibration from construction works should be imposed. There is no reason to disagree with this advice and the suggested condition should be imposed.
- 8.4.4 The Council's Environmental Health Service have also advised that sound insulation will be required but this matter will be covered separately under Building Regulations. Therefore, no conditions are recommended but an informative should be attached to any decision.
- 8.4.5 *Sussex House*

- 8.4.6 Sussex house comprises office accommodation on the ground floor with flats above.
- 8.4.7 There are a number of windows on the west elevation of Sussex House which face the host building. Those at ground and first floor levels are already obscured by the side elevation of the host building and as such, would not be significantly more affected by the development. The third floor window within the gable end facing the host building would not be affected as this window would be higher than the ridge height of the extension.
- 8.4.8 The windows that would be most affected by the third-floor extension are the 2 no. second floor windows because the ridge height of the extension would exceed the top of these windows.
- 8.4.9 Having researched the planning history for Sussex House, when the building was converted into flats, these windows were proposed to serve a kitchen and a bathroom. From the evidence available it is fair to assume that these windows continue to serve those non-habitable rooms.
- 8.4.10 The extension would be built in relatively close proximity to these windows (within 3.5m), however, it is not considered that the levels of natural light reaching these windows would be diminished so as to adversely affect the amenities of this property. BRE guidelines on natural daylight are not breached and these rooms are not considered to be habitable rooms. Furthermore, the other living spaces within the flat (the living room and bedroom) benefit from open aspects which would receive good levels of light, being to the front and rear of the building. Overall the view is taken that the third storey extension would not cause adverse harm to the amenities of Sussex House and the second floor flat in particular in terms of loss of light or outlook.
- 8.4.11 Turning to the rear stairway, this is set in from the east boundary of the site and is to the southern side of the building. As such, the extension to it, to provide access to the new flats, would have an acceptable relationship with Sussex House and would not appear overbearing or result in loss of light.
- 8.4.12 Turning to any potential for overlooking, a side window is proposed within the east side elevation of the third floor extension, but it would serve a bathroom and would be obscure glazed. A condition should be imposed to ensure this window is retained with obscure glazing and is restricted in terms of how far it can be opened given the close proximity of the window to Sussex House.
- 8.4.13 *Bodle Crescent*
- 8.4.14 Bodle Crescent lies to the south and in between the application site and these residential properties there is a storage compound (within the ownership of the applicant, but outside of the application site).
- 8.4.15 The brick-built stairway would be approximately 11m away from the rear garden boundary of nos. 17 and 17a Bodle Crescent. The main part of the building which accommodates the flats would be approximately 17.3m away. These distances increase to 26m and 31.3m respectively between the site and the dwellings themselves. There is considered to be sufficient distance between the site and neighbouring dwellings in Bodle Crescent and the

increase in the height of the building and staircase would be approximately 2.56m which is not considered to be excessive. As such, the proposal would not appear overbearing to these properties.

8.4.16 There are already openings on the south facing elevation of the host building which permit a degree of overlooking of these neighbouring properties. Therefore, it is not considered that the addition of another storey would result in overlooking to an extent that would be harmful.

8.4.17 *No.41*

8.4.18 No. 41 lies to the east of the building and forms part of a parade of shops with flats over. The flats have small external balconies to the front facing the street. The building has a single window that faces the flank wall of the host building and having researched the planning history for the site, it appears that this serves a small dining room area. Given that the living room and bedroom benefit from open aspects to the front and rear of the building which would receive good levels of light, overall the view is taken that the third floor extension would not cause adverse harm to the amenities of this flat in terms of being overbearing or resulting in loss out outlook.

8.4.19 Turning to the rear stairway, this part of the building is set in from the west boundary of the site and is to the southern side of the building. As such, it would not appear overbearing or result in loss of light to no.41.

8.4.20 In terms of potential overlooking, a single window is also proposed within the west side elevation. This window is also proposed to be obscure glazed as it would serve a bathroom. A condition should be imposed to ensure this window is retained with obscure glazing and is restricted in terms of how far it can be opened given the close proximity of the window to no.41 and its external balcony and taking into consideration the increased height of the host building.

8.5 Living conditions for future occupiers

8.5.1 Policy DHG3 of the DaSA requires new housing development to achieve the Government's nationally described space standards. For a 1 bedroom 1 person dwelling over 1 storey, the minimum gross internal floor area (GIA) that is expected is 39sqm. This can be reduced to 37sqm where the property has a shower room instead of a bathroom. Flat 7 would have a GIA of 42.9sqm and flat 8 would have a GIA of 42.7sqm. Therefore, the minimum GIA set out in policy DHG3 would be exceeded. The development would meet all other aspects of the policy, with a 2.3m internal ceiling height provided and adequate built-in storage space of 1.3sqm for each flat.

8.5.2 Policy DHG7 (i) of the DaSA states that in relation to flat developments, an appropriate level of usable communal amenity space should be provided. No private external amenity space would be provided in this instance. However, this lack of amenity provision is considered acceptable in this instance and in this district centre location. Furthermore, similar nearby developments have been permitted without external private amenity space. While not the same as on-site private amenity space, there is access to nearby public open space.

8.5.3 Policy DHG7 (iii) requires sufficient bin storage and collection points to be provided on all new residential developments. These details have been shown

on the submitted plans and a condition can be imposed to ensure that this space is made available and retained for the storage of waste and recycling.

- 8.5.4 The DaSA Local Plan has introduced Policy DRM1 that requires all new dwellings to be designed to achieve enhanced water consumption levels of no more than 110 litres per person per day through the optional Water Efficiency Standards through Building Regulations. This should be secured via condition.
- 8.5.6 Securing this by planning condition will ensure that higher water efficiency standards above the baseline can be achieved due to the clear local need set out in the DaSA Local Plan – Policy DRM1 through Optional Technical Standards as set out in Part G of the Building Regulations. The optional technical standards cannot be secured under building regulations unless triggered by a condition on the planning decision.
- 8.5.7 The DaSA Local Plan has also introduced Policy DHG4 which states that the Council has adopted the Optional Technical Building Regulations for accessible and adaptable homes. All dwellings are required to meet enhanced M4 standards above the M4(1) baseline and that all new homes should meet M4(2) standards. This should be secured by condition.
- 8.5.8 Securing this by planning condition will ensure enhanced access standards are achieved and will allow the Building Control body to check compliance of a development against the Optional Technical Building Regulations M4(2) standards. The optional technical standards cannot be secured under building regulations unless triggered by a condition on the planning decision.
- 8.5.9 It should be noted that the Council’s Private Sector Housing Team has been consulted on this proposal and has no adverse concerns. A number of informatives have been suggested which can be included on any planning permission. These informatives refer to The Housing Health and Safety Rating System (HHSRS) which was introduced in July 2006 which is used by Environmental Health Officers in the Council’s Private Sector Housing Team to assess the condition of residential dwellings. The developer should be made aware of this.

8.6 Highway safety and parking

- 8.6.1 Policy DHG7 (ii) states that provision for car parking and safe and secure cycle storage should be made in accordance with Core Strategy Policy TR4 and East Sussex County Council’s ‘Guidance for Parking at New Residential Development’ and ‘Guidance for Parking at Non Residential Development’.
- 8.6.2 Although no allocated parking would be provided for the flats, the site occupies a sustainable location with shops, services and public transport links within walking distance. Therefore, it is not impracticable to live in this location without access to a car.
- 8.6.3 The scale of the development is small – consisting of 2 x 1 bed units – and as such, if future occupiers were to own a car, it would unlikely generate a significant amount of pressure for on street parking. Therefore, it is not considered that a refusal on the grounds of highway safety could be justified.

- 8.6.4 Secure cycle parking would be provided for two bicycles to the under-stair area of the stair block. This is considered to be acceptable and a condition can be imposed to ensure that this area is retained for secure cycle parking.
-

9.0 PLANNING BALANCE & CONCLUSION

- 9.1 The site is located within the development boundary for Bexhill where new residential development is supported in principle.
- 9.2 As amended, the design of the proposed development is considered to be acceptable and would not have an adverse impact on the character or appearance of the area.
- 9.3 Subject to conditions the proposal would have an acceptable impact on neighbouring properties.
- 9.4 Whilst no private garden spaces or allocated parking would be provided, the development would provide acceptable living conditions for future occupiers of the flats, suitably located in a town centre location with access to various day to day amenities.
- 9.5 The application is recommended for approval subject to conditions.
-

RECOMMENDATION: 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 following approved plans:
Drawing no. 4826.LP dated February 2021
Drawing no. 4826.SP dated February 2021
drawing no. 4826.1A dated 17/06/21
drawing no. 4826.2A dated 17/06/21
Reason: For the avoidance of doubt and in the interests of proper planning.
3. No above ground development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
Reason: To ensure that the development preserves the visual amenities of the area in accordance with Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy.
4. The development shall not be occupied until the cycle parking area has been provided in accordance with approved drawing no. 4826.1A dated 17/06/21 and

the area 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 in accordance with Policy TR3 of the Rother Local Plan Core Strategy (2014) and policy DHG7 (ii) of the Development and Site Allocations Local Plan.

5. The flats hereby permitted shall not be occupied until the refuse and recycling areas have been laid out within the site in accordance with drawing no. drawing no. 4826.1A dated 17/06/21. Thereafter, these areas shall be used for the storage and collection of waste only.

Reason: To ensure sufficient bin storage and collection points are provided for the flats and in the interests of visual amenity, having regard to Policy OSS4 of the Rother Local Plan Core Strategy and policy DHG7 (iii) of the Development and Site Allocations Local Plan.

6. Prior to the first occupation or use of the bathrooms serving flats 7 and 8, the side windows at third floor level within the eastern and western elevations, as indicated on the approved drawing no.s 4826.1A dated 17/06/21 and 4826.2A dated 17/06/21 shall be glazed with obscure glass of obscurity level equivalent to scale 5 on the Pilkington Glass Scale and shall thereafter be retained in that condition.

Reason: To preclude direct overlooking of no. 41 Ninfield Road and no. 33 Ninfield Road (Sussex House) thereby preserving the privacy and residential amenities of those properties in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy.

7. Prior to the first occupation or use of the bathrooms serving flats 7 and 8, the side windows at third floor level within the eastern and western elevations, as indicated on the approved drawing no.s 4826.1A dated 17/06/21 and 4826.2A dated 17/06/21 shall be fitted with mechanisms so that they cannot be opened more than 100mm when measured from the outer edge of the frame and inner part of the base of the open roof window during normal use.

Reason: To preclude direct overlooking of no. 41 Ninfield Road and no. 33 Ninfield Road (Sussex House) thereby preserving the privacy and residential amenities of those properties in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy.

8. The dwellings hereby permitted shall not be occupied until 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 dwellings 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.

9. The dwellings 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 dwellings 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 dwellings have been constructed to achieve water consumption of no more than 110 litres per person per day.

Reason: To ensure that the dwellings are 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.

10. No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 08:00 and 18:00 Monday to Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of the locality, especially for people living and/or working nearby, in accordance with local planning policy OSS4 (ii) of the Rother Local Plan Core Strategy.

NOTES:

1. 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.
2. 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 Accessibility 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.
3. Sound insulation will be required between the proposed dwellings proposed by this planning application. However, this is a matter that is covered separately under Building Regulations and no planning conditions have been recommended by Environmental Health to require such works, to avoid unnecessary duplication of controls under the two separate regimes. The provision of a resilient covering/walking surface to the hallway floor of the two new flats is recommended in order to maximise the impact sound insulation of these areas which are immediately above the rear bedroom of existing flat no. 5. Building Control should be made aware of these comments.
4. The Housing Health and Safety Rating System (HHSRS) was introduced in July 2006 and is used by Environmental Health Officers in the Council's Private Sector Housing Team to assess the condition of residential dwellings. The HHSRS replaced the historic Fitness standard and disrepair. HHSRS evaluates potential risks to health and safety from any deficiencies identified in dwellings – it is not a standard.
Residential new build dwellings and conversions can fall foul of the HHSRS despite meeting Building Control and planning requirements. This situation usually arises if the dwelling is subsequently let and the tenant complains about a particular issue.
Unfortunately there is not a guide to 'designing to conform to the HHSRS', however you may be interested in looking at the HHSRS Operating Guidance which contains notes on the perceived optimum standard derived from British Standards or Building Regulations Approved Documents.

Potential conflicts between the HHSRS and Approved Documents:

Natural Lighting

HHSRS (Hazard No.13 'lighting'): there should be sufficient natural light during daylight hours to enable normal domestic tasks to be carried out without eyestrain. *Allow a glazed area of 10% of the floor area of each habitable room.*

Natural ventilation

HHSRS (hazard No.2 'damp and mould' and No.3 Excess Cold): there should be means of cooling and ventilating the dwelling. *Allow for natural ventilation 1/20th of the floor area of each habitable room.* The guidance does recognise potential heat loss and security issues related to opening windows.

Ceiling heights

HHSRS (hazard No.29 'collision and entrapment'): low headroom to doors, and low beams and ceilings well under 1.9m increase the risk of head injuries.

Entry by Intruders

HHSRS (hazard No.12 'entry by intruders'): the dwelling should be capable of being secured against unauthorised entry including deadlocks, door chains, window locks and fencing.

Heating

HHSRS (hazard No.2 Excess Cold): a fixed heating system must be installed. Heating should be controllable by the occupants, and safely and properly installed and maintained. It should be appropriate to the design, layout and construction, such that the whole dwelling can be adequately and efficiently heated. (Storage heaters without a convector facility are not acceptable).

Fire

Fire Precautions and automatic detection for new build, conversions and material alterations will be covered by Approved Document B. Fire safety in existing residential dwellings not constructed to a standard complying with Building Regulations 1991 or later is covered by the LACORS Housing Fire Safety Guidance [Note: the guide does apply to dwellings that are constructed to Building Regulations 1991 or later but no longer comply or if the dwellings are occupied in a manner other than originally intended or if other additional risks have been subsequently introduced].

Disrepair

Building Control and Planning requirements will not usually address other than in instances of a change of use) items of disrepair e.g. a worn roof covering, perished pointing, poorly constructed doors etc. The HHSRS can cover disrepair issues; therefore you may wish to ensure that repairs are completed together with other works especially if you are letting or intend to let the dwelling.

5. The Private Sector Housing Team can be contacted for general advice about the HHSRS on 01424 787564 or privatesectorhousing@rother.gov.uk
The HHSRS Operating Guidance can be downloaded from <http://www.rother.gov.uk/index.cfm?articleid=2427> The LACORS Fire Safety Guidance can be downloaded from <http://www.rother.gov.uk/index.cfm?articleid=481>

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, 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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Rother District Council

Report to: Planning Committee

Date: 12 August 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/2020/1668/P (Non-determination)	BATTLE. Reeves Cottage, Kane Hythe Road, Battle Proposed change of use of ancillary living unit to self-contained dwelling. Miss D Griffin
RR/2021/484/P (Delegation)	BEXHILL. 81 Peartree Lane - Land adjacent to, Bexhill Outline: Subdivision of plot and erection of new dwelling. Mr Martin De Vere
RR/2020/1019/P (Delegation)	BEXHILL. 48 Wickham Avenue, Bexhill New 3 bedroom detached house with associated parking. Mr Michael Hobbs
RR/2020/2350/P (Delegation)	BEXHILL. 33b Sackville Road, Bexhill Replacement of 1no. timber bow window and 1no. timber window. Ms Anna Gillett
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/2020/1196/P (Delegation)	BEXHILL. 150 Barnhorn Road - land to rear, Bexhill Erection of new dwelling and garage. Eco Now UK
RR/2020/2255/P (Delegation)	BRIGHTLING. Telegraph Point, Coldharbour Farm Estate, Battle Road, Brightling Retention of existing mobile unit for B1a use, allied to existing B1/B8 Premises adjacent - 'Bloompower', To include staff parking. Mr Miles Helliwell

RR/2020/1822/P (Committee Decision)	BURWASH. Strand Meadow - Land to the south west of, Burwash Reserved matters relating to residential development of 30 dwellings (outline permission RR/2017/582/P), conditions 1,2 and 3 together with the discharge of conditions 7 (foul and surface water drainage), 8 (parking and turning of vehicles), 9 and 10 (archaeology), 13 (levels) and 19 (landscaping). Park Lane Homes (South East) Ltd
RR/2020/1798/P (Non-determination)	BURWASH. Former Ashwood Nursing Home, Heathfield Road, Burwash Common, Burwash Demolition of existing buildings and redevelopment of site to provide 12 residential units, car parking, cycle and refuse facilities and associated works. Artemis Design & Build Ltd
RR/2020/512/P (Delegation)	EWHURST. Upper Morgay Wood, Junction Road, Staplecross, Ewhurst Demolition of existing agricultural buildings and existing dwelling and replacement dwelling including extension of residential curtilage. Mr Paul Greenwood
RR/2021/53/P (Non-determination)	GUESTLING. Copshall Farm, Winchelsea Road, Guestling Green, Guestling. External alterations to barn to facilitate conversion of barn to hotel and landscaping. Mr Colin Pennington
RR/2020/1217/P (Non-determination)	ICKLESHAM. Greyfriars Flat, Friars Road, Winchelsea, Icklesham Demolition of existing buildings and erection of 5no. dwellings and car port. Gallium Homes (Winchelsea) Ltd
RR/2021/382/P (Delegation)	IDEN. Sobraon, Church Lane, Iden Alterations to existing dwelling, including replacing existing single storey extensions with new single storey extensions, new cladding and windows, and alteration of roof form. Mr Christopher Vane
RR/2021/161/P (Committee Decision)	NORTHIAM. Newlands, Dixter Lane, Northiam Variation of condition 2 imposed on RR/2018/2282/P to provide two rear dormers to roof slopes of plots 1-3 to serve a new bedroom and en suite to each property. Mr A Town
RR/2021/599/P (Delegation)	NORTHIAM. Fernbank - Land adjacent to, Rye Road, Northiam Relocation of vehicular access to the land and stop up existing vehicular access to the land. (Retrospective) Mr G Fairbass

RR/2019/2641/P (Delegation)	NORTHIAM. Coombe Cottage, Ewhurst Lane, Northiam Demolition of existing bungalow and construction of four residential units. Provision of new driveway and eco-sewer system. Mr James & Gavin Pierce
RR/2019/840/P (Delegation)	RYE. Ferry Road - Land at, Rye Outline: Development of 6 dwellings. Reliant Building Contractors Ltd
RR/2020/2388/P (Delegation)	SALEHRST/RBRDGE. Elm Cottage, George Hill, Salehurst/Robertsbridge Variation of conditions 2 & 11 imposed on RR/2015/3106/P to allow an alternative site layout by removing two parking spaces to the rear of Elm Cottage to provide a larger rear garden. (Retrospective application) Mr Ross Barnes

APPEALS STARTED

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
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APPEALS ALLOWED

RR/2017/1705/P (Committee Decision)	BEXHILL. Spindlewood Drive - Land off, Bexhill Outline: Residential development for circa 160 dwellings with all matters other than access reserved. Exigo Project Solutions
RR/2019/2525/P (Delegation)	MOUNTFIELD. Park Pale Meadow, Mountfield Lane, Mountfield Removal of conditions 6 & 7 imposed on RR/2019/1370/P. Ms Sam Swift

APPEALS DISMISSED

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
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APPEALS WITHDRAWN

NONE

FORTHCOMING HEARINGS/INQUIRIES

ENF/58/20/BAT

BATTLE. Land to the rear of Firtree Cottage, Netherfield Hill, Netherfield.

Without planning permission, the material change of use of the Land from agricultural use to a mixed use of agriculture and the stationing of caravans for residential purposes together with associated works.

The Hearing is scheduled to open at 10.00am on 18 August 2021 and will be held in virtual format.

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