

## Planning Committee

- Date and Time - **Thursday 12 October 2023**  
**9:30am – 1:00pm and 2:00pm until close of business**  
(At the discretion of the Chair, the timing of lunch may be varied)
- Venue - **Council Chamber, Town Hall, Bexhill-on-Sea**
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### **Councillors appointed to the Committee:**

A.S. Mier (Chair), B.J. Drayson (Vice-Chair), Mrs M.L. Barnes, C.A. Bayliss, T.J.C. Byrne, F.H. Chowdhury, Mrs V. Cook (ex-officio), C.A. Creaser, A.E. Ganly, N. Gordon, P.J. Gray, T.O. Grohne, T.M. Killeen (MBE), C. Pearce and J. Stanger.

**Substitute Members:** Councillors J. Barnes (MBE), S.J. Coleman, K.M. Field, A. Rathbone Ariel and H.L. Timpe.

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## AGENDA

### 1. **MINUTES**

To authorise the Chair to sign the minutes of the meeting of the Planning Committee held on the 7 September 2023 as a correct record of the proceedings.

### 2. **APOLOGIES FOR ABSENCE AND SUBSTITUTES**

The Chair to ask if any Member present is substituting for another Member and, if so, to declare their name as substitute Member and the name of the absent Member.

### 3. **ADDITIONAL AGENDA ITEMS**

To consider such other items as the Chair 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 **WITHDRAWN APPLICATIONS**

The Director – Place and Climate Change to advise Members of those planning applications on the agenda which have been withdrawn.

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

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**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](mailto:julie.hollands@rother.gov.uk)**

**Tel: 01424 787811**

**Rother District Council putting residents at the heart of everything we do.**

**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 3 - 4)**

**7. RR/2023/919/P - WESTFIELD DOWN - LAND AT MAIN ROAD, WESTFIELD (Pages 5 - 20)**

**8. RR/2022/2935/P - WESTFIELD DOWN - LAND AT MAIN ROAD, WESTFIELD (Pages 21 - 44)**

Not subject to the Council's Public Speaking Scheme at Planning Committee.

**9. RR/2021/2947/P - FORMER PUTTING GREEN SITE – LAND AT OLD LYDD ROAD, CAMBER (Pages 45 - 74)**

**10. RR/2023/1465/P - WYLANDS FARM CAMPSITE, POWDERMILL LANE, CATSFIELD (Pages 75 - 96)**

**11. RR/2023/1290/P - THE MEADS - LAND AT 12 ISHERWOOD, BATTLE (Pages 97 - 108)**

**12. RR/2023/1710/P - 8 BEECHING ROAD, BEXHILL (Pages 109 - 116)**

**13. RR/2023/1448/T - 2 HAMILTON TERRACE, BEXHILL (Pages 117 - 122)**

**14. PERFORMANCE REPORT FOR DEVELOPMENT MANAGEMENT (Pages 123 - 128)**

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

Tuesday 14 November 2023 at 9:30am departing from the Town Hall, Bexhill.

Lorna Ford  
Chief Executive

Agenda Despatch Date: 4 October 2023

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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](http://www.rother.gov.uk)

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**Rother District Council**

Report to	-	Planning Committee
Date	-	12 October 2023
Report of the	-	Director - Place and Climate Change
Subject	-	Planning Applications – Index

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**Director: Ben Hook**

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**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 Director - Place and Climate Change 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 Director - Place and Climate Change can be delegated the authority to issue the decision of the Planning Committee once the requirements of the Committee have 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 Director - Place and Climate Change 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:

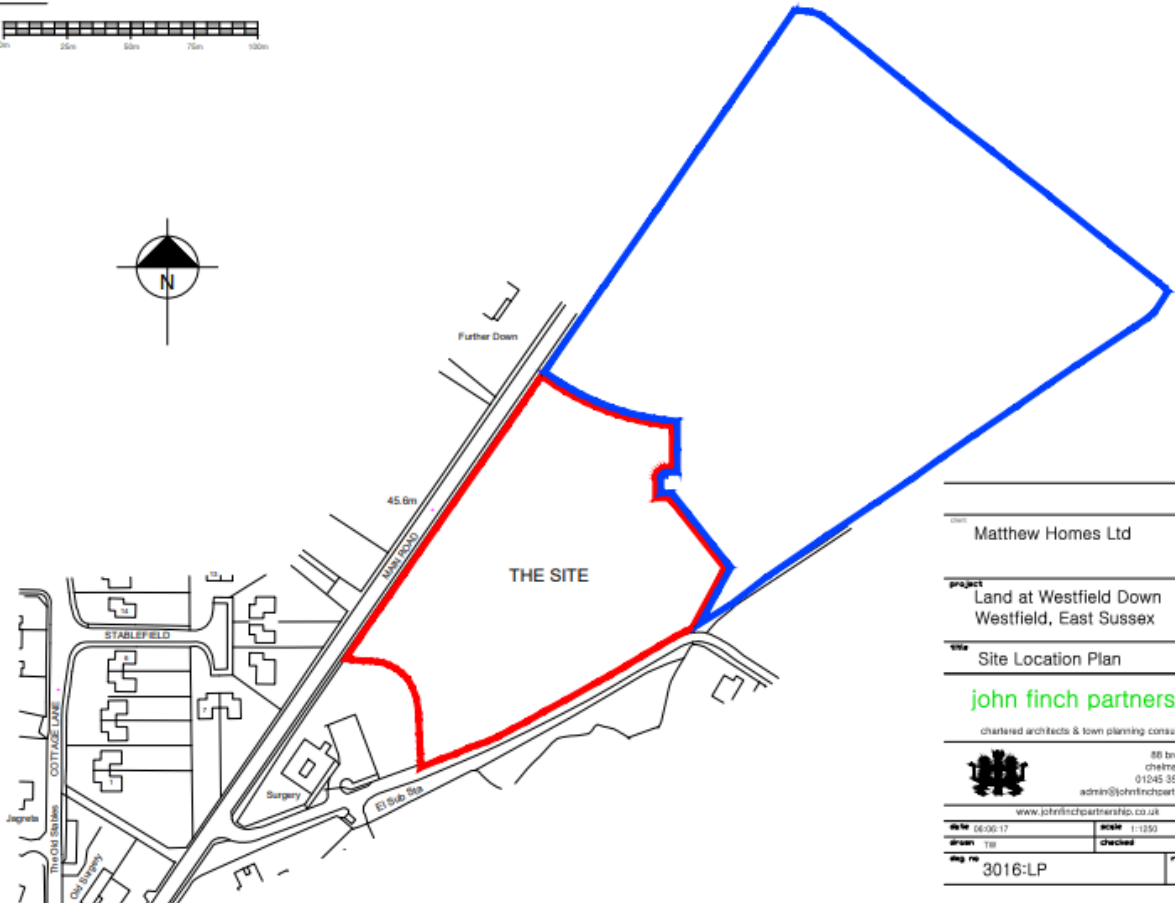
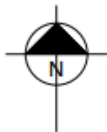
Agenda Item	Reference	Parish	Site Address	Page No.
7	RR/2023/919/P	WESTFIELD	Westfield Down – Land at Main Road Westfield	5
8	RR/2022/2935/P	WESTFIELD	Westfield Down – Land at Main Road Westfield	21
9	RR/2021/2947/P	CAMBER	Former Putting Green Site – Land at Old Lydd Road Camber, TN31 7RH	45
10	RR/2023/1465/P	CATSFIELD	Wylands Farm Campsite Powdermill Lane Catsfield, TN33 0SU	75
11	RR/2023/1290/P	BATTLE	The Meads – Lane at 12 Isherwood Battle, TN33 0EJ	97
12	RR/2023/1710/P	BEXHILL	8 Beeching Road Bexhill, TN39 3LG	109
13	RR/2023/1448/T	BEXHILL	2 Hamilton Terrace Bexhill, TN39 3QW	117

SITE PLAN

WESTFIELD

RR/2023/919/P

Westfield Down – Land at  
Main Road  
Westfield



Client	
Matthew Homes Ltd	
Project	
Land at Westfield Down Westfield, East Sussex	
Site	
Site Location Plan	
john finch partners	
chartered architects & town planning consult	
	
88 Inoc Chichester 01245 354 admin@johnfinchpartne	
www.johnfinchpartnership.co.uk	
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## Rother District Council

Report to - Planning Committee  
Date - 12 October 2023  
Report of the - Director – Place and Climate Change  
Subject - Application RR/2023/919/P  
Address - Westfield Down – Land At, Main Road, Westfield  
Proposal - Variation of Condition 1 of reserved matters approval RR/2017/1293/P (approved pursuant to outline planning permission RR/2009/322/P) to amend the tenure mix to deliver a 100% affordable housing scheme, and variation of Condition 6 of reserved matters approval to refer to the new site plan

[View application/correspondence](#)

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**RECOMMENDATION:** It be **RESOLVED** to **GRANT VARIATION OF CONDITION 1 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) TO AMEND THE TENURE MIX TO DELIVER A 100% AFFORDABLE HOUSING SCHEME, AND VARIATION OF CONDITION 6 OF RESERVED MATTERS APPROVAL TO REFER TO THE NEW SITE PLAN - DELEGATED SUBJECT TO COMPLETION OF ASSOCIATED DEED OF VARIATION**

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**Director: Ben Hook**

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**Applicant:** Southern Housing Ltd  
**Agent:** Southern Housing Ltd  
**Case Officer:** Mr E. Corke  
(Email: [edwin.corke@rother.gov.uk](mailto:edwin.corke@rother.gov.uk))

**Parish:** WESTFIELD  
**Ward Members:** Councillors B.J. Coupar and C.R. Maynard

**Reason for Committee consideration:** Director – Place and Climate Change referral: Implications for housing mix and tenure mix

**Statutory 13 week date:** 14/07/2023  
**Extension of time agreed to:** 16/10/2023

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### 1.0 INTRODUCTION

1.1 This application was considered by the Planning Committee at the July meeting earlier this year. Members deferred a decision for further legal advice on whether Westfield Parish Council need to be a signatory to the associated Deed of Variation (DoV), and to enable all parties to engage in further discussion regarding the tenure mix.

- 1.2 In relation to whether the Parish Council need to be a signatory to the associated DoV, Rother District Council (RDC) has received Counsel's advice, and based on this, it is the position of RDC that the Parish Council do not need to be a signatory to the DoV. This matter is dealt with in the separate (but related) application (Ref: RR/2022/2935/P) made under Section 106A (modification and discharge of planning obligations) of the Town and County Planning Act 1990.
- 1.3 With regard to the tenure mix, Southern Housing have met with the Parish Council and it remains the case that a 100% affordable housing scheme is proposed with 23 of the dwellings delivered as affordable housing for rent and 16 delivered as shared ownership units.
- 1.4 The report is updated accordingly in respect of the Technical Advice Note and New Homes Bonus.
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## **2.0 SUMMARY**

- 2.1 This application is made under Section 73 of the Town and County Planning Act 1990 and relates to a development of 39 dwellings which have been constructed but are not yet occupied. The scheme was granted planning permission with 24 market houses and 15 affordable dwellings (8 affordable housing for rent and 7 as shared ownership units), as shown in the approved tenure and site plans and secured in the associated Section 106 Planning Obligation.
- 2.2 The proposed amendment relates to the delivery of a 100% affordable housing scheme with 23 of the dwellings delivered as affordable housing for rent and 16 delivered as shared ownership units. This would be secured by varying Condition 1 of the reserved matters approval (Ref: RR/2017/1293/P), specifically by substituting the current approved tenure and site plans with a new site plan. Condition 6 would also need to be varied as a consequence of amending the site plan (the condition would need to refer to the new site plan in relation to the construction of 2m wide pathways linking the site to the A28 footpath and a Public Right of Way).
- 2.3 A separate (but related) application, RR/2022/2935/P, to modify the associated Section 106 Planning Obligation, primarily to deliver a 100% affordable housing scheme, has also been submitted and is to be considered in tandem with this proposal.
- 2.4 The Council's *Technical Advice Note 2 100% Affordable Housing 2023*, (which is a material consideration in determining the application), identifies a clear need for the provision of more affordable housing in the district and advises that applications for up to 100% affordable housing should be supported in principle. Furthermore, there would be no loss of money raised through the Community Infrastructure Levy (CIL), as the Council was not a CIL charging authority when the outline planning permission for the housing development was granted. New homes bonus could be approximately £315,276 paid over four years.
- 2.5 Against this, the overall balance of 59% affordable housing for rent and 41% shared ownership units does not quite meet the 65/35 split required by

Policy LHN1 (v) of the Rother Local Plan Core Strategy, and nor would there be ‘pepperpotting’ of these separate tenures (there would be two distinct clusters). However, in this case, given the clear need for more affordable housing in the district, the proposed delivery of a 100% affordable housing scheme is given significant weight. On balance, it is recommended that the proposed amendment to the reserved matters approval is supported, and the relevant conditions are varied accordingly. This is subject to modification of the associated Section 106 Planning Obligation to secure the affordable housing.

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### **3.0 SITE**

3.1 The application relates to a development of 39 dwellings in the High Weald Area of Outstanding Natural Beauty (AONB), which have been constructed but are not yet occupied. The development lies to the north-east of the village, on the south-eastern side of the A28 (Main Road). The housing scheme was granted under outline planning permission RR/2009/322/P and the subsequent approval of reserved matters RR/2017/1293/P.

3.2 The site was allocated for housing and recreation purposes in the Rother District Local Plan 2006. In relation to the housing element of the allocation, Policy VL11 of that Plan said proposals will be permitted where:

*“(ii) at least 22 dwellings are provided at the southern end of the site, of which 40% are affordable.”*

3.3 At the preparation stage of the current Development and Site Allocations (DaSA) Local Plan 2019, the planning permission for 39 houses at Westfield Down had not been implemented. The land was therefore re-allocated for housing and recreation purposes under Policy WES1. In relation to the housing element of the allocation, the policy says proposals will be permitted where:

*“(ii) some 39 dwellings are provided within the identified residential area as shown on the Detail Map, of which 40% are affordable.”*

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### **4.0 PROPOSAL**

#### *Background*

4.1 Outline planning permission (with some matters reserved) was granted for the housing development in 2014 and this was subject to a Section 106 Planning Obligation which, amongst other things, secures the provision of 15 affordable housing units (equating to some 38% of the total number of dwellings), and a payment in lieu for 0.6 of a unit to ensure a policy compliant scheme. The affordable units are secured in a 50/50 split between affordable housing for rent and shared ownership units (unless varied by agreement with Rother District Council). The remaining 24 dwellings (equating to some 62% of the total number of dwellings) are defined as “market dwellings(s)” (i.e. any dwelling which is not an affordable housing unit) in the Planning Obligation.



4.2 An approval of reserved matters was subsequently issued in 2018 and the tenure plan approved under Condition 1 shows eight of the affordable units as affordable housing for rent and seven as shared ownership units. The approved site plan also highlights which of the dwellings are affordable units.

*Current proposal*

4.3 The current application is made under Section 73 (determination of applications to develop land without compliance with conditions previously attached) of the Town and County Planning Act 1990 and seeks to vary Condition 1 of the reserved matters approval to amend the tenure mix to deliver a 100% affordable housing scheme. In this regard, 23 of the units would be delivered as affordable housing for rent with 16 delivered as shared ownership units. There would be no changes to the approved layout and design and nor would there be any changes to the approved mix of 1, 2, 3 and 4-bedroom dwellings (as amended under non-material amendment application RR/2021/110/MA).

4.4 With regard to the 23 units of affordable housing for rent, the proposed new site plan shows that these would be clustered in the central and western areas of the site and the accommodation schedule is as follows:

- 4 x 1-bed flats.
- 2 x 2-bed flats.
- 1 x 2-bed bungalow.
- 5 x 2-bed houses.
- 9 x 3-bed houses.
- 2 x 4-bed houses.

4.5 With regard to the 16 shared ownership units, the new site plan shows that these would be clustered in the north-eastern and south-eastern areas of the site and the accommodation schedule is as follows:

- 4 x 2-bed houses.
- 10 x 3-bed houses.
- 2 x 4-bed houses.

4.6 The proposed amendment to the tenure mix requires the variation of Condition 1 of the reserved matters approval, specifically the substitution of the current approved tenure and site plans with the new site plan. Condition 6 would also need to be varied as a consequence of amending the site plan (the condition would need to refer to the new site plan in relation to the construction of 2m wide pathways linking the site to the A28 footpath and a Public Right of Way). The variation of Condition 6 was not originally included in the description of the proposal for this Section 73 application and has not been publicised. This is because the need to vary the condition has only arisen as a result of the proposed amendment to the tenure mix, which is the main reason for the application. The variation of Condition 6 is essentially non-material in nature and as such no-one has been prejudiced by this element of the proposal not being publicised.

4.7 Further to the above, a separate (but related) application (Ref: RR/2022/2935/P) has been made under Section 106A (modification and discharge of planning obligations) of the Town and County Planning Act 1990. It seeks to modify the Section 106 Planning Obligation, primarily to

deliver a 100% affordable housing scheme, and is to be considered in tandem with this proposal.

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## **5.0 HISTORY**

- 5.1 RR/2007/545/P Change of use of land to sports and community use – GRANTED.
- 5.2 RR/2009/322/P Outline: residential development incorporating up to 39 dwellings and formation of new vehicular access – GRANTED.
- 5.3 RR/2010/1111/P Renewal of extant planning permission RR/2007/545/P for change of use from former agricultural land to sports and community use – GRANTED.
- 5.4 RR/2011/2114/P Proposed changing rooms and associated parking on land at Westfield Down – GRANTED.
- 5.5 RR/2011/2114/MA Non material amendment to RR/2011/2114/P – to reduce width of access road; addition of parking bay; parking re-arranged – GRANTED.
- 5.6 RR/2013/1286/P Replace extant planning permission RR/2010/1111/P to change of use from former agriculture land to sports and community use – GRANTED.
- 5.7 RR/2014/2764/P Renewal of Planning Permission for proposed changing rooms and associated parking on land at Westfield Down (previously approved under RR/2011/2114/P) – GRANTED.
- 5.8 RR/2017/1293/P Approval of reserved matters following outline approval RR/2009/322/P - layout, scale, appearance and hard and soft landscaping – GRANTED.
- 5.9 RR/2018/761/P Change of use of the land from agricultural to sports and community use – GRANTED.
- 5.10 RR/2018/766/P Construction of off-site drainage works required in association with the residential development approved under planning ref: RR/2009/322/P – GRANTED.
- 5.11 RR/2019/1067/P Proposed changing rooms and associated parking (previously approved under RR/2011/2114/P and RR/2014/2764/P) – GRANTED.
- 5.12 RR/2021/110/MA Non-material amendment to RR/2017/1293/P to allow removal of garages & replacement with cycle stores and change five 4-bed 7-person units to five 3-bed 6-person units – GRANTED.

- 5.13 RR/2021/1757/P Variation of Condition 2 (approved plans) of planning approval RR/2019/1067/P to allow for revised design of changing rooms building – GRANTED.
- 5.14 RR/2022/2935/P Application to modify a S106 Planning Obligation to allow amendments for the affordable housing and purchasing requirements related to applications RR/2009/322/P, RR/2007/545/P and RR/2011/2114/P – NOT YET DECIDED.
- 5.15 RR/2023/1142/P Changes to ground levels of recreational land (retrospective) and drainage works (part retrospective) – GRANTED.
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## 6.0 POLICIES

- 6.1 The following policy of the [Rother Local Plan Core Strategy 2014](#) is relevant to the proposal:
- LHN1 (Achieving Mixed and Balanced Communities)
- 6.2 The following policies of the [Development and Site Allocations Local Plan 2019](#) are relevant to the proposal:
- DHG1 (Affordable Housing)
  - WES1 (Land at Westfield Down, Westfield)
- 6.3 The following documents are also material considerations:
- Council's Technical Advice Note 2 (TAN2) 100% Affordable Housing 2023
  - Hastings Borough Council and Rother District Council Housing and Economic Development Need Assessment (HEDNA) 2020
  - The National Planning Policy Framework
  - The Planning Practice Guidance (PPG)
- 6.4 The Rother District Local Plan 2006 is relevant insofar as the outline planning application was determined having regard to the policies of that Plan; in particular Policy VL11 (Land at Westfield Down, Westfield).
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## 7.0 CONSULTATIONS

- 7.1 [Legal Services \(Wealden and Rother District Council\)](#) – **NO COMMENTS RECEIVED** – refer to application RR/2022/2935/P for comments.
- 7.2 [Housing, Enabling & Development Officer \(Rother District Council\)](#) – **NO COMMENTS RECEIVED** – refer to application RR/2022/2935/P for comments.
- 7.3 [Planning Notice](#)
- 7.3.1 Four **OBJECTIONS** have been received. The concerns raised are summarised as follows:
- Premature submission of this application.

- The previous Section 106 agreement has not even been discussed by the Planning Committee and a decision has not been reached.
- The local community have not been consulted or been involved in this application.
- The mixture of tenure as originally agreed was the best fit for Westfield to enhance the existing community.
- This amendment deprives local families of having an opportunity to purchase outright a newly built home on open market.
- This tenure mix should've been discussed before the development started.
- Westfield was promised that some of these houses would be up for sale for local people to buy not all council houses.
- This has been so badly handled and many people feel it is been back handers and corruption going on.
- More affordable housing for rent required.

7.3.2 Two comments of **SUPPORT** have been received. The comments are summarised as follows:

- Affordable housing is an absolute necessity.
- These types of houses are crucial for people to get on the housing ladder at affordable prices.
- Should be seen as a positive for those homeowners who want to remain in the Westfield village community.
- Desperate for a chance to get a good family home, in our home district where we live and work on a shared ownership scheme.
- The delays are hugely depressing and untenable for so many families just desperate for a chance of a decent home.

#### 7.4 Westfield Parish Council – **OBJECTION**.

7.4.1 The comments submitted by the Westfield Parish Council (WPC) primarily relate to the separate (but related) application to modify the Section 106 Planning Obligation and their concerns are summarised in full in the report for that application. Setting these aside, the WPC's comments are summarised as follows:

- WPC do not and have never supported the 100% affordable housing position.
- The original policy in the DaSA for the site, the planning application and Section 106 all support a 60% open market and 40% affordable homes.
- WPC has received legal counsel who has clearly stated the Parish Council should be signatories to any Section 106 variation. Therefore, it seems unclear how Rother can determine this planning application and for WPC to fully reply until Rother have made their legal position known.
- To try and move the matter forward WPC would support a compromise of 13 affordable rented, 13 shared ownership and 13 open market properties. This would make the site a truly mixed and sustainable site. It would address the significant short fall in the district for open market properties whilst allowing two thirds of the site to be managed for affordable housing units.
- The site should be blind in tenure with properties pepper-potted throughout the site in accordance to Rother's own planning policies.

## 8.0 LOCAL FINANCE CONSIDERATIONS

- 8.1 The delivery of a 100% affordable housing scheme on this site would not result in the loss of money raised through the Community Infrastructure Levy (CIL), as the Council was not a CIL charging authority when the outline planning permission was granted.
- 8.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band D property, be approximately £315,276 paid over four years.
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## 9.0 APPRAISAL

- 9.1 The main issues relating to the delivery of a 100% affordable housing scheme are determined to be:
- Whether the provision of 100% affordable housing is acceptable in principle.
  - Whether the proposed tenure mix is acceptable.
- 9.2 Principle of 100% affordable housing
- 9.2.1 Westfield Parish Council has stated that they do not and have never supported the 100% affordable housing position. Their preference is for the originally approved split of 60% open market and 40% affordable homes. This position is shared by some local residents.
- 9.2.2 Policy DHG1 (iv)(a) of the DaSA Local Plan says that in rural areas in the High Weald AONB, the Council will expect 40% on-site affordable housing on schemes of six dwellings or more (or 0.2 hectares or more).
- 9.2.3 Policy WES1 of the DaSA Local Plan specifically relates to the Westfield Down site and says proposals will be permitted where:
- “(ii) some 39 dwellings are provided within the identified residential area as shown on the Detail Map, of which 40% are affordable.”*
- 9.2.4 Whether or not the provision of 100% affordable housing on this site is acceptable in relation to original (and subsequent) policy requirement for 40% affordable housing is dealt with in the Council’s *Technical Advice Note 2 100% Affordable Housing 2023*. This document, which is a material consideration in the determination of planning applications, explains how adopted Development Plan policy will be applied in situations where applications for 100% affordable housing are submitted. In summary, planning applications for 100% affordable housing should be supported where they meet the Local Plan’s adopted policies in all other respects and the affordable housing is secured through a Section 106 Legal Agreement.
- 9.2.5 By way of background information, paragraph 24 of this document states:
- “Since 2011, only 516 affordable rented dwellings have been built, which averages 52 dwellings/year (contrasting strongly with the need, identified in the HEDNA 2020, for 295 affordable rent properties to be built each year).*

*The long-term average is reflected in the most recent years, with 67 affordable rent dwellings completed in 2020/21 and 50 in 2021/22.*

9.2.6 Paragraph 25 says:

*“232 shared ownership properties have been built since 2011, an average of only 23 dwellings/year (again contrasting with the HEDNA 2020, which identifies a need for 203 affordable home ownership properties per year). 35 shared ownership dwellings were completed in 2020/21 and 62 dwellings in 2021/22.”*

9.2.7 In terms of implementing Local Plan policy, paragraph 36 of TAN2 says:

*“More recent evidence within the HEDNA (2020) highlights that the need for affordable housing, and socially rented housing in particular has significantly increased, due to the widening gap between local income levels and the costs of renting or buying housing. The affordable housing need exceeds total housing delivery in Rother. Furthermore, the Council’s Corporate Plan supports the provision of affordable housing which meets demonstrated local needs.”*

9.2.8 Paragraph 37 says:

*“Where proposals come forward for greater levels of affordable housing than the minimum percentages set out in Policy DHG1 (up to 100%), the applications should be supported in principle. Such proposals would not conflict with Policy DHG1 of the DaSA Local Plan, which sets out minimum (not maximum) percentage requirements for affordable housing...”*

9.2.9 The Applicant’s supporting statement comments on the need for affordable housing and concludes that:

*“The latest evidence identifies a significant need for new affordable housing across the district. Recent figures indicate that current supply is falling below annual delivery requirements. The issue is of particular concern in rural areas, such as Westfield. There are currently 69 households on the housing register with a local connection to Westfield.”*

9.2.10 The Council’s Housing Enabling & Development Officer has commented as follows on the separate (but related) application to modify the Section 106 Planning Obligation with regard to the need for affordable housing:

*“As of 24 May 2023, there are 73 households with a local connection to Westfield parish on the council’s housing register. This is an increase on the 69 households quoted in the supporting statement from Southern based on data from January 2023. This represents a 6% increase in five months. These households are mix of 1, 2, 3 and 4 bedroom needs. Many have been on the housing register for five years or more and some for more than 10 years. Given that there are 23 proposed properties for rent on this scheme there should be more than sufficient need from local households for the properties.*

*This can also be set in the context of increasing need for Affordable Housing across the district with there now being 2,150 households on the Rother*

*housing register and over 150 households in temporary accommodation. This is further evidenced by the HEDNA (2020) that showed a net affordable housing need per annum of 295. Average affordable housing delivery from 2013 – 2022 was 82.”*

9.2.11 The above demonstrates that there is a clear need for more affordable housing in Westfield and the wider district as a whole. As such, the proposal for a 100% affordable housing scheme on this site should be supported in principle.

### 9.3 Tenure mix

9.3.1 TAN2 says that where 100% affordable housing schemes are proposed, a mix of tenures should be provided, in accordance with criteria regarding mixed and balanced communities. Policy LHN1 (v) of the Rother Local Plan Core Strategy says that in relation to affordable housing, there should be an overall balance of 65% social/affordable rented and 35% intermediate affordable housing.

9.3.2 In this case, 23 of the units would be delivered as affordable housing for rent with 16 delivered as shared ownership units. This includes a mix of 1 & 2-bedroom apartments, a 2-bedroom bungalow and a mix of 2, 3 & 4-bedroom houses for affordable housing for rent, and a mix of 2, 3 & 4-bedroom houses as shared ownership units; all as illustrated in the submitted site plan. This equates to an overall balance of 59% affordable housing for rent and 41% shared ownership units. The Council's Housing Enabling & Development Officer has advised that this split of affordable housing tenures represents a good attempt to keep to the principles of the above policy.

9.3.3 There is no requirement to provide First Homes (an affordable home ownership product) on this housing scheme, as the development is exclusively for 100% affordable housing. The Written Ministerial Statement on First Homes, made on 24 May 2021, confirms:

*“Paragraph 64 of the National Planning Policy Framework [2019] sets out that for major development involving the provision of housing, 10% of all homes on site should be affordable home ownership products, unless one of the exceptions applies. First Homes are an affordable home ownership product. Where specific developments are exempt from delivering affordable home ownership products under paragraph 64 of the Framework, they shall also be exempt from the requirement to deliver First Homes.”*

9.3.4 One of the exemptions listed are where the site or proposed development is exclusively for affordable housing. The National Planning Policy Framework has since been updated (most recently in September this year), and the old paragraph 64 has now been renumbered to 65 but the wording is unchanged. This means that sites proposed exclusively for affordable housing (such as this one) are exempt from the requirement to provide First Homes.

9.3.5 Westfield Parish Council is concerned that the current proposed layout of the shared ownership versus the affordable rent does not follow the 'pepper pot' policy for blind tenure as part of Policy DHG1: Affordable Housing in the Rural Areas. In this regard, the site plan shows the dwellings in the north-

eastern and south-eastern areas of the development provided as shared ownership units, with the dwellings in the central and western areas provided as affordable housing for rent. This would result in two distinct clusters of affordable housing tenures, which does not provide for effective ‘pepperpotting’ of these tenures. However, there is no specific policy requirement relating to the ‘pepperpotting’ of different affordable housing tenures on a 100% affordable housing scheme. The pepper potting referenced in Policy DHG1 relates to the pepper potting of affordable housing among market housing. It must also be acknowledged that the proposal would deliver much needed affordable housing in the district in a near policy compliant tenure split.

- 9.3.6 The Parish Council have advised that they would support a compromise of 13 affordable rented, 13 shared ownership and 13 open market properties, arguing that this would make the site a truly mixed and sustainable site and that it would address the significant short fall in the district for open market properties. These comments are noted. However, the mix proposed by the Parish Council is not what the Applicant is applying for. The proposal is to be determined as submitted.

#### 9.4 Conditions

- 9.4.1 The PPG says:

*“For the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.”*

- 9.4.2 Having regard to the above, the conditions imposed on the original reserved matters approval would be re-imposed (as varied), except for Conditions 2 (materials and finishes) and 3 (retaining wall). These two conditions no longer have effect, as the dwellings and retaining wall to which they relate have been constructed in accordance with the approved details.

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## 10.0 **PLANNING BALANCE AND CONCLUSION**

- 10.1 The proposed amendment relates to the delivery of a 100% affordable housing scheme with 23 of the dwellings delivered as affordable housing for rent and 16 delivered as shared ownership units. The Council’s *Technical Advice Note 2 100% Affordable Housing 2023* identifies a clear need for the provision of more affordable housing in the district and advises that applications for up to 100% affordable housing should be supported in principle. Furthermore, as identified by the Council’s Housing Enabling & Development Officer, “as of 24 May 2023, there are 73 households with a local connection to Westfield parish on the council’s housing register” and in need of affordable housing. It is also noted that there would be no loss of money raised through the Community Infrastructure Levy (CIL), as the Council was not a CIL charging authority when the outline planning permission for the housing development was granted. New homes bonus could be approximately £315,276 paid over four years.



- 10.2 Against this, the overall balance of 59% affordable housing for rent and 41% shared ownership units does not quite meet the 65/35 split required by Policy LHN1 (v) of the Rother Local Plan Core Strategy, and nor would there be 'pepperpotting' of these separate tenures (there would be two distinct clusters). However, pepperpotting is not a requirement for sites where 100% affordable housing is proposed and the 59/41 split is not so far removed from the policy ratio of 65/35. In this case, given the clear need for more affordable housing in the district, the proposed delivery of a 100% affordable housing scheme is given significant weight. On balance, it is recommended that the proposed amendment to the reserved matters approval is supported, and the relevant conditions are varied accordingly. This is subject to modification of the associated Section 106 Planning Obligation to secure the affordable housing, which is recommended for approval in the Committee report for the separate (but related) application to modify the obligation.

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**RECOMMENDATION: GRANT VARIATION OF CONDITION 1 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) TO AMEND THE TENURE MIX TO DELIVER A 100% AFFORDABLE HOUSING SCHEME, AND VARIATION OF CONDITION 6 OF RESERVED MATTERS APPROVAL TO REFER TO THE NEW SITE PLAN - DELEGATED SUBJECT TO COMPLETION OF ASSOCIATED DEED OF VARIATION**

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**CONDITIONS:**

**CONDITION 1 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) IS VARIED AS FOLLOWS:**

1. The development hereby permitted shall be carried out in accordance with the following approved drawings and document:  
Drawing No. 11.361/07, dated January 2014, as approved under outline planning permission RR/2009/322/P.  
Drawing No. 6775/1/E (PROPOSED SITE PLAN), dated 21.04.23.  
Drawing No. 3016:02 Revision E (Site Sections), dated 16:01:18.  
Drawing No. 3016:03 Revision A (House types 1), dated 02:08:17.  
Drawing No. 3016:04 Revision A (House types 2 detached), dated 02:08:17.  
Drawing No. 3016:05, dated 27:08:17.  
Drawing No. 3016:06 (House types 3), dated 27:08:17.  
Drawing No. 6775/T4/C (HOUSE TYPE 4 - 3B6P), dated FEB 21.  
Drawing No. 3016:08 Revision A (House types 5), dated 27:08:17.  
Drawing No. 3016:09 Revision B (M4 (3) Bungalow), dated 06:11:17.  
Drawing No. 3016:10 Revision B (Flat Types 8, 9, 10, 12, 13 & 14), dated 05.03.18.  
Drawing No. 3016:12 (Refusal and cycle storage details), dated 28:07:17.  
Drawing No. 17362-5-SK001-E (PROPOSED LEVELS STRATEGY), dated 27.09.2018.  
Drawing No. 17362-5-SK003-E (REFUSE VEHICLE TRACKING), dated 30.05.18.  
Drawing No. MAT19812 11D Sheet 1 (Landscape Proposals), dated 10.09.18.  
Drawing No. MAT19812 11D Sheet 2 (Landscape Proposals), dated 10.09.18.

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

**CONDITION 2 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) NO LONGER HAS EFFECT AND IS NOT REIMPOSED.**

**CONDITION 3 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) NO LONGER HAS EFFECT AND IS NOT REIMPOSED.**

**CONDITION 4 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) CONTINUES TO HAVE EFFECT AND IS REIMPOSED:**

4. No surface water shall drain onto the public highway.  
Reason: To avoid prejudice to road safety, in accordance with Policy CO6 (ii) of the Rother Local Plan Core Strategy.

**CONDITION 5 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) CONTINUES TO HAVE EFFECT AND IS REIMPOSED:**

5. The access shall have maximum gradients of 4% (1 in 25) / 2.5% (1 in 40) from the channel line, or for the whole width of the footway/verge whichever is the greater and 11% (1 in 9) thereafter.  
Reason: To avoid prejudice to road safety, in accordance with Policy CO6 (ii) of the Rother Local Plan Core Strategy.

**CONDITION 6 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) IS VARIED AS FOLLOWS:**

6. No part of the development shall be occupied until the 2m wide pathways linking the site to the A28 footpath and PROW, as indicated on approved Drawing No. 6775/1/E (PROPOSED SITE PLAN), dated 21.04.23, have been constructed in accordance with construction details first submitted to and approved in writing by the Local Planning Authority.  
Reason: To ensure adequate and safe access arrangements for the development, in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

**CONDITION 7 OF RESERVED MATTERS APPROVAL RR/2017/1293/P (APPROVED PURSUANT TO OUTLINE PLANNING PERMISSION RR/2009/322/P) CONTINUES TO HAVE EFFECT AND IS REIMPOSED:**

7. No part of the development shall be occupied until covered and secure cycle parking spaces have been provided in accordance with the approved drawings and the cycle parking spaces shall thereafter be retained for that use and shall not be used other than for the parking of cycles.  
Reason: To provide alternative travel options to the use of the car, in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

**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 assessing the proposal against all material considerations, including planning policies and any representations that have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

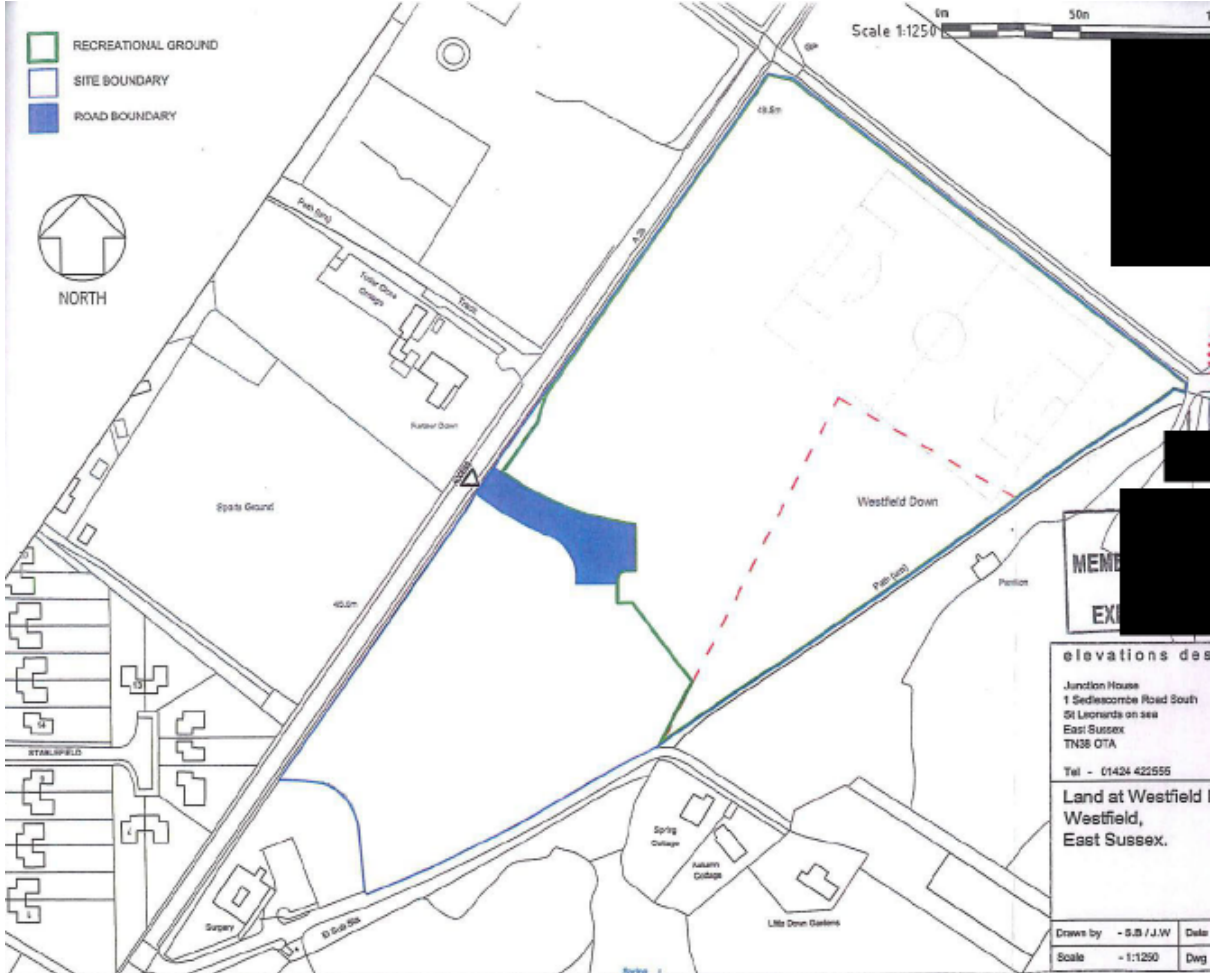
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SITE PLAN

WESTFIELD

RR/2022/2935/P

Westfield Down – Land at,  
Main Road



## Rother District Council

Report to - Planning Committee  
Date - 12 October 2023  
Report of the - Director – Place and Climate Change  
Subject - Application RR/2022/2935/P  
Address - Westfield Down – Land At, Main Road, Westfield  
Proposal - Application to modify a Section 106 Planning Obligation to allow amendments for the affordable housing and purchasing requirements related to applications RR/2009/322/P, RR/2007/545/P and RR/2011/2114/P

[View application/correspondence](#)

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**RECOMMENDATION:** It be **RESOLVED** to **APPROVE MODIFICATION OF THE SECTION 106 PLANNING OBLIGATION DELEGATED SUBJECT TO COMPLETION OF DEED OF VARIATION**

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**Director: Ben Hook**

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**Applicant:** Southern Housing  
**Agent:** Capsticks Solicitors LLP  
**Case Officer:** Mr E. Corke  
(Email: [edwin.corke@rother.gov.uk](mailto:edwin.corke@rother.gov.uk))

**Parish:** WESTFIELD  
**Ward Members:** Councillors B.J. Coupar and C.R. Maynard

**Reason for Committee consideration:** Director – Place and Climate Change referral: Modification of Planning Obligation with implications for housing mix and tenure mix

**Statutory 13 week date:** 06/02/2023  
**Extension of time agreed to:** 16/10/2023

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### 1.0 INTRODUCTION

- 1.1 This application was considered by the Planning Committee at the July meeting earlier this year. Members deferred a decision for further legal advice on whether Westfield Parish Council need to be a signatory to the Deed of Variation (DoV), and to enable all parties to engage in further discussion regarding the tenure mix.
- 1.2 In relation to whether the Parish Council need to be a signatory to the DoV, Rother District Council (RDC) has received Counsel's advice, and based on this, it is the position of RDC that the Parish Council do not need to be a signatory to the DoV.
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- 1.3 With regard to the tenure mix, Southern Housing have met with the Parish Council, and it remains the case that a 100% affordable housing scheme is proposed with 23 of the dwellings delivered as affordable housing for rent and 16 delivered as shared ownership units.
- 1.4 The report is updated accordingly.
- 

## **2.0 SUMMARY**

- 2.1 This application is made under Section 106A of the Town and Country Planning Act 1990 and relates to a development of 39 dwellings and associated recreational works (provision of senior football pitch, changing room building, recreational land and access road etc.), which have been constructed but are not yet occupied/in use. The housing scheme was granted planning permission with 24 market houses and 15 affordable dwellings (eight affordable housing for rent and seven as shared ownership units), as shown in the approved tenure and site plans and secured in the associated Planning Obligation.
- 2.2 The proposed modification of the Planning Obligation primarily relates to the delivery of a 100% affordable housing scheme with 23 of the dwellings delivered as affordable housing for rent and 16 delivered as shared ownership units. This would be secured by a DoV. A separate (but related) Section 73 application to vary conditions imposed on the reserved matters approval (Ref: RR/2017/1293/P), primarily to amend the tenure mix to deliver a 100% affordable housing scheme has also been submitted and is to be considered in tandem with this proposal. That application reference is RR/2023/919/P.
- 2.3 The modifications set out in the draft DoV would support the delivery of a 100% affordable housing scheme and the Planning Obligation would continue to serve a useful purpose with them in place. As such, it is recommended that the proposed modifications are supported. The final version of the DoV will be agreed with input from the Council's legal team.
- 2.4 Based on Counsel's advice, the position of RDC is that Westfield Parish Council do not need to be a signatory to the DoV.
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## **3.0 SITE**

- 3.1 The application relates to a development of 39 dwellings and associated recreational works (provision of senior football pitch, changing room building, recreational land and access road etc.) in the High Weald Area of Outstanding Natural Beauty, which have been constructed. The development lies to the north-east of the village, on the south-eastern side of the A28 (Main Road). The housing scheme was granted under outline planning permission RR/2009/322/P and the subsequent approval of reserved matters RR/2017/1293/P. The associated recreational works have been granted under successive planning permissions (see 'History' section of report below for details).

3.2 The site was allocated for housing and recreation purposes in the Rother District Local Plan 2006. In relation to the housing element of the allocation, Policy VL11 of that Plan said proposals will be permitted where:

*“(ii) at least 22 dwellings are provided at the southern end of the site, of which 40% are affordable.”*

3.3 At the preparation stage of the current Development and Site Allocations (DaSA) Local Plan 2019, the planning permission for 39 houses at Westfield Down had not been implemented. The land was therefore re-allocated for housing and recreation purposes under Policy WES1. In relation to the housing element of the allocation, the policy says proposals will be permitted where:

*“(ii) some 39 dwellings are provided within the identified residential area as shown on the Detail Map, of which 40% are affordable.”*

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## 4.0 PROPOSAL

### *Background*

4.1 Outline planning permission (with some matters reserved) was granted for the housing development in 2014 and this was subject to a Section 106 Planning Obligation which, amongst other things, secures the provision of 15 affordable housing units (equating to some 38% of the total number of dwellings), and a payment in lieu for 0.6 of a unit to ensure a policy compliant scheme. The affordable units are secured in a 50/50 split between affordable housing for rent and shared ownership units (unless varied by agreement with Rother District Council). The remaining 24 dwellings (equating to some 62% of the total number of dwellings) are defined as “market dwellings(s)” (i.e. any dwelling which is not an affordable housing unit) in the Planning Obligation.

4.2 An approval of reserved matters was subsequently issued in 2018 and the tenure plan approved under Condition 1 shows eight of the affordable units as affordable housing for rent and seven as shared ownership units. The approved site plan also highlights which of the dwellings are affordable units.

4.3 In addition to securing the affordable housing provision, the Planning Obligation secures the delivery of the associated recreational works so that both the housing development and recreational element proceed in tandem. This includes a provision to not allow occupation of more than 14 of the market dwellings included in the planning permission unless the recreational works have been fully completed to the reasonable satisfaction of RDC.

### *Current proposal*

4.4 The current application is made under Section 106A (modification and discharge of planning obligations) of the Town and County Planning Act 1990 and seeks to modify the Section 106 Planning Obligation, primarily to deliver a 100% affordable housing scheme. In this regard, 23 of the units would be delivered as affordable housing for rent with 16 delivered as shared ownership units. There would be no changes to the approved layout and design and nor would there be any changes to the approved mix of 1, 2, 3 and 4-bedroom dwellings (as amended under non-material amendment application RR/2021/110/MA).



- 4.5 With regard to the 23 units of affordable housing for rent, the proposed new site plan shows that these would be clustered in the central and western areas of the site and the accommodation schedule is as follows:
- 4 x 1-bed flats.
  - 2 x 2-bed flats.
  - 1 x 2-bed bungalow.
  - 5 x 2-bed houses.
  - 9 x 3-bed houses.
  - 2 x 4-bed houses.
- 4.6 With regard to the 16 shared ownership units, the new site plan shows that these would be clustered in the north-eastern and south-eastern areas of the site and the accommodation schedule is as follows:
- 4 x 2-bed houses.
  - 10 x 3-bed houses.
  - 2 x 4-bed houses.
- 4.7 The proposed modifications to the Planning Obligation would be secured by a DoV. At the Council's request, a draft DoV, supporting statement and plan showing the tenure split for the affordable housing units has been provided and all have been available to view on the public website. The proposed amendments are detailed as follows in the supporting statement:

*“The current proposal is for amendments to the Section 106 agreement only. The proposed amendments do not result in any amendments to the design of the scheme. The layout and number of units will remain as approved under the current planning permission.*

*The amendments involve changing certain definitions and clauses so that the scheme can be delivered as 100% affordable housing. The agreement currently secures 15 units of affordable housing and a payment in lieu for 0.6 of a unit to ensure a policy compliant scheme. As the current proposal seeks to deliver the scheme as 100% affordable housing, it is proposed to remove the payment in lieu requirement. The nominations agreement included at the Fourth Schedule is also due to be replaced with RDCs current standard nominations agreement. All other requirements and contributions will remain as per the current agreement (with triggers updated as necessary). A full list of the proposed amendments is included at Appendix A. A draft DoV document has also been prepared and submitted in support of the application.*

*In accordance with National Planning Policy Framework, there are a number of different types of affordable housing. For this scheme it is intended to deliver the scheme part as affordable rent (AR) and part shared ownership (SO). The split between these two tenures will be 23 x AR and 16 x SO.*

*AR homes are offered to those in need at rental levels that are capped at 80% of local private rent levels. SO homes provide a route to home ownership for those unable to purchase a property on the open market. The purchaser is able to buy a share of the property with the remainder being retained by the housing association. The owner then pays a reduced rent on the share owned by the housing association.”*

- 4.8 The full list of proposed amendments to the existing Planning Obligation are set out in the draft DoV which is provided as a separate **APPENDIX DOCUMENT** to this Committee Report.
- 4.9 Further to the above, a separate (but related) application (Ref: RR/2023/919/P) has been made under Section 73 (determination of applications to develop land without compliance with conditions previously attached) of the Town and County Planning Act 1990. It primarily seeks to amend the tenure mix to deliver a 100% affordable housing scheme and is to be considered in tandem with this proposal.

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## 5.0 HISTORY

- 5.1 RR/2007/545/P Change of use of land to sports and community use – GRANTED.
- 5.2 RR/2009/322/P Outline: residential development incorporating up to 39 dwellings and formation of new vehicular access – GRANTED.
- 5.3 RR/2010/1111/P Renewal of extant planning permission RR/2007/545/P for change of use from former agricultural land to sports and community use – GRANTED.
- 5.4 RR/2011/2114/P Proposed changing rooms and associated parking on land at Westfield Down – GRANTED.
- 5.5 RR/2011/2114/MA Non-material amendment to RR/2011/2114/P – to reduce width of access road; addition of parking bay; parking re-arranged – GRANTED.
- 5.6 RR/2013/1286/P Replace extant planning permission RR/2010/1111/P to change of use from former agriculture land to sports and community use – GRANTED.
- 5.7 RR/2014/2764/P Renewal of Planning Permission for proposed changing rooms and associated parking on land at Westfield Down (previously approved under RR/2011/2114/P) – GRANTED.
- 5.8 RR/2017/1293/P Approval of reserved matters following outline approval RR/2009/322/P - layout, scale, appearance and hard and soft landscaping – GRANTED.
- 5.9 RR/2018/761/P Change of use of the land from agricultural to sports and community use – GRANTED.
- 5.10 RR/2018/766/P Construction of off-site drainage works required in association with the residential development approved under planning ref: RR/2009/322/P – GRANTED.

- 5.11 RR/2019/1067/P Proposed changing rooms and associated parking (previously approved under RR/2011/2114/P and RR/2014/2764/P) – GRANTED.
- 5.12 RR/2021/110/MA Non-material amendment to RR/2017/1293/P to allow removal of garages & replacement with cycle stores and change five 4-bed 7-person units to five 3-bed 6-person units – GRANTED.
- 5.13 RR/2021/1757/P Variation of Condition 2 (approved plans) of planning approval RR/2019/1067/P to allow for revised design of changing rooms building – GRANTED.
- 5.14 RR/2023/919/P Variation of Condition 1 of reserved matters approval RR/2017/1293/P (approved pursuant to outline planning permission RR/2009/322/P) to amend the tenure mix to deliver a 100% affordable housing scheme – NOT YET DECIDED.
- 5.15 RR/2023/1142/P Changes to ground levels of recreational land (retrospective) and drainage works (part retrospective) – GRANTED.
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## **6.0 LEGISLATION AND POLICIES**

- 6.1 The Town and Country Planning Act 1990:
- Section 106A
- 6.2 The following policy of the [Rother Local Plan Core Strategy 2014](#) is relevant to the proposal:
- LHN1 (Achieving Mixed and Balanced Communities)
- 6.3 The following policies of the [Development and Site Allocations Local Plan 2019](#) are relevant to the proposal:
- DHG1 (Affordable Housing)
  - WES1 (Land at Westfield Down, Westfield)
- 6.4 The following documents are also material considerations:
- Council's Technical Advice Note 2 (TAN2) 100% Affordable Housing 2023
  - Hastings Borough Council and Rother District Council Housing and Economic Development Need Assessment (HEDNA) 2020
  - The National Planning Policy Framework
  - The Planning Practice Guidance (PPG)
- 6.5 The Rother District Local Plan 2006 is relevant insofar as the outline planning application was determined having regard to the policies of that Plan; in particular Policy VL11 (Land at Westfield Down, Westfield).
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## 7.0 CONSULTATIONS

7.1 Legal Services (Wealden and Rother District Council) – **COUNSEL'S ADVICE IS THAT WESTFIELD PARISH COUNCIL DO NOT NEED TO BE A SIGNATORY TO THE DEED OF VARIATION**

7.2 Housing, Enabling & Development Officer (Rother District Council) – **NO OBJECTION**

7.3 Planning Notice

7.3.1 10 **OBJECTIONS** have been received. The concerns raised are summarised as follows:

- There is already a high level of affordable housing in the village.
- Private owned houses in the village will lose value.
- Significant change which is not in the interests of the village.
- Could potentially have a big impact on the village.
- No justification for 100% affordable housing has been provided, nor any details on nor how it would impact on, or be of any benefit to, the village/community.
- On the basis of the incomplete application and for the sake of public transparency and accountability, this application should be refused.
- A Section 106 Agreement is in place and to alter it would need the consent of all signatories.
- It will be in breach of the Section 106 Agreement to which the Parish Council is a co-signatory.
- Rother should act honourably and stick to the deal agreed in 2014 after lengthy negotiations.
- Such action could well lead to expensive litigation at the expense of local taxpayers.
- The village was content to support 40% affordable housing but not 100%.
- The Council acted unlawfully and in an underhand way when negotiating this intention with Optivo and only informed the Parish Council when the deal was struck. That is disgraceful.
- Why should the taxpayer be liable for grants to a housing association who after two years now confess that the site is not viable unless there is 100% affordable housing which will bring no benefit to the village.
- The only reason to alter this agreement is entirely financial (i.e. can only be for profit).
- This matter has been dealt with in a most underhand manner. The application to modify the Section 106 Agreement should have been made at the time it was decided that the development would become 100% affordable housing (i.e. before construction began).
- The changes requested would deny local people to invest in local housing and would not provide the proper social mix suitable for a village setting.
- Three named people on the original Section 106 Agreement are no longer current freeholders of Westfield Down site. According to Land Registry Court Developments Ltd are the current owners. Therefore, Court Developments Ltd should have been named on the planning application amendment when submitted.
- To have only affordable housing will only lead to this part of the village being separated and not provide a proper social mix suitable for a village.

- The Section 106 Agreement amendments have been submitted by Optivo when Optivo have recently merged with Southern Housing Group and are now known as Southern Housing.
- The proposed shared ownership houses were advertised for sale in the public domain before this application was filed or agreed.
- There have been a lot of confusing statements and information regarding this development.
- The amendment has been applied for without any prior consultation to the local community.
- If the Section 106 Agreement is not a legal document then Optivo has no need to apply for this amendment.
- When Court Developments Ltd bought the land surely, there should have been either a legal transference document, signed by the new owners, of the Section 106 or a legal document to discharge the obligation of the Section 106 at the time of ownership.

7.3.2 Eight comments of **SUPPORT** have been received. The comments are summarised as follows:

- Proposed amendment to the Section 106 should be seen as a positive for local people who want to remain in the area.
- The affordable housing in our region being either Shared ownership or affordable rent is very hard to come by.
- It is extremely hard to be able to purchase a property in the current market. The shared ownership scheme helps so many people to get on to the property ladder and work towards owning 100% of their own house eventually.
- Shared ownership is now one of the few ways people can get onto the property ladder due to high interest rates and house prices.
- Affordable rent is also very much needed in our region.
- Councils and Parish Councils should be encouraging this type of development especially in rural areas so that young people can continue to live in the area they grew up and the people applying for these houses are working families and couples.
- People need homes and this would help some families.
- Is it not about time this planning application was resolved so that families can have peace of mind knowing they have somewhere to live.
- More owners of properties equates to more people who will have a positive investment into the community.
- Will have a very positive impact on the trades in and around Westfield.
- Appreciate that this was not what was originally agreed but it is now what is needed for the area.
- Even if the houses for private sale were made available in the current market these would be difficult to sell due to the price and the fact that the potential buyers won't be able to afford them in the current market conditions.

7.3.3 Two **GENERAL COMMENTS** have been received. The comments are summarised as follows:

- Support a mix of affordable, social housing and market properties, be they owned outright or shared ownership.
- Object to is the change to 100% affordable housing which is not what the original planning application proposed and was approved for.

- By removing the Section 106 and negating Westfield PC as signatories is a corporate move by a huge company to ensure absolute control over a site.
- Support truly affordable, social rent that will enable many families to remain in a community that they have supported and grew up in.
- Worry that Southern Housing/Optivo's affordable rented homes will price many of the lowest income families who already reside in the village, out.
- The original mix of 60/40 was good. But like the compromise that the Parish Council has submitted of a mix of 13 Affordable rent, 13 Shared Ownership and 13 Open Market.
- If there is no consensus between RDC, Westfield PC and Southern Housing, do not see how this planning application can be approved, notwithstanding the clear underhanded way that it has come about.
- The houses are ready and there are families who are waiting on a decision from the Council.
- The Housing Enabling and Development Officer comments have raised questions regarding the rationale behind the amendments.
  - As this proposal is still in draft form and not yet adopted how can it be applied to a development that was started in April 21 and is near completion?
  - Does this mean that the S106 amendment is about funding more housing estates using the Tawnies as equity?
  - How does this serve the existing Westfield community and future Tawnies community?

#### 7.4 Westfield Parish Council – **OBJECTION**

7.4.1 Two objections have been received. General concerns raised are summarised as follows:

- The first key issue is the legal legitimacy of this process without having the Parish Council as a signatory to these proposed variations. The Parish Council has received legal counsel who has clearly stated the Parish Council should be signatories to any Section 106 variation. Therefore, it seems unclear how Rother can determine this planning application and for Westfield PC to fully reply until Rother have made their legal position known.
- Based on the legal opinion they received and Rother has received from Westfield PC the Parish Council do not support the deed of variance.
- The Parish Council do not and have never supported the 100% affordable housing position.
- No reason has been submitted with the application for the basis of this change from 40 to 100% affordable housing.
- If the mix was to remain at a 40/60 mix and the 15 affordable properties are affordable rented this would be enough housing to house all of the Band A and B housing need for Westfield Parish.
- No evidence has been given either by the Council (as requested back in July 2021 at the full council meeting) nor in the recent meeting with Southern Housing that 100% affordable housing of this size in a rural context has been successful. When questioned Southern Housing deemed the Ticehurst development to be a success. However, Councillors noted that current residents are having to deal with excessive damp, mould and potential subsidence already in these properties. They also noted that Ticehurst Parish Council had not signed the Section 106 over

their ongoing concerns about the level of land movement which has resulted in large cracks in the earth on the land they are expected to take ownership of.

- The original policy in the DaSA for the site, the planning application and Section 106 all support a 60% open market and 40% affordable homes.
- The Westfield Down site is subject to its own planning Policy WES1: Land at Westfield Down point (ii) some 39 dwellings are provided within the identified residential area as shown on the Detail Map, of which 40% are affordable. Rother's own planning Policy DHG1: Affordable Housing in the Rural Areas states in Rural Area there is an expectation of 40% on-site affordable housing on schemes of 10 or more dwellings. These policies are both part of the DaSA that was only passed by Council in Dec 2019 so should not be viewed as expired or invalid policies and are part of the Local Plan.
- The current proposed layout of the shared ownership vs the affordable rent also does not follow the 'pepper pot' policy for blind tenure as part of Policy DHG1: Affordable Housing In the Rural Areas.

7.4.2 With regard to the full list of proposed amendments to the existing Planning Obligation, the Parish Council have raised concerns over:

- The proposed change on page 4 of the proposed variation para 1.2 allows the District Council to agree to vary the tenure 'by agreement with the Council'. This could result in the Council varying the tenure and removing all shared ownership properties leaving the Parish Council in a vulnerable position as the legal triggers for the completed works of the recreational ground will be removed in particular para 12.1, part 2 in the Third Schedule. Therefore, this should remain as market dwellings to ensure the recreational works are finished.
- The complete removal of clause ten without any reasoning behind this.
- Concerns again for the proposed changes to para 2, part one of the third schedule and the implications this has for the site raised in previous comments.
- The proposed deletion of para 7, part one of the third schedule without any confirmed or binding local lettings plan agreed and linked to the Section 106.
- The fact that the nominations agreement is being proposed to be removed in its entirety. The nominations agreement is being referred to on page 5 of the proposed variations in paragraph 1.13 but nothing has been seen or drafted what this Nominations Agreement will be as the proposal is to remove the existing one without any citing of a replacement agreement.
- Object to schedule 6 being removed as the Parish Council does not support a 100% affordable site.

7.4.3 The Parish Council have suggested a compromise to try and move the matter forward:

*"...the Parish Council would support a compromise of 13 affordable rented, 13 shared ownership and 13 open market properties. This would make the site a truly mixed and sustainable site. It would address the significant short fall in the District for open market properties whilst allowing two thirds of the site to be managed for affordable housing units. The Parish Council would also ask that the Section 106 reflected this and the amount of units for affordable rented, shared ownership and open market are confirmed and not able to be varied to avoid further changes to the housing mix on the site. It*

*was also commented that the site should be blind in tenure with properties pepper-potted throughout the site in accordance to Rother's own planning policies.*

*If Rother would accept such a change then the Parish Council would support a deed of variation but not for 100% affordable as it stands. With the inclusion of the open market properties (or market dwellings as defined in the original Section 106) this will also resolve the issue of removing the triggers referenced in Part 2 and Part 3 of the Third Schedule..."*

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## **8.0 APPRAISAL**

8.1 The Committee report for the separate (but related) Section 73 application deals with the principle of a 100% affordable housing scheme, tenure mix and financial considerations. It recommends that the proposed amendment to deliver a 100% affordable housing scheme should be supported.

8.2 Turning to this associated application to modify the Planning Obligation, Section 106A of the Town and Country Planning Act 1990 is relevant. Subsection (3) provides that a person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the Local Planning Authority for the obligation "to have effect subject to such modifications as may be specified in the application" or "to be discharged". The "relevant period" is defined as "such period as may be prescribed" or "if no period is prescribed, the period of five years beginning with the date on which the obligation is enforceable" (subsection (4)). An application under subsection (3) for the modification of a planning obligation may not specify a modification imposing an obligation on any other person against whom the obligation is enforceable (subsection (5)).

8.3 Subsection (6) says:

*"Where an application is made to an authority under subsection (3), the authority may determine—*

- (a) that the planning obligation shall continue to have effect without modification;*
- (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or*
- (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications."*

8.4 The Planning Obligation is over five years old and Southern Housing as the owner of the site – and therefore a person against whom the Planning Obligation is enforceable – is applying for modifications, primarily to deliver a 100% affordable housing scheme. The Nominations Agreement included at the Fourth Schedule is also due to be replaced with Rother District Council's current standard Nominations Agreement, the Sixth Schedule (Payment in Lieu in respect of an under provision of affordable housing units) deleted in its entirety, and the Schedule numbering of the Planning Obligation adjusted accordingly. All other non-housing requirements and contributions will remain as per the current agreement (with triggers updated as necessary).



- 8.5 The proposed modifications set out in the draft DoV would support the delivery of a 100% affordable housing scheme and the Planning Obligation would continue to serve a useful purpose with them in place. As such, the proposed modifications are supported in principle. The final version of the DoV will be agreed with input from the Council's legal team.
- 8.6 Westfield Parish Council have queried whether they need to be a signatory to the DoV, as they are a party to the original Planning Obligation. On this matter RDC has received Counsel's advice, which is that the Parish Council do not need to be a signatory to the DoV. In summary, this is because the only obligation enforceable against the Parish Council (which is set out at the Seventh Schedule of the obligation where it is stated that the Parish Council covenants "to accept a transfer of the Recreational Land from the First Owner and the Second Owner within two months of a Certificate of Satisfaction being issued by the Council"), would not be fundamentally altered by the DoV and, furthermore, no new obligation would be imposed on the Parish Council as a result of the DoV. Based on Counsel's advice, the position of RDC is that Westfield Parish Council do not need to be a signatory to the DoV.
- 8.7 Additional concerns have been raised by the Parish Council over the proposed modifications to the Planning Obligation as set out in the draft DoV. These concerns are acknowledged. However, they do not preclude approval of the proposed modifications, which would support the delivery of a 100% affordable housing scheme. In relation to the Parish Council's concern regarding completion of the recreational works, the trigger point at which RDC issues a Certificate of Satisfaction for the recreational works will be updated accordingly to ensure the works are finished, although it should be noted that they have already been completed and are currently awaiting sign-off from RDC.
- 8.8 Other Matters
- 8.8.1 An updated application form has been received, which correctly shows Southern Housing as the applicant. It also shows that Westfield Parish Council and East Sussex County Council have been served notice of the application.
- 8.8.2 With regard to other concerns raised by local residents, particularly regarding the provision of a 100% affordable housing scheme in the village, the justification for this is set out in the Committee report for the separate (but related) Section 73 application. It should also be noted that loss of property value is not a material planning consideration.

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## 9.0 CONCLUSION

- 9.1 The proposed modifications to the Section 106 Planning Obligation primarily relate to the delivery of a 100% affordable housing scheme, which is recommended for approval in the Committee report for the separate (but related) Section 73 application. The modifications set out in the draft Deed of Variation would support the delivery of a 100% affordable housing scheme and the Planning Obligation would continue to serve a useful purpose with them in place. As such, it is recommended that the proposed modifications are supported. The final version of the Deed of Variation will be agreed with input from the Council's legal team.

9.2 Based on Counsel's advice, the position of RDC is that Westfield Parish Council do not need to be a signatory to the DoV.

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**RECOMMENDATION: APPROVE MODIFICATION OF THE SECTION 106 PLANNING OBLIGATION DELEGATED SUBJECT TO COMPLETION OF DEED OF VARIATION**

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**REASON FOR RECOMMENDATION:** In accordance with Section 106A(6)(c) of the Town and Country Planning Act 1990, the Local Planning Authority has determined that the Planning Obligation continues to serve a useful purpose, and that it will serve that purpose equally well subject to the modifications specified in the application.

DATED \_\_\_\_\_ 2023

(1) **ROTHER DISTRICT COUNCIL**

and

(2) **SOUTHERN HOUSING**

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Supplemental Deed of Agreement Under section 106A of the Town and  
Country Planning Act 1990 relating to the development of land at Westfield  
Down, Main Road, Westfield, East Sussex

Planning reference: RR/2009/322/P; RR/2007/545/P; 2011/2114/P

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**THIS AGREEMENT** is dated

2023

**BETWEEN:-**

- (1) **ROTHER DISTRICT COUNCIL** of Town Hall, Bexhill-on-Sea, East Sussex TN39 3JX (**“the Council”**)
- (2) **SOUTHERN HOUSING** of (Registered Society Number RS008983) whose registered office is at Fleet House, 59-61 Clerkenwell Road, London EC1M 5LA (**“the Owner”**)

Parties (1) and (2) shall be hereinafter referred to as (the **“Parties”**).

**Introduction**

- (A) The Council is the Local Planning Authority for the purposes of the 1990 Act for the area in which the Land is situated and by whom the obligations contained in this Deed are enforceable.
- (B) On 16 June 2014 the Council granted planning permission for the development of a residential development incorporating up to 39 dwellings and formation of new vehicular access under the Council’s reference RR/2009/322/P (**“the 2014 Permission”**)
- (C) The 2014 Permission was subject to a planning agreement under Section 106 of the 1990 Act dated 9 May 2014 between (1) Rother District Council (2) Sylvia Mary Dunkley and Eric Beresford Clarke and Jacqueline Angela Farnham and Carolyn Mary Hopper (3) Westfield Parish Council (4) East Sussex County Council (5) East Sussex County Council under which the parties covenanted among other things to provide affordable housing (**“the 2014 Agreement”**)
- (D) The Owner is the registered proprietor of the Site registered with the Land Registry under Title Number [     ].
- (E) The Parties have agreed to vary the terms of the 2014 Agreement in the manner hereinafter appearing and the Council is satisfied that such variation is such as may be approved by the Council under the 1990 Act.

- (F) The Council is minded to agree to the variation subject to the Council and the Owner entering into this Agreement.

**IT IS AGREED as follows:-**

**1. Definitions**

- 1.1 For the purposes of this Agreement the definitions shall be those used in the 2020 Agreement as if they were set out in this Agreement unless the context requires otherwise.
- 1.2 **“The 2014 Agreement”** means a deed relating to the development of land at Westfield Down, Main Road, Westfield, East Sussex made under Section 106 of the Town and Country Planning Act 1990 dated 9 May 2014 between (1) Rother District Council (2) Sylvia Mary Dunkley and Eric Beresford Clarke and Jacqueline Angela Farnham and Carolyn Mary Hopper (3) Westfield Parish Council (4) East Sussex County Council (5) East Sussex County Council

**2. Construction of this Agreement**

- 2.1 In this Agreement, unless the context otherwise requires:
- (a) the singular includes the plural, the masculine includes the feminine and vice versa.
  - (b) references to clauses and schedules are to the clauses in and schedules to this Agreement.
  - (c) references to any party having an interest in land affected by this Agreement include any successor in title of that party to that land or to any part of it.
  - (d) reference to any party having a statutory function referred to in this Agreement shall include any successor to that statutory function.
  - (e) reference to any Act or Statutory Instrument shall include any subsequent amendments to or re-enactment of it.
  - (f) where any Obligation applies to more than one person, their liabilities shall be joint and several.

### **3. Legal basis**

3.1 This Agreement is made as a Deed under sections 106 and 106A of the 1990 Act together with all other enabling powers.

3.2 The Planning Obligations imposed upon the Owner under this Agreement create planning obligations under section 106 of the 1990 Act and are enforceable by the Council as local planning authority.

### **4. Legal costs**

4.1 The Owner covenants to pay the Council's reasonable legal costs incurred in the negotiation, preparation and execution of this Agreement upon completion of this Agreement.

### **5. Contracts (Rights of Third Parties) Act 1999**

5.1 A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement except that the application of the Act shall not prevent all or any of the future successors in title or to the statutory functions of any of the parties to this Agreement from being able to benefit from or enforce any of the Obligations.

### **6. Variations to the 2014 Agreement**

6.1 The Parties to this Agreement agree that the 2014 Agreement shall be varied as set out in the Schedule of this Agreement.

6.2 Except as provided in this Agreement it is agreed between the Parties that this Agreement is supplemental to and not in substitution for the 2014 Agreement and that the terms of the 2014 Agreement will continue in full force and effect subject only to the provisions of this Agreement.

6.3 This Agreement shall take effect on the date appearing on the front page.

**IN WITNESS** of which this Agreement has been duly executed as a Deed and has been delivered once dated.

**The Schedule**  
**Variations to the 2014 Agreement**

1. From the date hereof, the parties agree that the 2014 Agreement shall be modified as follows:
  - 1.1. References in Part 2 and Part 3 of the Third Schedule in the 2014 Agreement to the definition “*Market Dwelling(s)*” shall be replaced by the definition “*Shared Ownership Accommodation*”
  - 1.2. The definition of “*Affordable Housing Units*” shall be amended as follows:

*“Affordable Housing Units” means 39 Dwellings of Affordable Housing comprising Affordable Rented Housing and Shared Ownership Accommodation in accordance with the accommodation schedule appended at Annex 1 of this Agreement the tenure of which may be varied by agreement with the Council”*
  - 1.3. The definition of “*Planning Application*” shall be amended by inserting the words “*and the Section 73 Application as the context may permit*”
  - 1.4. The definition of “*Planning Permission*” shall be amended by inserting the words “*and the Section 73 Permission as the context may permit*”
  - 1.5. The definition of “*Section 73 Application*” and “*Section 73 Permission*” shall be inserted within the 2014 Agreement as follows:

*“Section 73 Application” means application reference no. RR/2023/919/P submitted by the Owner under Section 73 of the 1990 Act seeking a variation of condition 1 of reserved matters planning permission: RR/2017/1293/P (Approval of reserved matters following outline approval RR/2009/322/P – layout scale appearance and hard and soft landscaping.) to amend approved tenure mix*

*“Section 73 Permission” means the planning permission subject to conditions granted by the Council pursuant to the Section 73 Application*
  - 1.6. The definition of “*Nominations Agreement*” shall be deleted and replaced with the follow:

*“Nominations Agreement” an Agreement in a form agreed between the Council and the Registered Provider for the allocation of the Affordable Housing Units*

1.7. The following definitions shall be deleted from the 2014 Agreement: *“Market Dwelling(s)”, “Payment in Lieu”*

1.8. Clause 10 in the 2014 Agreement shall be deleted in its entirety

1.9. Paragraph 1 in Part 1 of the Third Schedule shall be amended by deleting the words *“ substantially in the form set out in the Fourth Schedule”*

1.10. Paragraph 2 in Part 1 of the Third Schedule shall be deleted in its entirety and replaced with the following wording:

*“2. The Affordable Housing Units shall be provided in accordance with the accommodation schedule appended at Annex 1 of this Agreement the tenure of which may be varied by agreement with the Council”*

1.11. Paragraph 4 in Part 1 of the Third Schedule shall be deleted in its entirety and replaced with the following wording:

*“4. 1 of the Affordable Housing Units shall be provided as fully wheelchair accessible and built in accordance with the Council’s Wheelchair Site Brief (attached to this Agreement) and have flat access front and back”*

1.12. Paragraph 8 in Part 1 of the Third Schedule shall be deleted in its entirety

1.13. Paragraph 7 in Part 1 of the Third Schedule shall be deleted in its entirety and replaced with the following wording:

*“7. The Affordable Rented Housing Units to be constructed on the Site shall be allocated in accordance with the Nominations Agreement and any agreed Local Lettings Plan”*

1.14. Paragraph 10 in Part 1 of the Third Schedule shall be deleted in its entirety

1.15. A new paragraph 11 shall be inserted in Part 1 of the Third Schedule as follows and the clause numbering shall be adjusted accordingly:



“11. *The obligations in Part 1 of the Third Schedule in this Agreement shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:*

*(a) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and*

*(b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the obligations in Part 1 of the Third Schedule in this Agreement which provisions shall determine absolutely.”*

1.16. A new paragraph 12 shall be inserted in Part 1 of the Third Schedule as follows and the clause numbering shall be adjusted accordingly:

“12. *The obligations in Part 1 of the Third Schedule in this Agreement shall not be binding on:*

*(a) Any person who has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force*

*(or any equivalent right including the preserved right to buy) in respect of a particular Affordable Housing Unit; or*

*(b) Any person who has exercised any statutory right to buy (or any equivalent contractual right including the preserved right to buy) in respect of a particular Affordable Housing Unit; or*

*(c) Any tenant within Shared Ownership Accommodation who has subsequently purchased from the Registered Provider all the remaining equity so that the tenant owns the entire Shared Ownership Accommodation; or*

*(d) Purchasers from or successors in title to any of the parties mentioned in subparagraphs (a) to (c) above; or*

*(e) A chargee or mortgagee of any persons referred to in subparagraphs (a) to (d) above”*

1.17. The Nominations Agreement in the Fourth Schedule of the 2014 Agreement shall be deleted in its entirety

1.18. The Sixth Schedule in the 2014 Agreement shall be deleted in its entirety and the Schedule numbering shall be adjusted accordingly

1.19. Annex 1 as appended to this Deed shall be inserted at the end of the 2014 Agreement

The Common Seal of **ROTHER DISTRICT**

**COUNCIL** was affixed in the )

presence of )

Authorised Officer

**EXECUTED** as a **DEED** by)

Affixing the common seal of)

**SOUTHERN HOUSING LIMITED)**

in the presence of )

.....

Authorised Signatory

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SITE PLAN

CAMBER

RR/2021/2947/P

Former Putting Green Site – Land at  
Old Lydd Road



## Rother District Council

Report to	-	Planning Committee
Date	-	12 October 2023
Report of the	-	Director – Place and Climate Change
Subject	-	Application RR/2021/2947/P
Address	-	Former Putting Green Site – Land at, Old Lydd Road, Camber
Proposal	-	Erection of 10no. dwellings with new vehicular access, car parking with hard and soft landscaping.

[View application/correspondence](#)

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**RECOMMENDATION: It be RESOLVED to GRANT (PLANNING PERMISSION) DELEGATED SUBJECT TO THE END OF THE FORMAL PERIOD OF PUBLIC CONSULTATION AND COMPLETION OF A SECTION 106 LEGAL AGREEMENT TO SECURE THE AFFORDABLE HOUSING**

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**Director: Ben Hook**

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<b>Applicant:</b>	<b>Rother District Council</b>
<b>Agent:</b>	<b>Robinson Escott Planning LLP</b>
<b>Case Officer:</b>	<b>Mr E. Corke</b> (Email: <a href="mailto:edwin.corke@rother.gov.uk">edwin.corke@rother.gov.uk</a> )

<b>Parish:</b>	<b>CAMBER</b>
<b>Ward Members:</b>	<b>Councillors L. Hacking and P.N. Osborne</b>

**Reason for Committee consideration: Director – Place and Climate Change referral: This is a Rother District Council application, which relates to Council-owned land.**

**Statutory 13 week date: 9 June 2022**

**Extension of time agreed to: New date to be agreed**

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### **1.0 INTRODUCTION**

1.1 This application was considered by the Planning Committee at the 16 March meeting earlier this year. At that time the scheme for 10 dwellings included six market houses with a policy compliant four affordable units. Members resolved to grant planning permission subject to the completion of a Section 106 Legal Agreement to secure the affordable housing.

1.2 The legal agreement has not yet been completed and the Applicant (Rother District Council) is now proposing to amend the scheme to deliver 100% affordable housing on the site, with a 50/50 mix of affordable housing for rent and shared ownership units. This change to the tenure mix has been

publicised with the formal period of public consultation ending on Friday 13 October 2023.

- 1.3 Apart from the change to the tenure mix, the scheme remains as previously approved by Members, with the report updated accordingly.

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## 2.0 SUMMARY

PROVISION	
No of houses	10
No of affordable houses	10
CIL (approx.)	£0
New Homes Bonus (approx.)	£80,840 paid over 4 years

- 2.1 The application relates to a site owned by Rother District Council (RDC), which is allocated for a residential development of some 10 dwellings (of which 40% are affordable) under Policy CAM1 of the Development and Site Allocations (DaSA) Local Plan.
- 2.2 In this case the proposal is for 10 dwellings delivered as 100% affordable housing with a 50/50 mix of affordable housing for rent and shared ownership units.
- 2.3 The Council's *Technical Advice Note 2 100% Affordable Housing 2023*, (which is a material consideration in determining the application), identifies a clear need for the provision of more affordable housing in the district and advises that applications for up to 100% affordable housing should be supported where they meet the Local Plan's adopted policies in all other respects and the affordable housing is secured through a Section 106 Legal Agreement.
- 2.4 The proposal is a well-designed and sustainable residential development which will deliver 10 dwellings on an allocated housing site and will have an acceptable impact on the environment. The change to a 100% affordable housing scheme should be supported as the housing mix is appropriate and it will help to address the clear need for the provision of more affordable housing in the district. There would be a loss of money raised through the Community Infrastructure Levy (CIL), but this loss is counterbalanced by the additional CIL liable on other sites in the district where less affordable housing and a higher proportion of market housing is achieved. New homes bonus could be approximately £80,840 paid over four years.
- 2.5 It is recommended that planning permission is granted for the proposal, subject to conditions, subject to the end of the formal period of public consultation for the change to a 100% affordable housing scheme, and subject to completion of a Section 106 Legal Agreement to secure the affordable housing.

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## 3.0 SITE

- 3.1 The application relates to a raised and rectangular shaped plot of land located on the north-east side of Old Lydd Road within the Development Boundary

for Camber. It was formerly used as a putting green but is now in use as a pay and display car park for up to 70 cars.

- 3.2 The site is owned by RDC and is allocated for a residential development of some 10 dwellings (of which 40% are affordable) under Policy CAM1 of the DaSA Local Plan. It is bounded by residential development to the north-east, Marchants Drive to the south-east and residential properties in Royal William Square to the north-west.
- 3.3 There are sand dunes opposite the site, on the other side of Old Lydd Road. The dunes, and the beach beyond these, fall within the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI), which is a national designated site of importance for biodiversity. The beach also falls within the Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) and Ramsar site, which are international designated sites of importance for biodiversity. There is also the Dungeness Special Area of Conservation (SAC), which lies approximately 2.8km to the east of the application site and approximately 1.6km to the south-west.

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## 4.0 PROPOSAL

- 4.1 This is a full application for 10 dwellings delivered as 100% affordable housing with a 50/50 mix of affordable housing for rent and shared ownership units. The development would be served by a new vehicular access from Marchants Drive and there would be associated car parking and hard and soft landscaping. A new pedestrian footway is also proposed along the site's frontages with Old Lydd Road and Marchants Drive. Existing ground levels would be reduced as part of the development. The finished ground floor level for all dwellings is shown as 5.2m above ordnance datum (AOD).
- 4.2 The schedule of accommodation is outlined below:

PLOT	BEDROOM/SIZE	TENURE
1	1b2p / 58sqm	Shared Ownership
2	1b2p / 58sqm	Affordable Rent
3	1b2p / 58sqm	Affordable Rent
4	1b2p / 58sqm	Affordable Rent
5	2b4p / 79sqm	Affordable Rent
6	3b6p / 111sqm	Affordable Rent
7	3b5p / 93sqm	Shared Ownership
8	3b6p / 111sqm	Shared Ownership
9	3b5p / 93sqm	Shared Ownership
10	3b6p / 111sqm	Shared Ownership

- 4.3 In terms of site layout, the proposed dwellings are arranged in an 'L' shape with three pairs of semi-detached houses fronting Old Lydd Road and four chalet-style units (arranged as one detached dwelling and a terrace of three) fronting Royal William Square. Most of the on-site car parking is provided in a parking area to the rear of the properties, which is accessed from Marchants Drive. Two of the houses would be served by tandem parking spaces, accessed from Old Lydd Road.



- 4.4 The proposed dwellings follow a contemporary design. The semi-detached houses fronting Old Lydd Road alternate between two and three-storeys in height, and alternate between flat and dual-pitched roofs. The three-storey houses benefit from a beach facing roof terrace at second floor level. The detached dwelling and terrace fronting Royal William Square are chalet-style properties with front and rear dormers. The external materials palette for the proposed dwellings predominantly consists of facing brick and vertical composite cladding to the elevations and metal standing seam roofs (where pitched roofs are proposed).
- 4.5 Renewable energy technologies are proposed to be incorporated into the development in the form of air source heat pumps and solar PV panels for all of the dwellings. Electric Vehicle charging points are also proposed.
- 4.6 The scheme has been amended since it was first submitted, in relation to design issues, relationship with neighbouring properties, and now in relation to the tenure mix.

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## **5.0 HISTORY**

- 5.1 RR/2010/2061/P Change of use from temporary car park to permanent car park to operate from 30 September 2010. DEFERRED
- 5.2 RR/2009/1948/P Change of use from putting course to temporary use as a car park (part retrospective). GRANTED (TEMPORARY)
- 5.3 RR/2006/156/P Outline: erection of eight live/work units and one residential unit including alteration to an existing and formation of new vehicular access. WITHDRAWN
- 5.4 RR/2005/2415/P Outline: erection of 10 commercial units and managers office with 11 apartments above and managers accommodation including landscaping, alterations to an existing and creation of new vehicular access. REFUSED
- 5.5 RR/2003/42/P Erection of new cafe/restaurant and retail centre (existing putting course to be demolished) with new vehicular access. GRANTED
- 5.6 RR/89/2425/P Nine dwellinghouses with garages and vehicular access. ALLOWED ON APPEAL
- 5.7 RR/89/1042/P Outline application: erection of nine dwellings with garages and vehicular accesses. REFUSED
- 5.8 RR/89/0362/P Outline: erection of nine terraced and semi-detached dwellings with parking and new vehicular access. REFUSED
- 5.9 RR/83/1886 Outline: erection of nine two-storey dwellings with garages and accesses. GRANTED
- 5.10 RR/76/0020 Extension to pavilion at putting course. GRANTED

5.11	A/71/327	Putting course. GRANTED
5.12	A/68/466	Children's playground. GRANTED
5.13	A/60/106	Temporary car park. GRANTED
5.14	A/57/276	Pairs of semi-detached bungalows. REFUSED
5.15	A/55/199	Outline: to erect three pairs of semi-detached bungalows. REFUSED

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## 6.0 LEGISLATION AND POLICIES

6.1 The Conservation of Habitats and Species Regulations 2017.

6.2 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)
- RA1 (Villages)
- SRM1 (Towards a Low Carbon Future)
- SRM2 (Water Supply and Wastewater Management)
- CO6 (Community Safety)
- LHN1 (Achieving Mixed and Balanced Communities)
- EN1 (Landscape Stewardship)
- EN2 (Stewardship of the Historic Built Environment)
- EN3 (Design Quality)
- EN4 (Management of the Public Realm)
- EN5 (Biodiversity and Green Space)
- EN6 (Flood Risk Management)
- EN7 (Flood Risk and Development)
- TR3 (Access and New Development)
- TR4 (Car Parking)

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

- DRM1 (Water Efficiency)
- DRM3 (Energy Requirements)
- 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)
- DEN4 (Biodiversity and Green Space)
- DEN5 (Sustainable Drainage)
- DEN7 (Environmental Pollution)

- DIM1 (Comprehensive Development)
- DIM2 (Development Boundaries)
- CAM1 (Land at the Former Putting Green Site, Old Lydd Road, Camber)

- 6.4 The following documents are also material considerations:
- Council's Technical Advice Note 2 (TAN2) 100% Affordable Housing 2023
  - The Camber Village Supplementary Planning Document (SPD) 2014
  - The draft Sustainable Access and Recreation Management Strategy 2017
  - The National Planning Policy Framework
  - The Planning Practice Guidance (PPG)

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## 7.0 CONSULTATIONS

- 7.1 Highway Authority (East Sussex County Council) – **NO OBJECTION** – Subject to the imposition of conditions.
- 7.2 Lead Local Flood Authority (East Sussex County Council) – **NO OBJECTION** – Subject to the imposition of conditions.
- 7.3 East Sussex County Council Archaeologist – **NO OBJECTION**
- 7.4 Southern Water – **NO OBJECTION** – Subject to the imposition of a condition.
- 7.5 Environment Agency – **NO COMMENTS TO MAKE**
- 7.6 Natural England – **NOT ABLE TO PROVIDE SPECIFIC ADVICE ON THE SUBMITTED HABITATS REGULATIONS ASSESSMENT (AND APPROPRIATE ASSESSMENT)**
- 7.7 Sussex Newt Officer – **NO OBJECTION** – An informative regarding Great Crested Newts has been recommended.
- 7.8 Sussex Police – **NO OBJECTION** – Subject to observations, concerns and recommendations being given due consideration.
- 7.9 East Sussex Fire & Rescue Service – **NO COMMENTS RECEIVED**
- 7.10 Romney Marshes Area Internal Drainage Board – **NO COMMENTS RECEIVED**
- 7.11 Housing, Enabling & Development Officer (Rother District Council) – **NO OBJECTION**
- 7.12 Environmental Health (Rother District Council) – **NO OBJECTION** – Subject to the imposition of a condition.
- 7.13 Waste & Recycling (Rother District Council) – **NO OBJECTION**
- 7.14 Planning Notice
- In relation to the originally submitted scheme*
- 7.14.1 21 letters of **OBJECTION** have been received (from 20 representatives). The concerns raised are summarised as follows:

- Loss of car parking (including disabled parking).
- Proposal is for financial gain.
- Proposal ignores the needs of the village and residents.
- Increase in traffic, parking issues, safety issues and adverse visitor behaviour within the village.
- Loss of revenue for local businesses as a result of lost car parking spaces.
- Application has been worded incorrectly to deliberately mislead/hide the general issues relating to this proposal as regards the availability/loss of a day visitor parking area within the village and the additional problems this will cause.
- The traffic consultant claims that there is an excess of parking spaces of 2650. This is simply not true.
- Houses will not be affordable for locals and will be bought as holiday-lets/holiday homes.
- Existing drainage system in the surrounding area is unable to cope with the number of existing houses. Is there capacity to add more dwellings to the system?
- Overdevelopment, overbearing and out of keeping.
- Overlooking and loss of privacy.
- The properties have very little storage provision (inside and out) for all the necessities of family life.
- Inadequate car parking provision for the new houses, leading to parking problems.
- No vehicle charging points.
- Windblown sand from the nearby sand dunes will cause accessibility issues to areas of the new properties.
- Proposal will lead to degradation of Site of Special Scientific Interest, Ramsar site and Special Area of Conservation.

7.14.2 One letter with **GENERAL COMMENTS** has been received. The comments are summarised as follows:

- Original ground level should be reinstated.
- Overlooking of Marchants Drive.
- Loss of car parking spaces.
- Increased traffic in Marchants Drive.

*In relation to the first amended scheme*

7.14.3 24 letters of **OBJECTION** have been received (from 20 representatives). Additional concerns raised are summarised as follows:

- Precedent for high density development which is not in keeping with the area.
- The drawings are at best, inaccurate, or at worst misleading.
- New parking spaces should be provided before any scheme that removes parking from the area is allowed.
- Poor design – a number of design issues are raised.
- Affordable housing units have not been ‘peppercotted’ with market housing units.
- Unclear whether a proportion of the homes will meet the Lifetime Homes Standard.
- Camber sits outside the residential development zones identified in the Local Plan and is therefore classed as a Rural Exception site. There is no evidence that the Rural Exception Site Requirements have been met.

- SUDS drainage strategy requires a clear maintenance and management plan.
- Any increase in pedestrian volume along the unadopted road at Royal William Square will increase the likelihood of a road traffic accident occurring.
- No assessment has been made of the impact of construction traffic on the unadopted road at Royal William Square.
- Overlooking and right to light issues for residents in Royal William Square.
- Lack of engagement with the community about the proposal.
- This development is a missed opportunity for habitat creation.
- Revised submission was not included in any of the 'My Alerts' emails issued or in any of the Council's lists of planning applications.
- Do we have any guarantee that these proposals will become reality in the end?

7.14.4 One letter with **GENERAL COMMENTS** has been received. The comments are summarised as follows:

- Use of light-brown bricks is an odd choice for the buildings and metal railings, metal-framed windows and zinc roofs would be subject to rapid erosion from the sea air.
- Potential for noise disturbance from proposed air source heat pumps.
- Covenants are required to prevent properties being sold as holiday homes and to retain the affordable units as 'affordable'.

7.14.5 **ANY PUBLIC COMMENTS RECEIVED IN RELATION TO THE AMENDED SCHEME FOR 100% AFFORDABLE HOUSING TO BE REPORTED IN A COMMITTEE UPDATE**

7.15 Camber Parish Council – **GENERAL COMMENTS** – Provided in relation to the originally submitted scheme only.

7.15.1 The comments are summarised as follows:

- Loss of car parking at the site will add to existing parking issues in Camber.
- Concern that the affordable housing units will not be affordable and that they will add to the holiday-let market if not secured as affordable housing in perpetuity.
- Existing drainage system in the surrounding area is not fit for purpose. If permission is granted for building on this site then a complete overhaul of drainage needs to be a condition.

7.15.2 **ANY COMMENTS RECEIVED FROM THE PARISH COUNCIL IN RELATION TO THE AMENDED SCHEME FOR 100% AFFORDABLE HOUSING TO BE REPORTED IN A COMMITTEE UPDATE**

## 8.0 LOCAL FINANCE CONSIDERATIONS

8.1 The proposal is for a type of development that is Community Infrastructure Levy (CIL) liable. However, there is a fee exemption for affordable housing units which means that in this case no CIL money will be received.

- 8.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band D property, be approximately £80,840 over four years.
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## 9.0 APPRAISAL

- 9.1 The main issues are determined to be:
- Principle of development, including whether the provision of 100% affordable housing is acceptable.
  - Impact on the character and appearance of the locality.
  - Housing mix.
  - Impact on neighbouring properties.
  - Living conditions for future occupiers.
  - Highway matters
  - Flood risk and drainage.
  - Impact on habitats and biodiversity.

### 9.2 Principle of development

9.2.1 The site is located within the development boundary for Camber where there is a policy presumption that infilling and redevelopment will be acceptable, subject to compliance with other relevant policies of the development plan. One of these is Policy CAM1 of the DaSA Local Plan, which allows for the redevelopment of the site from a car park to wholly residential, with some 10 dwellings provided (40% of which are affordable). The current proposal would provide 10 dwellings on the site delivered as 100% affordable housing.

9.2.2 Whether or not the provision of 100% affordable housing on this site is acceptable in relation to the policy requirement for 40% affordable housing is dealt with in the Council's *Technical Advice Note 2 100% Affordable Housing 2023*. This document, which is a material consideration in the determination of planning applications, explains how adopted Development Plan policy will be applied in situations where applications for 100% affordable housing are submitted. In summary, planning applications for 100% affordable housing should be supported where they meet the Local Plan's adopted policies in all other respects and the affordable housing is secured through a Section 106 Legal Agreement.

9.2.3 By way of background information, paragraph 24 of this document states:

*“Since 2011, only 516 affordable rented dwellings have been built, which averages 52 dwellings/year (contrasting strongly with the need, identified in the HEDNA 2020, for 295 affordable rent properties to be built each year). The long-term average is reflected in the most recent years, with 67 affordable rent dwellings completed in 2020/21 and 50 in 2021/22.”*

9.2.4 Paragraph 25 says:

*“232 shared ownership properties have been built since 2011, an average of only 23 dwellings/year (again contrasting with the HEDNA 2020, which identifies a need for 203 affordable home ownership properties per year). 35 shared ownership dwellings were completed in 2020/21 and 62 dwellings in 2021/22.”*

9.2.5 In terms of implementing Local Plan policy, paragraph 36 of TAN2 says:

*“More recent evidence within the HEDNA (2020) highlights that the need for affordable housing, and socially rented housing in particular has significantly increased, due to the widening gap between local income levels and the costs of renting or buying housing. The affordable housing need exceeds total housing delivery in Rother. Furthermore, the Council’s Corporate Plan supports the provision of affordable housing which meets demonstrated local needs.”*

9.2.6 Paragraph 37 says:

*“Where proposals come forward for greater levels of affordable housing than the minimum percentages set out in Policy DHG1 (up to 100%), the applications should be supported in principle. Such proposals would not conflict with Policy DHG1 of the DaSA Local Plan, which sets out minimum (not maximum) percentage requirements for affordable housing...”*

9.2.7 The above demonstrates that there is a clear need for more affordable housing in the district. As such, the proposal for 100% affordable housing on this site should be supported in principle.

9.2.8 Separate to the above, the Parish Council and local residents have raised concern about loss of the existing car park. With regard to this specific issue supporting paragraph 11.70 of the DaSA Local Plan says:

*“The site’s redevelopment will result in a small reduction in public car parking capacity in the village. However, there is a significant amount of alternative car parking provision in Camber, and the benefits of redeveloping this prominent site, including in terms of it making a valuable contribution to the village’s housing supply and improving the street scene, are considered to outweigh this loss. It is noted that any additional demand for car parking in the winter months could be adequately accommodated elsewhere in the village, including at the Central Car Park, in the event of the redevelopment of the former putting green site. It is not proposed to utilise the Western Car Park in the winter months (which would raise potential nature conservation issues).”*

### 9.3 Impact on the character and appearance of the locality

9.3.1 Camber is characterised by a range of residential development. Buildings in the surrounding area are varied in terms of size, age, style, and materials. There is no single unifying character. Recent developments have generally followed a contemporary design approach.

9.3.2 Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy, Policy DEN1 of the DaSA Local Plan and paragraph 130 of the National Planning Policy Framework seek, amongst other things, to ensure that new development is of high design quality that respects, contributes positively towards, and does not detract from the character and appearance of the locality.

9.3.3 Policy CAM1 (ii) of the DaSA Local Plan says that in relation to the form of development on this site, regard is given to the Camber Village SPD. Section

4.3 of this document sets out the overall approach and framework to guide new development. This is designed to be nonprescriptive so that development can come forward flexibly but in line with key principles and guidelines for the site. The guidelines are set out in detail on pages 95-96, and cover: built development, traffic and movement, natural environment, uses and activities, and landscaping. An example scheme is provided in the document and the site layout is reproduced below:



- 9.3.4 The example layout shows units fronting Old Lydd Road and turning the corner to address the dwellings in Royal William Square to the west. Each of the buildings is said to be three-storeys in height. A parking area is provided to the rear of the properties, which is accessed from Marchants Drive.
- 9.3.5 The layout of the housing scheme now proposed is similar to that indicated in the Camber Village SPD. It presents a permeable frontage to Old Lydd Road, with gaps between the three pairs of semi-detached dwellings. It then turns the corner with the terraced dwellings and detached dwelling addressing the neighbouring properties in Royal William Square. The proposed site layout is reproduced below:





- 9.3.6 The proposed building heights are varied with a mixture of two and three-storey dwellings fronting Old Lydd Road, and chalet-style dwellings fronting Royal William Square. Overall this results in a scheme which has a comfortable relationship with the local context in terms of massing, scale and streetscene character. Private gardens and a parking area are proposed to the rear of the houses, together with a new vehicular access onto Marchants Drive, all as per the SPD.
- 9.3.7 In terms of the building designs, a contemporary architectural approach has been adopted with a modern external materials palette comprising facing brick and vertical composite cladding to the elevations and metal standing seam roofs (where pitched roofs are proposed). Due to the variety of materials and styles in the local area, the proposed dwellings would not appear unsympathetic or out of keeping with their surroundings.
- 9.3.8 Conditions are required in relation to external materials, boundary treatments (including to define and enclose the front gardens of the dwellings) and hard and soft landscaping etc. to ensure a high-quality building appearance and a high-quality public realm and landscape setting.
- 9.3.9 Overall it is considered that the proposed housing development would contribute positively to the character and appearance of this coastal village.
- 9.3.10 Sussex Police have commented on the proposal from a crime prevention viewpoint. Recommendations have been made and these can be brought to the landowner and/or developer's attention by way of an informative on the decision notice if planning permission is granted.
- 9.3.11 Concern has been raised about herring gulls roosting within the development and it has been requested that the design is reviewed by a specialist to avoid this. Ultimately if roosting gulls becomes a problem, this would be a matter for future occupiers to deal with.

## 9.4 Housing mix

- 9.4.1 In relation to housing mix, Policy LHN1 of the Rother Local Plan Core Strategy supports mixed, balanced, and sustainable communities. Housing developments should, amongst other things: (i) be of a size, type and mix which will reflect both current and projected housing needs within the district and locally; (ii) in rural areas, provide a mix of housing sizes and types, with at least 30% one and two bedroom dwellings (being mostly two bed); (iv) in larger developments (6+ units), provide housing for a range of differing household types.
- 9.4.2 The proposal would provide a mix of 1, 2 and 3-bedroom dwellings, 50% of which would be 1 and 2-bedroom properties and 50% of which would be 3-bedroom properties. The five 3-bedroom properties would cater for a mix of five and six person households. A mixture of dwellings is proposed which complies with the above policy requirements.
- 9.4.3 With specific regard to the affordable housing tenure mix, Policy LHN1 (v) of the Rother Local Plan Core Strategy says there should be an overall balance of 65% social/affordable rented and 35% intermediate affordable housing (e.g. shared ownership). In this case there would be a 50/50 split, which is at odds with the above policy requirement. However, the Council's Housing Enabling & Development Officer has advised that this split is acceptable; his detailed comments are repeated below:

*"The scheme proposes 5 homes for affordable rent and 5 homes for shared ownership. Under the previous iteration of the scheme that only provided 40% Affordable housing there would only have been 3 homes for affordable rent. As such there is an uplift of 2 homes for affordable rent in this application. Homes for affordable and social rent are a priority for the council in terms of meeting housing need in the district and this is therefore welcome. It is noted that the remainder of the scheme is to be delivered as homes for shared ownership which meets a need for more affordable family size homes in the Camber area. A smaller 1 bed shared ownership home is also proposed, this size of shared ownership home is not often included on development sites so it is welcome to see here.*

*The layout of the scheme appropriately separates the affordable rent and shared ownership units in a way that makes sense for development and management of the scheme as well as paying attention to policy DHG1 on pepper-potting. If the shared ownership homes are seen to fulfil the roles of open market sale housing in this instance then the units are appropriately spread through this small development.*

*The provision of 1 bed affordable homes for rent is welcome and aligns with housing need identified in the area through the council's housing register, family size 2 bed and 3 bed affordable homes for rent are also proposed which is particularly welcome. The large size of the 3b 6p affordable rent home at 111sq m is also welcome and ensures it will be suited to a range of family sizes and likely suitable for a family into the long term.*

*This is a well designed scheme providing well proportioned units and good outside space. The energy efficiency credentials of the scheme mean that running costs for the people living in the completed homes should be more*

*manageable also. This application for 10 affordable homes is fully supported by housing development.”*

- 9.4.4 There is no requirement to provide First Homes (an affordable home ownership product) on this housing scheme, as the development is exclusively for 100% affordable housing. The Written Ministerial Statement on First Homes, made on 24 May 2021, confirms:

*“Paragraph 64 of the National Planning Policy Framework [2019] sets out that for major development involving the provision of housing, 10% of all homes on site should be affordable home ownership products, unless one of the exceptions applies. First Homes are an affordable home ownership product. Where specific developments are exempt from delivering affordable home ownership products under paragraph 64 of the Framework, they shall also be exempt from the requirement to deliver First Homes.”*

- 9.4.5 One of the exemptions listed are where the site or proposed development is exclusively for affordable housing. The National Planning Policy Framework has since been updated (most recently in September this year), and the old paragraph 64 has now been renumbered to 65 but the wording is unchanged. This means that sites proposed exclusively for affordable housing (such as this one) are exempt from the requirement to provide First Homes.
- 9.4.6 For the above reasons the proposed housing mix is acceptable. The affordable housing units would need to be secured through a Section 106 Legal Agreement and this would also ensure the dwellings do not become holiday-lets/holiday homes.

## 9.5 Impact on neighbouring properties

- 9.5.1 Policy OSS4 (ii) of the Rother Local Plan Core Strategy says that new development should not unreasonably harm the amenities of adjoining properties.

- 9.5.2 The site is currently open and so compared to the existing situation the outlook from the surrounding properties would be quite radically altered by the proposed residential development. However, this is to be expected, as the site has been allocated for housing.

### *Impact on ‘Thika’*

- 9.5.3 To the rear, north-east, the site is adjoined by ‘Thika’, a detached bungalow with a long garden that runs the full width of the site. The proposed housing scheme’s main parking area and the rear garden of the dwelling on Plot 1 would directly adjoin the neighbouring property. It is considered that the impacts arising from this – in terms of noise and disturbance – would be no worse than that generated by the existing use of the site as a pay and display car park for up to 70 cars.

- 9.5.4 Turning to the impacts from the proposed houses themselves, there would be a minimum separation distance of some 19m between the rear elevations of the two and three-storey dwellings and the common boundary with ‘Thika’. This is a good measure of separation, which would ensure that overlooking, overshadowing/loss of light and loss of outlook to the detriment of residential amenity would not occur.

9.5.5 The proposed chalet-style dwelling on Plot 1 would be located closer to the neighbouring property (i.e. some 8.9m away from the common boundary). This is still reasonable degree of separation, and it is also the case that this dwelling would be opposite an outbuilding in the front garden of the neighbouring property. As such, overlooking, overshadowing/loss of light and loss of outlook to the detriment of residential amenity would not occur.

*Impact on No. 21 Old Lydd Road*

9.5.6 No. 21 Old Lydd Road comprises a detached two-storey building with the Dunes Bar & Restaurant at ground floor level and a flat above. It is located to the south-east of the site, on the other side of Marchants Drive. The main focus here is the relationship between the proposed three-storey dwelling on Plot 10 and the neighbouring first floor flat which has four windows facing the site.

9.5.7 There would be a separation distance of some 12m between the side, flank wall of the dwelling on Plot 10 and the neighbouring flat. It is considered that this measure of separation would be sufficient to guard against harmful overlooking of the neighbouring living accommodation from the side facing windows and first floor terrace of the proposed dwelling.

9.5.8 Turning to impact on light, the 25-degree rule of thumb applies, as set out in the BRE sunlight and daylight guidance. The rule is that suitable daylight for habitable rooms is achieved when a 25-degree vertical angle taken from the centre of the lowest window is kept unobstructed. Having regard to the submitted street scene drawings, the rooms of the neighbouring flat would receive adequate daylight, as the 25-degree line would not be obstructed by the proposed three-storey dwelling. This would also ensure that there would be no loss of outlook to the detriment of residential amenity.

*Impact on properties in Royal William Square*

9.5.9 The residential properties comprising the Royal William Square development are located to the north-west of the site, on the other side of an unmade road. These properties have been constructed with garages at ground floor level and living accommodation at upper floor levels. The proposed chalet-style dwellings would be located opposite the neighbouring properties.

9.5.10 The separation distance between the front walls of the proposed dwellings and the main front walls of the neighbouring properties would be some 9.5m at the closest point. There is potential for some overlooking of the neighbouring upper floor living accommodation from the first floor dormer windows of the proposed chalet-style dwellings. However, these windows serve bathrooms and so they can be obscure-glazed, secured by condition.

9.5.11 Turning to impact on light, and having regard to the submitted street scene drawings, the neighbouring upper floor living accommodation would receive adequate daylight, as the 25-degree line would not be obstructed by the proposed chalet-style dwellings. This would also ensure that there would be no loss of outlook to the detriment of residential amenity.

9.5.12 The ground floors of the neighbouring properties facing the site were approved as garages (non-habitable accommodation) under the planning permission for the Royal William Square development (Application Ref: RR/2005/2230/P), and these are specifically precluded from being used for

any other purpose by Condition 8 of that permission. Most of the garage doors remain and the relationship between the proposed chalet-style dwellings and these non-habitable ground floor rooms would be acceptable.

- 9.5.13 The garage doors at no.18 have been replaced with a large obscure glazed and slatted window. There is no record of any planning permission being granted for conversion of this garage to any other use. Therefore, if the garage is in use as additional living accommodation, this is likely to be unauthorised.
- 9.5.14 Local residents have raised concern about the impacts of construction traffic during the construction period of the development. This matter can be dealt with as part of a Construction Environmental Management Plan (CEMP), secured by condition.
- 9.5.15 Concern has also been raised about noise from the proposed air source heat pumps. Full details of the pumps – including noise levels and locations – have not been submitted for consideration. This matter can, however, be dealt with by planning condition, and this would ensure that undue disturbance from noise would not arise.
- 9.5.16 For the above reasons the proposal would not unreasonably harm the amenities of adjoining properties.

## 9.6 Living conditions for future occupiers

- 9.6.1 Policy OSS4 (i) of the Rother Local Plan Core Strategy states that all development should meet the needs of future occupiers, including providing appropriate amenities.
- 9.6.2 Policy DHG3 of the DaSA Local Plan sets out the minimum internal space standards for new dwellings. Policy DHG7 sets out the requirements for external areas, including in relation to the levels of private external space, car parking and cycle storage provision, and bin storage provision.
- 9.6.3 Paragraph 130 (f) of the National Planning Policy Framework says that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 9.6.4 In terms of internal space, all of the new dwellings proposed would meet the minimum internal space standards. Turning to external areas, new dwellings should normally be provided with private rear garden spaces of at least 10m in length. The submitted drawings show that the proposed development would include rear gardens to all of the new dwellings. However, none would meet the desired minimum length of 10m. They instead range from 6m to 9.4m in length. Generally, shorter gardens are provided for the 1-bedroom dwellings with longer gardens for the 2 and 3-bedroom units, three of which would also have a roof terrace at second floor level.
- 9.6.5 The reduced size of the gardens would not be attractive to every household, for example, families with children. The gardens would nevertheless provide adequate separation distances between the dwellings and would be useable for activities such as clothes drying, small-scale gardening, dining and sitting out. Moreover, the DaSA Local Plan says that there are a number of

considerations that may be taken into account in respect of any garden spaces provided as part of a development. In this case, the external space available for rear gardens is largely constrained by the need to provide an appropriate level of on-site car parking provision. Furthermore, and with regard to families with children, there is easy access to the beach and there are several open spaces/play areas nearby on Lydd Road which are accessible on foot. Ultimately, it is not considered that the reduced size of the gardens would justify a refusal of planning permission in this case. It is, however, considered necessary to remove permitted development rights for extensions and ancillary buildings (other than cycle stores) in the rear gardens, so that the existing garden provision is retained for future occupiers.

- 9.6.6 With regard to car parking provision, a total of 18 on-site car parking spaces are proposed. 12 of these would be allocated to the 2 and 3-bedroom houses (two spaces each) with four unallocated parking spaces serving the four 1-bedroom units. Two visitor spaces are also proposed. East Sussex County Council Highway Authority (the Highway Authority) have confirmed that this level of car parking provision is acceptable. Turning to cycle parking, a secure cycle store for each dwelling can be secured by condition.
- 9.6.7 In terms of bin storage provision, the submitted drawings show that seven of the proposed dwellings would have a bin store in their front garden; the remaining three dwellings would have a bin store in their rear garden. All bins would be available for collection from the front of the properties on collection day.
- 9.6.8 Local residents have queried whether a proportion of the houses would meet the Lifetime Homes Standard, as required by Policy LHN1 (vii) of the Rother Local Plan Core Strategy. This policy requirement is now defunct, as the Lifetime Homes Standard was superseded in 2015 by Part M4(2) Category 2: Accessible and adaptable dwellings of the Building Regulations. This new accessibility standard has been adopted by the Council for all new dwellings under Policy DHG4 of the DaSA Local Plan. It is secured by planning condition.
- 9.6.9 For the above reasons the proposal would meet the needs of future occupiers, including providing appropriate amenities.

## 9.7 Highway matters

- 9.7.1 Policies TR3 and CO6 (ii) of the Rother Local Plan Core Strategy seek to ensure adequate and safe access arrangements and avoid prejudice to road and/or pedestrian safety.
- 9.7.2 Paragraph 110 (b) of the National Planning Policy Framework seeks to ensure that safe and suitable access to the site can be achieved for all users. Paragraph 111 says:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

- 9.7.3 A new vehicular access is proposed on Marchants Drive to serve the rear car parking area. It is also proposed to create two new vehicular accesses on Old

Lydd Road to serve the tandem car parking spaces. Further to this, a new pedestrian footway, some 2m in width, is proposed along the site's frontages with Old Lydd Road and Marchants Drive. The formation of a new access on Marchants Drive and the provision of a new pedestrian footway comply with the requirements of Policy CAM1 (iv & v) of the DaSA Local Plan.

9.7.4 The Highway Authority has commented on the proposal. They have no major concerns regarding the proposed access arrangements, trip generation and highway impact. Conditions have been recommended which would ensure that the development can proceed without an unacceptable impact on highway safety. The new pedestrian footway can also be secured by condition. On this basis there is no objection to the proposal on highway grounds.

## 9.8 Flood risk and drainage

9.8.1 Policy EN7 of the Rother Local Plan Core Strategy says that flood risk will be taken into account at all stages in the planning process to avoid inappropriate development in areas at current or future risk from flooding, and to direct development away from areas of highest risk. Policy CAM1 (iii) of the DaSA Local Plan requires a site-specific Flood Risk Assessment (FRA) to be undertaken which demonstrates that the development will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

9.8.2 When the site was allocated for residential development it was in Flood Zone 2, which meant that it had a medium probability of flooding from rivers and the sea. However, the site is no longer in Flood Zone 2. According to the Government's Flood Map for Planning it is now in Flood Zone 1, which means it has a low probability of flooding from rivers and the sea. The FRA submitted with the application confirms this and it also confirms that the site is at low risk from surface water flooding. However, with regard to other sources of flooding, the FRA says that the site is at medium risk from groundwater flooding and this issue has been raised by the Lead Local Flood Authority (LLFA).

9.8.3 Paragraph 161 of the National Planning Policy Framework explains that to avoid flood risk to people and property, development plans should apply a sequential, risk-based approach to the location of development when taking account of all sources of flooding. This should be done by applying the Sequential Test. Paragraph 162 of the National Planning Policy Framework explains that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Paragraph 162 also includes an instructional policy that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

9.8.4 A Sequential Test has been submitted and this has listed other sites in a robustly defined Sequential Test Area (in this case Camber and its immediate environs), and then considered if they are of a lower flood risk and reasonably available. The Sequential Test concludes that there are no reasonably available sites within Camber and its immediate environs which are sequentially preferable to the application site for the functions and purposes of the development. As such, the Sequential Test is passed, and so this is a

case where the development can be permitted, provided it can be made safe throughout its lifetime, without increasing flood risk elsewhere. The Exception Test referred to in paragraph 163 of the National Planning Policy Framework is not applicable, as the site lies within Flood Zone 1 where it is not required.

- 9.8.5 In terms of whether the proposed development can be made safe for its lifetime, without increasing flood risk elsewhere, an appropriately designed surface drainage system would be required. In this regard, the LLFA is satisfied, in principle, that surface water runoff from the development can be managed safely. The detailed design – which will need to be informed by the findings of groundwater monitoring between autumn and spring – can be secured by condition.
- 9.8.6 In addition to the above, the FRA confirms that the elevated finished floor levels of the dwellings would mitigate any residual risk from surface water flooding. There is no objection to the provision of sleeping accommodation at ground floor level – as proposed for three of the dwellings – as the site now has a low probability of flooding from rivers and the sea.
- 9.8.7 While the site itself is at low risk from surface water flooding, the FRA confirms that Old Lydd Road to the south is at greater risk (the Government map shows it to be at high risk). This has the potential to cause difficulties in terms of access and egress in the event of surface water flooding along this route. Pedestrian access and egress would, however, still be available via Marchants Drive to the east of the site, and this has links through to the nearby Dunes Avenue and the main road through Camber.
- 9.8.8 With regard to foul water drainage, it is proposed to connect to the existing public foul sewer. Southern Water have not objected to this and would need to undertake any network reinforcement as appropriate. They have recommended a foul water drainage condition.
- 9.8.9 For the above reasons it is considered that the proposal would be acceptable in relation to flood risk and drainage.
- 9.9 Impact on habitats and biodiversity
- 9.9.1 Policy EN5 of the Rother Local Plan Core Strategy, Policy DEN4 of the DaSA Local Plan and the National Planning Policy Framework seek to conserve and enhance habitats and biodiversity.
- 9.9.2 Policy CAM1 of the DaSA Local Plan makes specific reference to avoiding adverse impacts on the adjacent designated sites of importance for biodiversity (i.e. the Dungeness, Romney Marsh and Rye Bay SSSI, the Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site, and the Dungeness SAC), as well as supporting the implementation of the Sustainable Access and Recreation Management Strategy (SARMS) as appropriate.
- 9.9.3 The application is accompanied by an Ecological Impact Assessment (EIA) – updated to support the amended housing scheme – which considers the impacts of the proposed development on statutory designated sites, habitats and protected species. The EIA's conclusion is as follows:



*“The Dungeness, Romney Marsh and Rye Bay SSSI lies eight metres south of the site, while the Dungeness, Romney Marsh and Rye Bay Ramsar Site and SPA lie 140m south of the site. The Dungeness SAC lies 1.5km south-west. The site comprises a hardstanding car park bounded by ruderal vegetation and is assessed as having low suitability for foraging and commuting bats. The site does not support habitats suitable for any other protected species.*

*Adverse impacts on designated sites and foraging and commuting bats have been identified and appropriate mitigation measures proposed. These include the implementation of a CEMP, development of a suitable drainage strategy, sensitive timings of works and working methods and the implementation of a sensitive lighting scheme for bats. Post-development, no residual or cumulative impacts are anticipated.*

*The site will be enhanced for bats through the installation of artificial roosting features within the new dwellings, and for bats and birds through new tree planting and landscaping. As such it is considered that the proposals will accord with all relevant national and local planning policy in relation to ecology including Policy EN5 of the Rother Local Plan Core Strategy, Policy CAM1 of the Development and Site Allocation Local Plan and the National Planning Policy Framework (see Section 2.0).”*

- 9.9.4 With regard to the impact of the proposed development on protected species (in this case bats), the mitigation and enhancement measures proposed in the EIA can be secured by condition.
- 9.9.5 The Sussex Newt Officer (SNO) has confirmed that the site falls within the red impact zone for great crested newts. This indicates that there is suitable habitat and a high likelihood of great crested newt presence. However, in this case the SNO is satisfied that if the development was to be approved, it would be unlikely to cause an impact on great crested newts and/or their habitats. In reaching this conclusion the SNO has had regard to the EIA which says that the habitat on site is unsuitable for great crested newt. An informative on the decision notice has been recommended if planning permission is granted.
- 9.9.6 Turning to the impact of the proposed development on the designated sites of importance for biodiversity, with the regard to the European sites (i.e. the SPA and Ramsar site and SAC), the Council, as the competent authority, has undertaken an Appropriate Assessment in accordance with section 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). The assessment concludes that with the mitigation measures proposed in the EIA (e.g. CEMP, suitable drainage strategy etc.), which can be secured by condition, the proposal would not adversely affect the integrity of these sites. The proposed mitigation measures would also protect the integrity of the SSSI.
- 9.9.7 In terms of supporting the implementation of the SARMS, the EIA proposes signage in the form of a notice board in a communal area of the site, which can also be read from the footpath or road. The notice board would make residents aware of the importance of the designated sites, as well as ways in which visitors can avoid adversely impacting the sites when visiting. The proposed erection of a notice board is supported. Its precise location and content can be secured by condition.

9.9.8 For the above reasons it is considered that the proposal would have an acceptable impact on habitats and biodiversity.

9.10 Other Matters

9.10.1 The application is accompanied by a Phase I Geo-Environmental Site Assessment, which concludes:

*“The Conceptual Site Model has identified the presence of a series of potentially active pollution linkages associated with the historical use of the site and immediately adjacent sites which are considered to have the potential to present a significant risk to identified receptors.”*

9.10.2 It goes on to recommend:

*“An intrusive site investigation should be undertaken to investigate the potential pollution linkages identified by the Conceptual Site Model and determine the potential risks posed to the identified receptors.*

*Upon return of chemical testing results a Tier 1 Risk Assessment should be undertaken to determine whether the encountered soils have the potential to present a significant risk to the identified receptors. This would then enable mitigation measures to be formulated, if required.”*

9.10.3 The Council’s Environmental Health Service has reviewed the Phase I Geo-Environmental Site Assessment and agrees with the recommendation to carry out an intrusive site investigation. This can be secured by condition, together with a remediation strategy if contamination is found to be present.

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**10.0 PLANNING BALANCE AND CONCLUSION**

10.1 The proposal is a well-designed and sustainable residential development which will deliver 10 dwellings on an allocated housing site and will have an acceptable impact on the environment. The change to a 100% affordable housing scheme should be supported as the housing mix is appropriate and it will help to address the clear need for the provision of more affordable housing in the district. There would be a loss of money raised through the Community Infrastructure Levy (CIL), but this loss is counterbalanced by the additional CIL liable on other sites in the district where less affordable housing and a higher proportion of market housing is achieved. New homes bonus could be approximately £80,840 paid over four years.

10.2 It is recommended that planning permission is granted for the proposal, subject to conditions, subject to the end of the formal period of public consultation on the 13 October 2023, for the change to a 100% affordable housing scheme, and subject to completion of a Section 106 Legal Agreement to secure the affordable housing.

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**RECOMMENDATION: GRANT (PLANNING PERMISSION) DELEGATED SUBJECT TO THE END OF THE FORMAL PERIOD OF PUBLIC CONSULTATION AND COMPLETION OF A SECTION 106 LEGAL AGREEMENT TO SECURE THE AFFORDABLE HOUSING**

## 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 drawings:  
No. 001 Rev. P02 (Site Location Plan), dated 01/06/21  
No. 003 Rev. P10 (Proposed Site Plan), dated 10/10/22  
No. 004 Rev. P04 (Proposed Plans & Elevation Unit Type A), dated 06/10/22  
No. 005 Rev. P04 (Proposed Plans & Elevation Unit Type B), dated 06/10/22  
No. 006 Rev. P04 (Proposed Plans & Elevation Unit Type C), dated 06/10/22  
No. 007 Rev. P04 (Proposed Plans & Elevation Unit Type D), dated 06/10/22  
No. 008 Rev. P03 (Plots 1-4 Proposed Elevations Unit Type A), dated 05/10/22  
No. 009 Rev. P03 (Plots 1-4 Proposed Elevations Unit Type A), dated 05/10/22  
No. 010 Rev. P03 (Plot 5 Proposed Elevations Unit Type B), dated 05/10/22  
No. 011 Rev. P03 (Plot 7 9 and 6 8 10 Proposed Elevations Unit Type C and D), dated 05/10/22  
No. 012 Rev. P01 (Proposed Street Elevations Merchant Drive), dated 05/10/22  
No. 013 Rev. P05 (Proposed Street Elevations Old Lydd Road), dated 05/10/22  
No. 014 Rev. P05 (Proposed Street Elevations Old Lydd Road), dated 05/10/22  
No. 015 Rev. P01 (Proposed Street Elevations Royal William Square), dated 05/10/22  
No. 016 Rev. P02 (Proposed Site Block Plan), dated 10/10/22  
Reason: For the avoidance of doubt and in the interests of proper planning.
  
3. No development hereby permitted shall commence until a scheme for the provision of foul water drainage works has been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the approved drainage works to serve the development have been provided.  
Reason: This pre-commencement condition is required to ensure the satisfactory drainage of the site and to safeguard the environment (including the nearby designated sites of importance for biodiversity) from pollution, in accordance with Policies SRM2 (i) and EN5 (ii) of the Rother Local Plan Core Strategy 2014 and Policies DEN4 (ii) and CAM1 (vi & vii) of the Development and Site Allocations Local Plan 2019.
  
4. No development hereby permitted shall commence until details of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be designed having regard to the following:
  - a) Surface water runoff from the proposed development should be drained to the ground via infiltration. Evidence of this (in the form of hydraulic calculations) should be submitted with the detailed drainage drawings. The hydraulic calculations should take into account the connectivity of the different surface water drainage features.
  - b) The details of the proposed permeable pavement and infiltration trench should be provided as part of the detailed design. This should include cross sections and invert levels.

- c) The detailed design should include information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely.
- d) The detailed design of the Sustainable Drainage System features should be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the ponds and the highest recorded groundwater level. If this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the drainage system should be provided.
- e) A maintenance and management plan for the entire drainage system should be provided and cover the following:
  - Clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains.
  - Evidence that these responsibility arrangements will remain in place throughout the lifetime of the development.

The development shall not be occupied until evidence (including photographs) demonstrating that the surface water drainage scheme has been constructed in accordance with the approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: This pre-commencement condition is required to ensure the satisfactory drainage of the site and to safeguard the environment (including the nearby designated sites of importance for biodiversity) from pollution, in accordance with Policies SRM2 (iii), EN5 (ii) and EN7 of the Rother Local Plan Core Strategy 2014 and Policies DEN4 (ii), DEN5 and CAM1 (vi & vii) of the Development and Site Allocations Local Plan 2019.

- 5. No development hereby permitted shall commence until a Contaminated Land Assessment (CLA) has been submitted to and approved in writing by the Local Planning Authority. The CLA shall include the following details:

- a) The results of a full intrusive site investigation carried out in accordance with the recommendations set out in section 7.0 of the Omnia Phase I Geo-Environmental Site Assessment (Omnia ref: A11574/1.0), dated June 2021.
- b) If contamination is found to be present at the site, provide a remediation strategy and timetable detailing how this contamination will be dealt with.

Where remediation is required, the remediation strategy shall be implemented as approved.

Reason: This pre-commencement condition is required to ensure that human health and the natural environment (including the nearby designated sites of importance for biodiversity) are not at risk from pollution, in accordance with Policies OSS3 (viii) and EN5 (ii) of the Rother Local Plan Core Strategy 2014 and Policies DEN4 (ii) and CAM1 (vi & vii) of the Development and Site Allocations Local Plan 2019.

- 6. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy and timetable detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that human health and the natural environment (including the nearby designated sites of importance for biodiversity) are not at risk from pollution, in accordance with Policies OSS3 (viii) and EN5 (ii) of the Rother Local Plan Core Strategy 2014 and Policies DEN4 (ii) and CAM1 (vi & vii) of the Development and Site Allocations Local Plan 2019.

7. No development hereby permitted shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out, as a minimum, the timing of the works and site-specific measures to control and monitor impacts arising in relation to construction traffic, noise and vibration, dust and air pollutants, land contamination, surface water run-off and groundwater. It shall also set out arrangements by which the developer shall maintain communication with residents and businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP. The construction of the development shall be carried out strictly in accordance with the approved CEMP at all times.  
Reason: This pre-commencement condition is required to safeguard the amenities of neighbouring properties and the surrounding area generally, and to safeguard the integrity of the adjacent designated sites of importance for biodiversity, in accordance with Policies OSS4 (ii) and EN5 (ii) of the Rother Local Plan Core Strategy 2014 and Policies DEN4 (ii) and CAM1 (vi & vii) of the Development and Site Allocations Local Plan 2019.
8. No development hereby permitted shall commence until construction details of the new pedestrian footway around the site have been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the pedestrian footway has been provided and constructed in accordance with the approved details.  
Reason: This pre-commencement condition is required to ensure satisfactory pedestrian access to the dwellings and to improve pedestrian access in the surrounding area, in accordance with Policy OSS4 (i) of the Rother Local Plan Core Strategy 2014 and Policy CAM1 (v) of the Development and Site Allocations Local Plan 2019.
9. No development above slab level shall commence until details of the following 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:
- a) 1:10 scale drawings of proposed details including fenestration, eaves details, dormer windows, porches, and utility boxes (including the location of such boxes on the buildings).
  - b) Specifications and samples of the materials to be used in the construction of all external surfaces of the buildings.
  - c) The proposed site levels and finished floor levels of all buildings in relation to existing site levels, and to adjacent highways and properties (including levels of paths, drives, steps and ramps).
- Reason: To ensure a high building appearance and architectural quality, in accordance with Policy EN3 of the Rother Local Plan Core Strategy 2014.
10. No development above slab level shall commence until the following public realm and hard landscaping details have been submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details and prior to occupation of the first dwelling:
- a) Boundary treatments and means of enclosure (fences, railings and walls) indicating the location, design and materials of such, including to define and enclose the front gardens of the dwellings.

- b) Hard surfacing materials specification (samples/product literature) (including for road surfaces, paths, parking spaces and other areas of hardstandings).

Reason: To ensure the creation of a high quality public realm, design quality, and landscape setting, in accordance with Policy EN3 of the Rother Local Plan Core Strategy 2014.

- 11. No development above ground level shall commence until the following soft landscaping details have been submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out as approved and in accordance with the agreed timetable for implementation:

- a) Detailed planting plans, supported by written material as necessary, setting out the mix of species, their size, number and planting densities as appropriate.
- b) The detail of all new trees, including their species, sizes, quantity, positions and how they will be protected and maintained until successfully established in accordance with BS5837:2012 “Trees in Relation to Design, Demolition and Construction – Recommendations”.
- c) Timetable for implementation of the soft landscaping works.
- d) Management responsibilities and maintenance schedules for the soft landscaped areas (except privately owned domestic gardens).

Any trees or plants that, within a period of five years after planting, are removed, die or are seriously damaged shall be replaced by others of the same species, size and number as originally proposed, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the creation of a high quality public realm and landscape setting, and to enhance the biodiversity value of the site, in accordance with Policies EN3 and EN5 (ix) of the Rother Local Plan Core Strategy 2014 and Policy DEN4 (iii) of the Development and Site Allocations Local Plan 2019.

- 12. No development above slab level shall commence until full details of the proposed air source heat pumps – to include noise levels, maintenance instructions and proposed locations on the dwellings hereby permitted – have been submitted to and approved in writing by the Local Planning Authority. The air source heat pumps shall be installed and maintained in accordance with the approved details.

Reason: To safeguard the amenities of neighbouring properties, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014.

- 13. No development above slab level shall commence until details of a notice board for residents and visitors – to include design and materials of the notice board, content and location – which raises awareness of the importance of the adjacent Dungeness Complex of Natura 2000 sites – comprising the Dungeness, Romney Marsh and Rye Bay Special Protection Area and Ramsar site, and the Dungeness Special Area of Conservation – as well as ways in which visitors can avoid adversely impacting the sites when visiting, has been submitted to and approved in writing by the Local Planning Authority. The approved notice board shall be provided prior to occupation of the first dwelling and shall thereafter be retained.

Reason: To ensure the development has no adverse effect on the integrity of the adjacent Natura 2000 Sites and supports the implementation of the Sustainable Access and Recreation Management Strategy, in accordance with Policy EN5 (ii) of the Rother Local Plan Core Strategy 2014 and Policies DEN4 (ii) and CAM1 (vii) of the Development and Site Allocations Local Plan 2019.

14. At the time of construction and prior to occupation of the dwellings on Plots 1 to 4 hereby permitted, the bathroom windows at first floor level within the west elevations, as indicated on approved Drawing Nos. 004 Rev. P04 (Proposed Plans & Elevation Unit Type A), dated 06/10/22, and 008 Rev. P03 (Plots 1-4 Proposed Elevations Unit Type A), dated 05/10/22, 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 safeguard the amenities of neighbouring properties, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014.
15. At the time of construction and prior to occupation of the first dwelling, a single integrated bat tube shall be incorporated into the fabric of each new dwelling hereby permitted, as detailed in section 5.5.3 of the ECOSA Ecological Impact Assessment (Report ref: 22.0186.0001.F0), dated November 2022, and the bat tubes shall thereafter be retained.  
Reason: To enhance the biodiversity value of the site, in accordance with Policy EN5 (ix) of the Rother Local Plan Core Strategy 2014 and Policy DEN4 (iii) of the Development and Site Allocations Local Plan 2019.
16. The completed vehicular accesses shall have maximum gradients of 4% (1 in 25) from the channel line for 2m or for the whole width of the verge whichever is the greater and 11% (1 in 9) thereafter.  
Reason: To ensure the safety of persons and vehicles entering and leaving the accesses and proceeding along the highway, in accordance with Policies CO6 (ii) and TR3 of the Rother Local Plan Core Strategy 2014.
17. No dwelling hereby permitted shall be occupied until the vehicular accesses serving the development have been constructed in accordance with the approved drawings.  
Reason: To ensure the safety of persons and vehicles entering and leaving the accesses and proceeding along the highway, in accordance with Policies CO6 (ii) and TR3 of the Rother Local Plan Core Strategy 2014.
18. The main vehicular access from Marchants Drive shall not be used until visibility splays of 2.4m by 43m are provided in both directions and maintained thereafter.  
Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway, in accordance with Policies CO6 (ii) and TR3 of the Rother Local Plan Core Strategy 2014.
19. No dwelling hereby permitted shall be occupied until motor vehicle parking and turning areas have been provided in accordance with the approved drawings. The motor vehicle parking and turning areas shall thereafter be kept available for the parking and turning of motor vehicles and shall not be used for any other purpose.  
Reason: To ensure there is adequate parking provision and to ensure the safety of persons and vehicles entering and leaving the accesses and proceeding along the highway, in accordance with Policies CO6 (ii), TR3 and TR4 (i & iii) of the Rother Local Plan Core Strategy 2014.
20. The motor vehicle parking spaces shall measure at least 2.5m by 5m (add an extra 50cm where spaces abut walls/fences).  
Reason: To provide adequate space for the parking of vehicles and to ensure the safety of persons and vehicles entering and leaving the accesses and

proceeding along the highway, in accordance with Policies CO6 (ii), TR3 and TR4 (i & iii) of the Rother Local Plan Core Strategy 2014.

21. No dwelling hereby permitted shall be occupied until a secure cycle store for each dwelling has been provided in accordance with details that have been submitted to and approved in writing by the Local Planning Authority and the cycle stores 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 Policies PC1 and TR3 of the Rother Local Plan Core Strategy 2014.
22. No external lighting shall be installed until a "lighting design strategy for biodiversity" for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The installation of any external lighting shall thereafter only be undertaken in accordance with the approved strategy and shall be retained as such thereafter.  
Reason: To mitigate the effects of artificial lighting on bats, in accordance with Policy EN5 (ix) of the Rother Local Plan Core Strategy 2014 and Policy DEN4 (ii) of the Development and Site Allocations Local Plan 2019.
23. 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 2014 and Policy DHG4 of the Development and Site Allocations Local Plan 2019.
24. The dwellings hereby permitted 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 they 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 2014 and Policy DRM1 of the Development and Site Allocations Local Plan 2019.
25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension beyond the rear wall of the dwellings on Plots 2 to 10 hereby approved, or beyond the north wall of the dwelling on Plot 1 hereby approved, shall be constructed.  
Reason: To ensure appropriate outdoor amenity space is retained for occupiers of the dwellings, in accordance with Policy OSS4 (i) of the Rother Local Plan Core Strategy 2014 and Policy DHG7 (i) of the Development and Site Allocations Local Plan 2019.
26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-



enacting that Order with or without modification) no development permitted by Class E of Part 1 of Schedule 2 of the 2015 Order (as amended) shall be erected within the curtilage of any dwelling hereby approved.

Reason: To ensure appropriate outdoor amenity space is retained for occupiers of the dwellings, in accordance with Policy OSS4 (i) of the Rother Local Plan Core Strategy 2014 and Policy DHG7 (i) of the Development and Site Allocations Local Plan 2019.

#### **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. All interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.
2. The landowner and/or developer is advised that Sussex Police have made recommendations on the proposal from a crime prevention viewpoint. Their details comments are available to view on the planning website.
3. The landowner and/or developer is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.
4. The landowner and/or developer will be required to enter into a Section 184 Licence with East Sussex Highways, for the provision of the new vehicular accesses. The Applicant is requested to contact East Sussex Highways (0345 60 80 193) to commence this process. The Applicant is advised that it is an offence to undertake any works within the highway prior to the licence being in place.
5. The landowner and/or developer is advised that the provision of the new 2m wide pedestrian footway along the site's frontages with Old Lydd Road and Marchants Drive is likely to require a 'deed of dedication' in order that the footway can be constructed to an adoptable standard. The footway will require constructing in accordance with East Sussex County Council specification with all works carried out by an approved contractor under the appropriate legal agreement.
6. The development will be subject to the requirements of the Building Regulations, and advice should be sought from the East Sussex Building Control Partnership. No work should be carried out until any necessary permission has been obtained.
7. The developer should take all relevant precautions to minimise the potential for disturbance to adjoining occupiers from noise and dust during the construction period. This should include not working outside the hours of 8am to 6pm Monday to Friday, 8am to 1pm on Saturdays, and no such work should take place on Sundays or Bank Holidays.

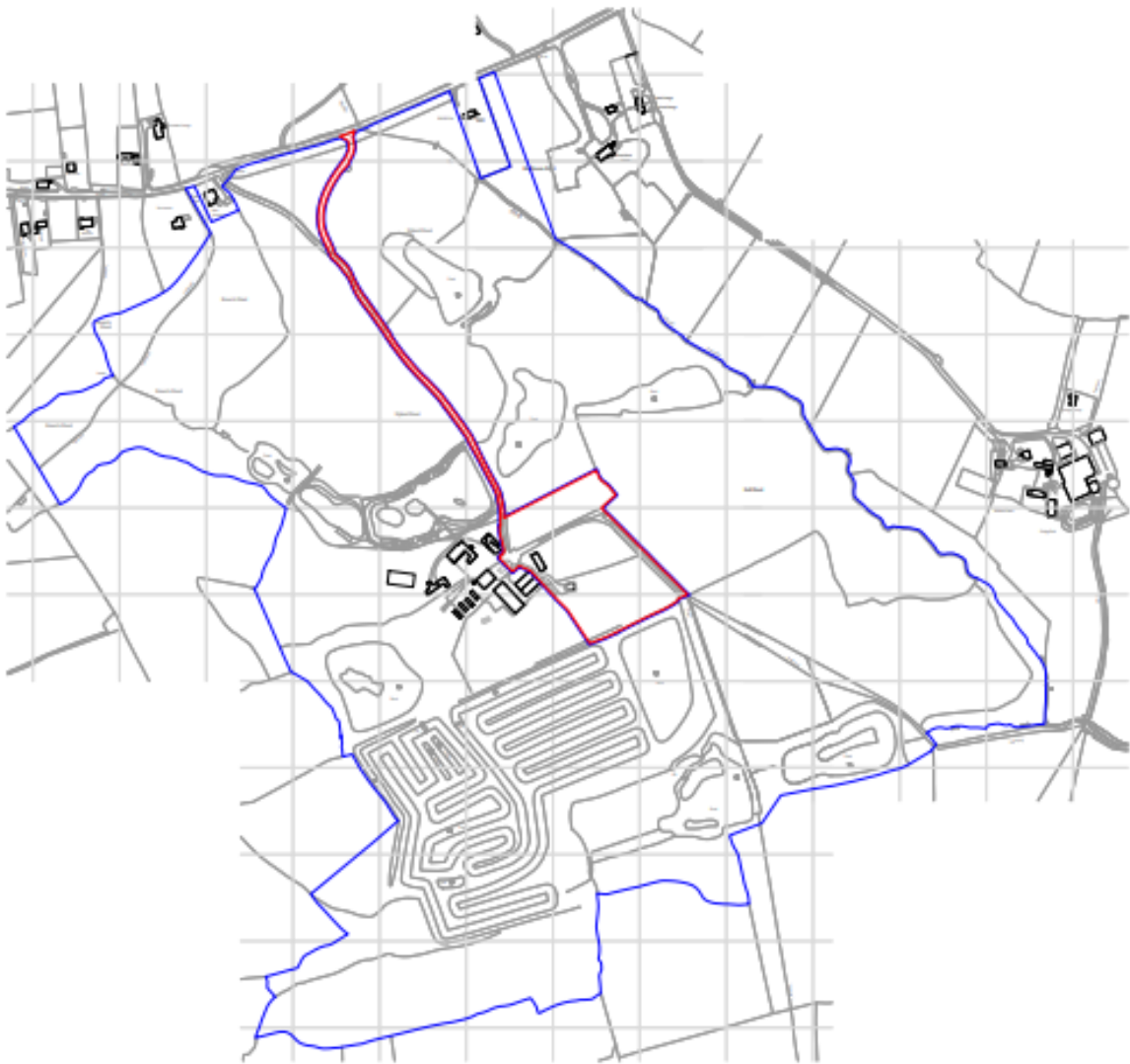
**NATIONAL PLANNING POLICY FRAMEWORK:** In accordance with the requirements of the National Planning Policy Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining 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.

SITE PLAN

CATSFIELD

RR/2023/1465/P

Wylands Farm Campsite,  
Powdermill Lane  
Catsfield



## Rother District Council

Report to	-	Planning Committee
Date	-	12 October 2023
Report of the	-	Director – Place and Climate Change
Subject	-	Application RR/2023/1465/P
Address	-	Wylands Farm, Campsite, Powdermill Lane CATSFIELD
Proposal	-	Use of land for the siting of caravans/motorhomes (up to 12 serviced pitches) and for camping (up to 30 pitches), to include relocation of existing caravans/motorhomes; creation of an overflow car park (approx. 37 spaces); retention of ancillary building providing toilet, shower, changing and washing facilities to serve those fishing and camping at Wylands (retrospective); and associated works and landscaping.

[View application/correspondence](#)

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

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**Director: Ben Hook**

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**Applicant:** Yesterday's World Limited  
**Agent:** Kember Loudon Williams  
**Case Officer:** Mrs S. Shepherd  
(Email: [sarah.shepherd@rother.gov.uk](mailto:sarah.shepherd@rother.gov.uk))

**Parish:** CATSFIELD  
**Ward Members:** Councillor C. Pearce

**Reason for Committee consideration:** Director – Place and Climate Change referral: to assess Area of Outstanding Natural Beauty impacts and in light of the associated historical considerations at the site.

**Statutory 8-week date:** 11 October 2023  
**Extension of time agreed to:** 30 October 2023

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This application is included in the Committee site inspection list.

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### 1.0 SUMMARY

1.1 This application proposes a new campsite at Wylands, an established commercial and tourism site within the High Weald Area of Outstanding

Natural Beauty (AONB). The campsite is proposed for touring caravans and motorhomes and tents only.

- 1.2 There is an Enforcement Notice (EN) on part of Wylands, including this application site, to preclude camping. The existence of an EN prohibiting use of its associated area for the storage of caravans and tents, camping and a caravan site, does not prohibit the submission of nor consideration of a planning application for any of those activities. Any such application falls to be considered in the light of the current development plan and any other materials considerations including the National Planning Policy Framework, Countryside and Rights of Way (CRoW) Act 2000 and High Weald Management Plan.
  - 1.3 Having considered the current relevant planning policies that now pertain to the site and have been evolved since issue of the EN in 1999, it has been concluded that the proposals would comply with the development plan and that they would not result in undue harm. It is considered that the landscape of the AONB would be conserved and additionally enhanced by the landscaping and biodiversity proposals.
  - 1.4 Having considered all aspects of the proposal in the report below, it is concluded that the application site in context with the existing activities and facilities at the site is considered to be acceptable.
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## **2.0 SITE**

- 2.1 Wylands Farm with its international angling centre lies to the south side of Powdermill Lane within the countryside of the High Weald AONB. There is a long winding access road into the heart of the site. The former farmstead comprises a mix of buildings with small and large barns, a pair of bungalow cottages and a mixed part two-storey brick building providing offices and storage and some holiday lets. Under previous planning permission RR/2021/498/P a number of the buildings have been refurbished and some replaced, to provide a farm shop, new tack shop, cafe, storage and small commercial units.
  - 2.2 The site comprises a mixture of lakes, woodland and some open fields with a public footpath traversing through the site, (footpath Catsfield 15a). While not visible from Powdermill Lane, the complex of buildings and uses can be viewed to varying degrees from a public footpath (footpath Catsfield 16a) to the south across the valley to the west of Church Farm.
  - 2.3 The area proposed for the overflow car park lies to the east of the existing farmyard area of buildings and parking, with the proposed campsite and facilities building within the field to the east/southeast of the existing buildings, which slopes gently southwards towards the lakes. Trees and hedging exist to many of the boundaries.
- 

## **3.0 PROPOSAL**

- 3.1 The application proposes:
  - 12 pitches for caravans/motorhomes.

- Two sections of field for camping (tents), one for 18 pitches and the other for 12 pitches.
  - Retention of the facilities building (already on site) containing WC's and showers, wash up area and new adjacent refuse store for use by campers and those fishing.
  - An area of overspill car parking – 37 spaces, cycle store and bin store for use by visitors to the other commercial uses at Wylands.
  - Additional landscaping and planting.
- 3.2 The application is accompanied by a Planning Statement, Landscape and Visual Appraisal, Landscape Masterplan, Ecological Appraisal, Biodiversity Net Gain appraisal, Flood Risk Assessment and Transport Statement.
- 3.3 The proposal is considered to represent minor development in the AONB by reason of its small scale and limited impacts. It is noted that in terms of an EIA screening, the campsite area itself equates to approximately 1.2ha and as such falls within Schedule 2, 12(e) development of the EIA Regulations. In considering the Schedule 3 criteria of the EIA Regulations, it is concluded that although located in a sensitive area the development is a small scale proposal and there would be no likely significant impacts in terms of noise, waste, contamination, ecology, flooding, traffic or complex construction. Given the nature, scale and location of the proposal would not be significant in terms of the receiving environment and existing land uses and would not result in significant environmental impacts. As a minor development, paragraph 177 of the National Planning Policy Framework which references 'major development' in the AONB, is not engaged.

## 4.0 HISTORY

- 4.1 Wylands has quite an extensive history with regard to the fishing lakes since 1985, when existing lakes were enlarged, and existing barn was converted to offices and stores. Additional lakes were formed with reference to applications in 1994 and 2012. Various other barns have had applications for associated storage uses. A variety of large-scale camping proposals have historically been refused which resulted in an Enforcement Notice to be issued in 1999.

More recent planning record as follows:

- 4.2 RR/2023/1780/O Certificate of lawfulness for the existing use of land for storage purposes (B8 use). YET TO BE DETERMINED.
- 4.3 RR/2023/1045/P Retention of six timber glamping pods and an ancillary outbuilding providing toilet and washing facilities (Retrospective). APPROVED CONDITIONAL.
- 4.4 RR/2023/757/P Variation of Condition 15 (Hours of operation) imposed on planning permission RR/2021/498/P to extend the hours of operation of the Cafe / Visitor Centre. APPROVED CONDITIONAL.
- 4.5 RR/2022/2506/P Replacement of the existing store building with a new commercial building comprising Class E (offices and

workshops) and B8 (storage use) uses. APPROVED CONDITIONAL.

- 4.6 RR/2022/1895/P Use of land for the siting of caravans/motorhomes (up to 12 serviced pitches) and for camping (up to 30 pitches), to include relocation of existing caravans/motorhomes; creation of an overflow car park (approx. 37 spaces); retention of ancillary building providing toilet, shower, changing and washing facilities to serve those fishing and camping at Wylands (retrospective); and associated works and landscaping. APPROVED CONDITIONAL. Currently the subject of a Judicial Review.
- 4.7 RR/2021/2519/P Erection of a new facilities building to serve those fishing and using the wider site (Retrospective). REFUSED.
- 4.8 RR/2021/498/P Conversion and refurbishment of redundant agricultural buildings and storage sheds to include the change of use of the buildings and operational works: Old Barn Courtyard - Part change of use from ancillary storage sheds to self-catering holiday accommodation (three units), together with operational works (existing offices retained); Workshop Building - Operational works (part retrospective and replacement) and proposed change of use from agricultural storage building to flexible office, workshop, and storage within use classes E (excluding retail uses) and B8, and part change of use to fishing tackle shop (Use Class E); Dutch Barn - Change of use from agricultural barn and cafe, together with operational works, to form a new visitor centre, creative arts hub and cafe (within Use Class E); Hay Barn - Operational works (part retrospective) and proposed change of use from agricultural barn to a farm shop (ground floor) (Use Class E) and offices within Use Class E (excluding retail) (first floor) and Machinery Shed and Easterly Storage Buildings - Operational works (part retrospective) to refurbish and support continued ancillary storage and workshop uses; together with associated landscaping and car parking layout. APPROVED CONDITIONAL.
- 4.9 RR/2019/2518/P Outline: Proposed demolition of existing office, storage and ancillary buildings and clearance of static and touring caravans from site. Construction of new angling centre, vehicle/materials store and 4 No. family lodges. Proposed demolition of existing pair of semi-detached residential cottages and erection of 2 No. replacement detached dwellings. WITHDRAWN.
- 4.10 RR/2016/162/P Outline: New angling centre and relocation of 4 No. static caravans. WITHDRAWN.
- 4.11 RR/2015/3117/P Outline: Erection of two detached dwellings including demolition of existing cottages, offices, outbuildings and barns. WITHDRAWN.

- 4.12 RR/2013/754/P To site three additional caravans for holiday/recreational use in the specified location where permission already exists for one caravan to be sited permanently. (up to four caravans have been sited in this location from time to time for in excess of 20 years). REFUSED. Appeal allowed.
- 4.13 RR/2012/151/P Renovation works to junior lake (retrospective). APPROVED CONDITIONAL.
- 4.14 RR/2011/1311/P External improvements to seating area to existing cafe building (erection of pergola and decking). APPROVED CONDITIONAL.
- 4.15 RR/2011/1183/P Change of use from storeroom to fishing tackle shop. APPROVED CONDITIONAL.
- 4.16 RR/2011/1182/P Relocation of touring field. REFUSED.
- 4.17 RR/2011/1027/P Excavation works to and surrounding house lake (retrospective). APPROVED CONDITIONAL.
- 4.18 RR/2009/462/O Lawful use for the land for the siting of two caravans for the purpose of providing holiday accommodation. REFUSED FOLLOWING COUNSEL ADVICE.
- 4.19 RR/2009/460/O Lawful use of the land for the siting of a caravan for the purposes of holiday accommodation. APPROVED. (There is also a planning permission related to this one caravan).

Also pertinent:

- 4.20 RR/1999/2135/O Lawful use of land for the storage of caravans and as a site for touring caravans and tents. Certificate granted. Subsequent Counsel opinion, (set out in the committee report for application RR/2011/1182/P, 25 August 2011), based on a Court of Appeal ruling (Staffordshire CC v Challinor 2007), was sought in relation to the 2009 lawful certificate applications and advised in effect that as the appeal into the enforcement notice had been withdrawn it had taken effect and hence the 1999 certificate did not modify the effect of the enforcement notice. At the time the Council neither withdrew the enforcement notice nor did it seek to prosecute for non-compliance with it. Further Counsel advice had noted:

*“Notwithstanding the above strict and, in my view, correct position having regard to the decision of the Court of Appeal in Challinor, it would clearly be unattractive now for the council to seek to rely on the enforcement notice in respect of the uses certified by the CLEUD. As I have noted above, the enforcement appeal was withdrawn on what seems to be the common understanding of the Angling Centre, the Council and even PINs that the issue of the CLEUD obviated the need to pursue the appeal*



*certainly in respect of the land of which the CLEUD was issued.”*

- 4.21 RR/2006/3470/P Renewal of outline consent RR/98/2292/P for the erection of 15 fisherman's cabins, facilities building, workshop/store, new dwelling and conversion of two existing dwelling into one, also resitting of access. Refused. Appeal allowed. Appeal decision QUASHED by High Court, lack of reasons given by Inspector in reaching conclusion.
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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:

- OSS2: Use of development boundaries
- OSS3: Location of development
- OSS4: General development considerations
- RA2: General strategy for the countryside
- RA3: Development in the Countryside
- EC6: Tourism activities and facilities
- EN1: Landscape Stewardship
- EN5: Biodiversity and green space
- TR4: Car parking

5.2 The following policies of the [Development and Site Allocations Local Plan \(2019\)](#) are relevant to the proposal:

- DEC2: Holiday sites
- DEN1: Maintaining landscape character
- DEN2: High Weald AONB
- DEN4: Biodiversity and green space
- DEN5: Sustainable drainage
- DEN7: Environmental Pollution
- DIM2: Development boundaries

5.3 The following objectives of the adopted High Weald AONB Management Plan 2019-2024 are relevant to the proposal:

- S2: To protect the historic pattern and character of settlement.
- S3: To enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design.
- R1: To maintain the historic pattern and features of routeways.
- W1: To maintain the existing extent of woodland and particularly ancient woodland.
- FH1: To secure agriculturally productive use for the fields of the High Weald, especially for local markets, as part of sustainable land management.
- LBE1: To improve returns from, and thereby increase entry and retention in, farming, forestry, horticulture, and other land management activities that conserve and enhance natural beauty.
- LBE2: To improve amenities, infrastructure (including the provision of appropriate affordable housing), and skills development for rural

communities and related sectors that contribute positively to conserving and enhancing natural beauty.

- OQ1: To increase opportunities for learning about and celebrating the character of the High Weald.
- OQ3: To develop and manage access to maximise opportunities for everyone to enjoy, appreciate and understand the character of the AONB while conserving its natural beauty.
- OQ4: To protect and promote the perceptual qualities that people value.

5.4 The National Planning Policy Framework (2023) and Planning Policy Guidance are also material considerations with particular reference to the AONB paragraph 176 and supporting a prosperous rural economy paragraphs 84 and 85.

5.5 Section 85 of the CRoW Act 2000 requires local authorities to have regard to 'the purpose of conserving and enhancing the natural beauty of AONBs' in making decisions that affect the designated area.

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## 6.0 CONSULTATIONS

### 6.1 ESCC, Highway Authority – **NO OBJECTION**

6.1.1 Has no objection subject to conditions. Note that from a highways perspective the development proposal is unchanged and therefore comments remain as per previous response.

6.1.2 Comments on existing site, accessibility, site access, parking, on-site turning, traffic generation and highway impact. Concludes:

*I have no major concerns regarding the existing access serving the site. Furthermore, the parking provision and turning facilities available within the site are also considered to be acceptable.*

*It is evident that the proposed development will result in an increase in the level of traffic visiting the site on a day-to-day basis; however, this increase in traffic is likely to be relatively low with a majority of traffic travelling to and from the site outside of the peak hours of the day. The additional facilities that will be provided within the site will also reduce the need for visitors to travel off site for provisions etc.*

*With this in mind, I have no major concerns regarding the developments impact on the site access or the surrounding highway network from either a highway safety or capacity perspective.*

*I therefore do not wish to object to this proposal subject the imposition of conditions set out below.*

### 6.2 ESCC, Lead Local Flood Authority and Pevensey and Cuckmere Drainage Board – **NO OBJECTION**

6.2.1 As previously responded to in application RR/2022/1895/P on 15 September 2022, the information supporting the application in respect of surface water

drainage is satisfactory and addresses all concerns with surface water management and impacts on local flood risk.

6.3 ESCC, Footpaths – **NO COMMENTS RECEIVED**

6.4 Environment Agency – **NO OBJECTION**

6.4.1 Comments summarised:

- We have no objections to this application as proposed.
- They do however note that the access/egress to the site is within Flood Zone 3 and could present danger to some people (e.g. elderly and infirm) during a flood event. As such they advise the Applicant to discuss the proposals with the Emergency Planning Department and seek warning and emergency response details.
- Advice also provided in respect of groundwater protection; Waste on-site; and waste to be taken off-site.
- The comment of the emergency planner is awaited.

6.5 Sussex Newt Officer – **NO OBJECTION**

6.5.1 Note that the proposed development would present a low risk to great crested newts and/or their habitats. However, as the development is within the red impact zone, as modelled by district licensing mapping, an informative is recommended to be attached to any permission.

6.6 High Weald Unit – **NO NEW COMMENTS RECEIVED**

6.6.1 Previously submitted their standing advice.

6.7 Sussex Police – **NO OBJECTION**

6.7.1 Refers the Applicant/Agent to the Commercial Guide 2023 with regard to Secured by Design. References the use of accredited products that are fit for purpose and appropriate along with natural surveillance, access control will assist the development in creating a safe and secure environment in which to partake in leisure and retail activities.

6.8 East Sussex Fire and Rescue – **NO OBJECTION**

6.8.1 Noted that access and water supplies should be properly considered during planning.

6.9 Rother Waste and Recycling – **NO OBJECTION**

6.9.1 As this is a commercial site, they would instruct a private waste contractor.

6.10 Ramblers – **OBJECTION**

6.10.1 Object due to lack of information. Comments summarised:

- Note that the footpath routes are not directly affected but should consider the enjoyment of walking.
- Are pitch spaces suitable?
- Potential conflict between walkers and new access to the caravan/motorhome pitches. Improved signage required.

- Need to maintain boundary landscaping/screening.
- References static caravans - (but these are NOT proposed).
- Suggests planting around the car park be of sufficient height to screen any views from footpath 16a.

## 6.11 Planning Notice

6.11.1 Two letters of objection received. Raising the following points:

- One from the interested party in the Judicial review, noting that the agent *“invite the Council to once again approve this submission without further delay.” The Applicant is asking the Council to approve a fresh application for a very similar development to that which is the subject of the challenged planning permission.*

*My submission is the Applicant’s approach is inappropriate. The legal authorities have established that where an application is considered in such circumstances there is a real risk that the decision cannot be determined fairly.”*

- The other states that the proposal will ruin the AONB.
- It is visible from the footpath through the site and that crosses Church Farm.
- Facilities building previously refused.
- Proposals in previously undeveloped field.

## 6.12 Catsfield Parish Council – OBJECTION

6.12.1 Object to this planning application as the facilities incorporated as part this application have previously been refused by RDC with no enforcement of prior breaches of planning decisions. Furthermore, approval of this application would result in overdevelopment of this site and destruction of the AONB.

## 7.0 **APPRAISAL**

7.1 The main issues for consideration are:

- Principle of development.
- Impacts on the AONB.
- Ecological impacts.
- Impacts on neighbours.
- Highway impacts.

### 7.2 *Principle of development*

7.2.1 It is noted with regard to the previous application (RR/2022/1895/P), that objectors contented that the existence of an enforcement notice precluded the submission of and consideration of a planning application for the same nature of development. The existence of an EN does not preclude consideration of such an application and indeed this is in effect affirmed by s180 of the Town & Country Planning Act 1990 (as amended) whereby at (1) it states that:

*Where, after the service of—*  
*(a) a copy of an enforcement notice; or*  
*(b) a breach of condition notice,*

*planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.*

- 7.2.2 The EN was served in 1999 with an application for a certificate of lawfulness for existing use/development (CLEUD) being made around the same time. The certificate in respect of three areas of camping/caravans was subsequently granted and as a result the appeal into the enforcement notice was withdrawn. As noted above in the planning history, subsequent case law and legal advice noted that as the appeal into the EN was withdrawn, the certificate was in effect not considered valid because the certificate could not modify the effect of the EN. The situation around the withdrawal of the appeal, was based on a common shared understanding between the Applicant, Council and PINs that the certificate obviated the need to pursue the appeal against the EN and hence no legal action would be taken to seek compliance with the EN for the specific areas covered by the lawful development certificate. Subsequent applications were granted for one of the areas, statics west of the farmyard (in 2009 and 2013), with touring caravans (nine specified in the certificate) continuing to use the ridge area to the west of the farmyard. While an objector has previously referenced committee decisions in 2010 to seek prosecution with regard to the EN, the counsel advice was against this, as detailed further in the report to committee dated 25 August 2011 in respect of RR/2011/1182/P.
- 7.2.3 The application proposes a new camp site, with an overflow car park for use by the wider site proposed on the area of the unauthorised touring site to the west on the ridge (north of the public footpath 15a). Two field areas to the lower south of this ridge are proposed as campsite for tourers and tents. (It is noted that the two fields immediately south of the public footpath has also been in use during the last year for camping but are mostly clear at the time of writing this report). It is acknowledged that the proposed camping fields are within the area of the enforcement notice but, it is incumbent to consider the proposals in light of any material changes in facts since the enforcement notice was issued and against the current national and local policies.
- 7.2.4 In terms of policy considerations, the site remains within the High Weald AONB with both local and national policy seeking to conserve and enhance its natural landscape and scenic beauty (Paragraph 176 of the National Planning Policy Framework, Policy EN1 of the Rother Local Plan Core Strategy and DEN2 of the DaSA). In addition, Section 85 of the CRoW Act 2000 requires local authorities to have regard to 'the purpose of conserving and enhancing the natural beauty of AONBs' in making decisions that affect the designated area. The High Weald Management Plan (2019-2024) is also in place and sets out a number of objectives (policies) for the AONB including protection and maintenance as a working landscape. Impacts on the AONB are further explored in a specific section below.
- 7.2.5 Other policy considerations have however evolved since 1999. The Council's first Local Plan was published in 2006, with an update and replacement of several policies via the Rother Local Plan Core Strategy in 2014 and then again following adoption of the Development and Site Allocations Plan (DaSA) in 2019. The National Planning Policy Framework was first published in 2012 with amendments in 2018, 2019, July 2021 and September 2023.

- 7.2.6 Collectively there is now stronger national and local support for proposals that support the rural economy and employment opportunities, including tourism, at paragraphs 84 and 85 of the National Planning Policy Framework; RA2, RA3 and EC6 of the Rother Local Plan Core Strategy; DEC2 of the DaSA; and objective LBE1 and 2 of the HW Management Plan. Subject to considering compliance with the criteria of the relevant policies, there is no objection in principle to the proposals for a camp site and associated facilities building and parking, which would form part of the wider site use as a tourism and local commercial business premises.
- 7.2.7 With regard to the EN, following a visit last year two static caravans to the north of the bungalow are being relocated to the enclosed area to the south of the bungalow. The enclosed area benefits from permissions for four caravans but only has two on site pending the relocation of the two statics. The area on the ridge line being used for nine caravans (subject to the former counsel advice) would be replaced by the overflow carpark. Subject to these two matters being resolved, there would then be no breach of the EN.
- 7.3 *Impacts on the AONB*
- 7.3.1 As noted within Section 85 of the CRoW Act 2000 and paragraph 176 of the National Planning Policy Framework, there is a duty to and great weight is given to, 'conserving and enhancing' the AONB. This is carried through into local policy at EN1 of the Rother Local Plan Core Strategy and DEN2 of the DaSA and further referenced within Policy DEC2 'Holiday Sites' of the DaSA.
- 7.3.2 Policy DEC2 is the most recently adopted policy within the DaSA and states:
- "All proposals for camping, caravan and purpose-built holiday accommodation must:*
- (i) safeguard intrinsic and distinctive landscape character and amenities, paying particular regard to the conservation of the High Weald AONB and undeveloped coastline, and be supported by landscaping proposals appropriate to the local landscape character;*
  - (ii) support the conservation of biodiversity in accordance with DaSA Policy DEN4;*
  - (iii) not significantly detract from the needs of agriculture;*
  - (iv) not unreasonably harm amenities of residents in nearby dwellings;*
  - (v) not be in an area at risk of flooding, unless a site specific flood risk assessment has demonstrated that the development will be safe and will not increase flood risk elsewhere; and*
  - (vi) accord with other relevant policies of the Plan."*
- 7.3.3 Wylands is an established tourism site hosting international angling competitions with a few chalets (7) and static caravans (4) at the site, farm shop, café, tackle shop and other small commercial units. The buildings are centred around the former farmyard/farmstead which lies centrally within the property to the west of the proposed campsite. The main cluster of buildings can be viewed from both public footpaths, footpath 15a running through the site and footpath 16a to the south on the higher valley side at Church farm. The proposed campsite however, and facilities building, is screened from footpath 16a to the south by Church Farm, being set lower down the slope and screened by the changing ground levels and vegetation.

- 7.3.4 It is noted that in 2011 (RR/2011/1182/P) a new campsite area for nine touring caravan pitches was proposed to the 'southwest' of the farmyard buildings and this was refused permission for the following reason:
- The proposed development would be clearly visible in the landscape from the public footpath passing through Church Farm to the south of the site and would constitute an unnatural feature out of character and harmful to the appearance of the High Weald AONB that could not be adequately mitigated by the imposition of planning conditions. The AONB is required to be afforded the highest level of protection and therefore the harm caused by the proposal is judged to be contrary to Policy C3 of the South East Plan and Policies GD1(iv) and (v) and EM10(i) of the Rother District Local Plan.*
- 7.3.5 This proposal looks to utilise field areas to the east/southeast of the farmyard buildings for the camping areas, which are not visible from the footpath 16a by Church Farm. As such the reason for refusal in 2011 is not pertinent to this proposal. The two sites are different and not comparable in wider landscape terms. This application site is visually contained within the landscape due to the lower ground levels but also to the established trees and hedges around the application site and within the adjacent land ownership areas. While camping can be a visible intrusion in an 'open' landscape, it is also a use that does not require any substantial changes to the landscape. In terms of impacts on footpath 15a which runs through the site, the camping areas proposed would be better screened from the footpath, which runs to the west side of the former farmyard and then runs southwards down the track which serves a car park to the lower fishing lakes, skirting the eastern edge of the camping fields. As part of the Landscape Masterplan, it is proposed to enhance the footpath route with additional landscaping, as referenced by the Ramblers.
- 7.3.6 The application is accompanied by an LVIA, landscaping proposals and biodiversity enhancement proposals, as referenced within Policy DEC2. Additional landscaping has also been sought to the western side boundaries with the farmyard area and field to its south. Additional tree and hedge planting associated with the 2021 application is already being implemented. The additional planting proposals would enhance the existing boundaries but also provide new planting along the existing fence lines to provide a more natural appearance reflecting the local landscape character of the AONB, which consists of a mixture of fields, small woodlands and farmsteads connected by historic routeways, tracks and paths.
- 7.3.7 Wylands very much reflects this character, albeit that the use of the site has evolved into one with greater economic and tourism activity. That activity utilises the natural surroundings as well as the former farm buildings that are now in alternative use. Woodland, both ancient semi-natural and non-ancient comprises much of the overall land holding with the fishing lakes and small fields interspersed among the woodland, with the access track containing the public footpath running through the site. The proposal does not require changes to the physical landscape, excepting the 12 bases for the touring caravans/motorhomes, which could subsequently be easily removed if required and which could also become vegetated overtime and which in any event will be screened by the enhanced boundary planting locally and are not visible from wider views outside the site.

- 7.3.8 The facilities building is a simple timber building now painted black to match the adjacent farmyard buildings. An application to retain the building was refused at the end of 2021 (RR/2021/2519/P) as it had not been justified and concerns with regard to its lack of relationship and visibility. The facilities building while visible at close quarters from the farmyard and glimpses from footpath 15a is not visible from outside the site or from footpath 16a. This application details its requirement in association with the campsite proposals and that it is also used by the existing fishermen/women. It is located adjacent a tall hedge with additional landscaping being undertaken now (2021 permission) and as now proposed to its west. The building would not be overtly visible unless within the camping field to its southern side. The existing hedge screens it from footpath 15a, with proposed additional planting screening it from the west. It is not visible from footpath 16a.
- 7.3.9 The overflow carpark to serve the other commercial uses within the site is proposed on the ridge line adjacent to the former farmyard where some views currently exist from footpath 16a at Church farm. The overflow car park is not for use by campers who will park on their camp pitch. The car park is proposed to be for overflow use, primarily summer time but ultimately could be required at any time of the year depending on number of visitors to the wider site. Various other pockets of parking exist around the site adjacent some of the lakes for use by fishermen/women but the availability of parking within the farmyard area given the success of the converted buildings has been found to be lacking on occasion. This area has yet to be reorganised with additional landscaping proposed within the farmyard area as part of application RR/2021/498/P. The additional planting within the farmyard area would soften the appearance of the former farmyard buildings within wider views of the site. An overflow car park is required but a seasonal restriction is not requested as requirement for its use could occur at any time. The overflow car park is to be surfaced with grasscrete or similar to provide a soft surface landscape finish and surrounded by additional boundary planting of hedges and trees, (as illustrated in the Landscape Masterplan), where fences currently exist. The intrusive presence of caravans on this site would be removed. The significant level of new planting would be an enhancement and would screen the car park within wider views of the site.
- 7.3.10 As referenced in the Planning Statement, the proposals are for camping pitches to accommodate touring caravans, motorhomes (a touring vehicle) and tents. These are for short term holiday use and not for use as a sole permanent address. The application is not proposing static caravans and this would require a different description of development to fall within the proposed planning permission. While it is pertinent to apply a condition to any grant of permission to restrict the use of the site for touring pitches only, permission is not being sought for any permanent holiday buildings or structures that would require an occupancy condition for holiday use only, such as is referenced in Policy DEC2 for use with static caravans and holiday lets. It is acknowledged that tents, touring caravans and motorhomes come in different sizes and for tents there are many colours. As a touring site this would not be unusual. However, in order to ensure that the camping activity does not result in any storage of tents, touring caravans or motorhomes on the site, i.e. these temporary structures and vehicles being left on site when not being occupied, it is suggested that condition wording be applied to any grant of permission to preclude this.



- 7.3.11 It is further noted that the proposal seeks the potential for all year use and not a seasonal use. Policy EC6(vi) references the use of occupancy restrictions and states that they should *not be “unduly restricting operators from extending their season (subject to visual impact and flood risk considerations, where applicable):”* As addressed in the preceding considerations, visual impacts are not considered to be harmful in this instance, where even in winter the site remains visually contained. While noting that the access to the site may be impassable in extreme flood conditions, (as noted by the EA), the camping fields themselves are not subject to flood risk and there is a presence of other facilities at the site which could be utilised should persons be unable to exit the site temporarily. The comment of the emergency planner is awaited and may require a condition regarding flood risk warning and evacuation procedures with regard to the access. As such there are no sound reasons to impose a seasonal condition in this instance.
- 7.3.12 Having regard to other potential AONB impacts, dark skies is also a consideration and referenced within Policy EN1(vii) of the Rother Local Plan Core Strategy and the HW Management Plan. There are no requirements for lighting to be associated with the use. Part of the camping experience is to be situated in nature and appreciate the natural surroundings. While the Applicant has advised that external lighting is not required, for consistency with the previous permission granted for alternative uses of the farm buildings, a condition specifically precluding the erection of external lighting could be applied to any permission.
- 7.3.13 Previously objections were also raised with regards to tranquillity, which is a non-physical quality of the AONB. While noise generation may be argued to impact on tranquillity, the use of the site for camping is not considered to be one that would generate significant noise and disturbance and as such would not impact the tranquillity of the site, especially given its context within an existing commercial site.
- 7.3.14 Having regard to the great weight afforded to the conservation and enhancement of the AONB, the proposals would present limited visibility within the site having an impact of local significance only within the site but no more than already exists in respect of the former farmyard area and its buildings. The proposals would not represent wider harm to the AONB beyond the site as, unlike the existing farm buildings, the camping fields are not visible from footpath 16a at Church Farm. As such the impacts given their context within an existing commercial site are not considered to result in harm to the AONB, conserving the landscape character and representing an enhancement of the landscape in the proposals for the additional landscaping and biodiversity, and thus complies with national and local policy as well as the duty within the CRoW Act 2000.

#### 7.4 *Ecological impacts*

- 7.4.1 The application is accompanied by an Ecological Appraisal and Building Inspection for the application site with completed Biodiversity Metric and Net Gain calculation (even though this is not yet a statutory requirement). Ancient woodland lies to the east of the site on the other side of footpath 15a and also separated by an area of non-designated woodland. The proposals are located well outside the recommended 15m buffer zone for protection of the ancient woodland.

- 7.4.2 Other protected habitats are within the wider vicinity (off site) of the site but due to the small scale nature of the proposals, there would not be any significant impacts to them.
- 7.4.3 No protected species were found within the car park or campsite areas and retention and enhancement of existing boundary vegetation would negate the need for any further surveys.
- 7.4.4 The following enhancements are recommended within the Ecological Appraisal:
- Bat boxes in the wider site.
  - Sensitive lighting.
  - Grassland management and log piles for reptiles and stag beetles.
  - Bird boxes.
  - Enhanced boundary planting.
- 7.4.5 The landscaping proposals also include native hedge enhancement and new planting as well as additional tree and orchard planting. These additions all improve habitats as well as enhancing the landscape. Conditions can be applied to ensure provision of the enhancements.
- 7.6 *Impacts on neighbours*
- 7.6.1 Policy OSS4(ii) of the Rother Local Plan Core Strategy sets out that proposals should not unreasonably harm the amenities of adjoining properties. There are no immediate neighbours in close relationship with the site and as such there are no impacts to the residential amenities of any dwellings, whether by virtue of loss of light, massing, overlooking, noise or vehicular activity associated with the proposals for a campsite.
- 7.7 *Highway impacts*
- 7.7.1 The full comments of the Highway Authority can be found on the website and are summarised above. In conclusion they advise that *“The additional facilities that will be provided within the site will also reduce the need for visitors to travel off site for provisions etc. With this in mind I have no major concerns regarding the developments impact on the site access or the surrounding highway network from either a highway safety or capacity perspective.”*
- 7.7.2 Subject to conditions no objections were raised. Conditions require maintenance of visibility splays at the entrance with Powdermill lane, provision of parking (size to meet the standards) and cycle parking in accordance with the plans.
- 7.7.3 With regards to impacts on the public footpath 15a which runs through the site, the comments of the Ramblers are noted. It is also noted that footpath 15a shares its route with the entire length of the access road into the site from Powdermill Lane and follows the track around the eastern side of the proposed camping fields, which provides vehicular access to the southern fishing lake. The proposed access into the field for the 12 pitches for the caravans/motorhomes, would represent a minor increase in use of the existing track. The track has width with its grass verges for a vehicle and pedestrians to utilise it and pass each other. Given this minor increase in

traffic and the nature of the shared access/footpath that already exists, the proposal is not considered to represent harm to pedestrian users of the public footpath.

## 7.8 *Flood Risk*

7.8.1 As noted by the LLFA and Drainage Board, the proposals do not represent any significant increase to surface water drainage on the site, permeable surfacing being utilised for the car park and grass pitches for the 12 caravan/motorhome pitches. Foul drainage for the site has already been the subject of scrutiny in respect of the application in 2021 and also does not raise any concerns.

7.8.2 The EA note that the access may be impassable during extreme flood conditions but equally do not raise objection to the proposed development in relation to flood risk. They have suggested that the Applicant have discussion with the emergency planning department. The comment of the emergency planner is awaited.

## 7.9 *Other Matters*

7.9.1 It is noted that not all objections raised in respect of the application reference RR/2022/1895/P have been remade nor those matters referenced which have been raised with regard to disputing the previous report and now subject to consideration by the High court. This report includes reference to those other matters. However, the decision of the High Court is still awaited. As the Applicant has made a new application for an identical development, the Members are hereby requested to consider this application on its merits.

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## 8.0 **PLANNING BALANCE AND CONCLUSION**

8.1 The existence of an EN prohibiting use of its associated area for the storage of caravans and tents, camping and a caravan site, does not prohibit the submission of nor consideration of a planning application for any of those activities. Any such application falls to be considered in the light of the current development plan and any other material considerations including the National Planning Policy Framework, CRoW Act 2000 and High Weald Management Plan.

8.2 Having considered the current relevant planning policies that now pertain to the site and have been evolved since issue of the EN in 1999, it has been concluded that the proposals would comply with the development plan and that they would not result in undue harm. It is considered that the landscape of the AONB would be conserved and additionally enhanced by the landscaping and biodiversity proposals.

8.3 Ecology, neighbours, highways and flood risk, would similarly be unharmed and the proposals would provide additional tourist facilities encouraging visitors to the area and supporting the rural economy and employment opportunities.

8.4 With regard to potential breaches of the EN, as detailed above the remaining area of concern is related to the nine caravans on the ridge line. If permission

is granted it is recommended that a condition be applied to remove the caravans within a set time frame and to implement the overflow carpark and landscaping enhancements in their place. Compliance with such condition would then remove the potential breach in compliance with the EN.

- 8.5 On balance and having regard to all the considerations set out above, the proposals are considered to be policy compliant subject to the imposition of conditions.

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**RECOMMENDATION: GRANT (FULL PLANNING)**

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**CONDITIONS:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: In accordance with section 91 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the following approved plans and details:  
Location Plan Drawing No. 6754/22/LP/A, dated Jun 22  
Block Plan Drawing No. 6754/22/BP, dated May 2022  
Site Layout Drawing No.6754/22/2/C, dated Jul 22  
Landscape Masterplan Phase 2 Drawing No. 3025-APA-ZZ-OO-LA-L-1000 rev P3, dated 17/11/22  
Toilet/Shower Block Drawing No. 6754/101/1, dated September 2021  
Refuse and Cycle Storage Drawing No. 6754/RS2/A, dated Jun 22  
Refuse and Cycle Storage Drawing No. 6754/R+CS/A, dated Jun 22  
Reason: For the avoidance of doubt and in the interests of proper planning.
3. Within seven months of the date of this permission, by 12 May 2023, all caravans of whatever sort shall be removed from the field area north of footpath 15a and the overflow car park and landscaping of that area shall be implemented upon removal or within the next planting season, in accordance with the approved plans, Drawing No. 6754/22/2/C, dated Jul 22 and Drawing No. 3025-APA-ZZ-OO-LA-L-1000 rev. P3, dated 17/11/22.  
Reason: To ensure removal of caravans potentially in breach of the Enforcement Notice on the site and improve the character and appearance of the site and thus enhance the landscape of the High Weald Area of Outstanding Natural Beauty having regard to Policy EN1 of the Rother Local Plan Core Strategy and Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan.
4. Prior to commencement of the use of the camping areas or overflow car park hereby approved, full details of the landscaping for the site in accordance with the approved Landscape Masterplan Phase 2, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
  - a) indications of all existing trees and hedgerows on the land including details of those to be retained, together with measures for their protection in the course of development;
  - b) planting plans;

- c) written specifications (including cultivation and other operations associated with plant and grass establishment);
- d) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- e) implementation programme (all tree and hedge planting to be undertaken as soon as possible and before 31 December 2024).

All landscape works shall be carried out in accordance with the approved details and in accordance with the programme agreed with the Local Planning Authority and if within a period of 10 years from the date of the planting any tree or plant, it is removed, uprooted, destroyed or dies, [or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective] another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To enhance the appearance of the development and conserve and enhance the landscape character and scenic beauty of the site within the High Weald Area of Outstanding Natural Beauty, in accordance with Policies OSS4 and EN1 of the Rother Local Plan Core Strategy, Policies DEC2, DEN1 and DEN2 of the Development and Site Allocations Local Plan, paragraph 176 of the National Planning Policy Framework and various objectives within the High Weald Management Plan.

5. Prior to the commencement of use of the camping or car park areas, full details of the mitigation and enhancements in respect of protected species, habitats and biodiversity set out within the (a) Preliminary Ecological Appraisal and Building Inspection report by 'The Ecology Partnership' dated June 2022 and (b) the Biodiversity Net Gain Calculation report by 'The Ecology Partnership' dated 26 July 2022, where not part of the landscaping details, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented before 31 December 2024.

Reason: To conserve and enhance the habitat and biodiversity of the site enhance the appearance of the development and conserve and enhance the landscape character and scenic beauty of the site within the High Weald Area of Outstanding Natural Beauty, in accordance with Policies EN1 and EN5 of the Rother Local Plan Core Strategy, Policies DEC2, DEN1, DEN2 and DEN4 of the Development and Site Allocations Local Plan and paragraph 176 of the National Planning Policy Framework.

6. No part of the development shall be first occupied until the visibility splays of 2.4m x 160m westbound and 2.4m x 215m eastbound have been provided at the proposed site vehicular access onto Powdermill Lane. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 600mm.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway in accordance with Policy CO6 of the Rother Local Plan Core Strategy.

7. The development shall not be occupied until parking and cycle areas have been provided in accordance with the approved plans and the areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles and cycles.

Reason: To ensure the development has on-site parking provisions and in order that the development site is accessible by non-car modes and to meet the

objectives of sustainable development, in accordance with Policies TR3 and TR4 of the Rother Local Plan Core Strategy.

8. The proposed parking spaces shall measure at least 2.5m x 5m (add an extra 50cm where spaces abut walls).  
Reason: To provide adequate space for the parking of vehicles, in accordance with Policy TR4 of the Rother Local Plan Core Strategy.
  
9. The site shall not accommodate more touring pitches than those specified on the approved site layout plan, Drawing No. 6754/22/2/C, dated Jul 22, i.e. maximum of 18 tent camping pitches to the northern field, 12 tent camping pitches to the south west field area and 12 pitches for touring caravans/motorhomes. The touring pitches shall not be utilised for storage purposes and no caravan, motorhome or tent shall be left on site unless it is in occupation.  
Reason: To restrict the density and nature of development at the site thereby controlling the level and nature of activity and enabling maintenance of the existing and proposed landscaping of the site, so as to conserve and enhance the landscape and scenic character of the High Weald Area of Outstanding Natural Beauty, in accordance with Policies OSS4 and EN1 of the Rother Local Plan Core Strategy, Policies DEC2, DEN1 and DEN2 of the Development and Site Allocations Local Plan, paragraph 176 of the National Planning Policy Framework and various objectives within the High Weald Management Plan.
  
10. No external lighting shall be erected at the site unless in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. Any scheme should comply with the Institution of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011(or later versions). It should be designed so that it is the minimum needed for security and operational processes and be installed to minimise potential pollution caused by glare and spillage.

<b>Illuminated area m<sup>2</sup></b>	<b>Zone E1</b>	<b>Zone E2</b>	<b>Zone E3</b>	<b>Zone E4</b>
Up to 10.00	100	600	800	1,000
Over 10.00	n/a	300	600	600

### **Environmental Zones**

<b>Zone Surrounding</b>	<b>Lighting Environment</b>	<b>Examples</b>
E0 Protected	Dark	UNESCO Starlight Reserves, IDA Dark Sky Parks
E1 Natural	Intrinsically Dark	National Parks, Areas of Outstanding Natural Beauty etc.
E2 Rural	Low District Brightness	Village or relatively dark outer suburban locations
E3 Suburban	Medium District Brightness	Small town centres or suburban locations
E4 Urban	High District Brightness	Town/city centres with high levels of night-time activity

The guidance advises that, where an area to be lit lies on the boundary of two zones or can be observed from another zone, the limits used should be those applicable to the most rigorous zone, in this case E0 or E1.

Reason: To prevent light pollution within the dark skies of the High Weald Area of Outstanding Natural Beauty, in the interests of the amenities of the area and to protect the dark sky environment, in accordance with Policies OSS4 (iii), RA3 (v) and EN1 of the Rother Local Plan Core Strategy, Policies DEN2 and DEN7 of the Development and Site Allocations Local Plan and Objective OQ4 of the High Weald Management Plan.

**NOTES:**

1. The Applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure, or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning consent for a development does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stages of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence.
2. The Applicant is reminded of the advice within the letter of 6 September 2023 from the Environment Agency with regard to groundwater protection; Waste on-site; and waste to be taken off-site.
3. The Applicant is reminded that no implementation should take place before the end of six weeks from the date of the decision.

**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 assessing the proposal against all material considerations, including planning policies and any representations that have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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SITE PLAN

BATTLE

RR/2023/1290/P

The Meads – Land at,  
12 Isherwood,  
Battle.



## Rother District Council

Report to	-	Planning Committee
Date	-	12 October 2023
Report of the	-	Director – Place and Climate Change
Subject	-	Application RR/2023/1290/P
Address	-	The Meads - Land at, 12 Isherwood, Battle
Proposal	-	Outline application for proposed residential development of 3 No. dwellings served by existing access (renewal of lapsed planning permission RR/2019/666/P)

[View application/correspondence](#)

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

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**Director: Ben Hook**

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**Applicant:** Mr and Mrs N. Brabon  
**Agent:** Pump House Designs  
**Case Officer:** Matthew Jenner  
(Email: [matthew.jenner@rother.gov.uk](mailto:matthew.jenner@rother.gov.uk))

**Parish:** BATTLE  
**Ward Members:** Councillors S. Burton and K.M. Field

**Reason for Committee consideration:** Director – Place and Climate Change referral: The application has been called in by Ward Members with regard to overdevelopment and access issues.

**Statutory 8 week date: 11 August 2023**  
**Extension of time agreed to: 26 October 2023**

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### 1.0 SUMMARY

- 1.1 This is a repeat application for one that was previously granted permission by the Planning Committee in December 2019 and thus now expired. There have been no changes in site or new policy considerations, other than the more recent adoption of the Battle Neighbourhood Plan, which builds on the existing local and national policies previously considered in 2019. As such there is no reason to come to a different conclusion.
- 1.2 The provision of three additional dwellings within this sustainable location would help boost the housing supply to the town, which would bring modest social and economic benefits. There would be no adverse impact on the character and appearance of the locality, including to the landscape and scenic beauty of the Area of Outstanding Natural Beauty (AONB). In addition,

the development would not harm the living conditions of occupants of neighbouring properties or prejudice highway or pedestrian safety.

### 1.3 PROPOSAL DETAILS

PROVISION	
No of houses	3
No of affordable houses	0
CIL (approx.)	To be calculated at reserved matters stage.
New Homes Bonus (approx.)	£20,052

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## 2.0 SITE

2.1 Isherwood is a private road located to the north side of North Trade Road and contains relatively large detached dwellings built under permissions granted in the 1990s. The site currently forms part of the back garden of a detached two storey dwelling (No. 12 Isherwood). The private road wraps round the front (southwest) and northwest side boundary of the site. Land slopes away steeply to the northeast, meaning that the rear garden of No. 12 Isherwood occupies a significantly higher level than the adjacent road and other Isherwood properties to the north. The site is located within the development boundary for Battle and is within the High Weald AONB.

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## 3.0 PROPOSAL

- 3.1 Outline permission is sought for the erection of three detached dwellings with all matters reserved apart from means of access. The access has already been constructed so this part of the development is retrospective.
- 3.2 Layout, elevation and section plans have been submitted with the application. However, as appearance, layout and scale (as well as landscaping) are reserved matters, the plans shall be treated as indicative only, albeit that they are well advanced in terms of their detail.
- 3.3 The proposal is a renewal of the lapsed permission RR/2019/666/P, which was granted approval by the Planning Committee in 2019 and subsequently expired in December 2022.

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## 4.0 HISTORY

- 4.1 RR/2019/666/P Outline: Proposed residential development of 3 No. dwellings served by existing access (part retrospective). APPROVED CONDITIONAL.

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## 5.0 POLICIES

- 5.1 The following policies of the adopted Rother Local Plan Core Strategy are relevant to the proposal:
- PC1: Presumption in Favour of Sustainable Development

- OSS3: Location of Development
- OSS4: General Development Considerations
- BA1: Policy Framework for Battle
- CO6: Community Safety
- EN1: Landscape Stewardship
- EN3: Design Quality
- TR4: Car parking

5.2 The following policies of the Development and Site Allocations Local Plan are relevant to the proposal:

- DRM1: Water Efficiency
- DHG3: Residential Internal Space Standards
- DGH4: Accessible and Adaptable Homes
- DGH7: External Residential Areas
- DHG11: Boundary Treatments
- DHG12: Accesses and Drives
- DEN1: Maintaining Landscape Character
- DEN2: The High Weald Area of Outstanding Natural beauty (AONB)
- DEN4: Biodiversity and Green Space
- DEN7: Environmental Pollution
- DIM2: Development Boundaries

5.3 The High Weald AONB Management Plan (2019-2024), National Planning Policy Framework and National Planning Policy Guidance (PPG) are also material considerations.

5.4 The following policies of the Battle Neighbourhood Plan (2021) are relevant to the proposal:

- HD4: Quality of Design
- HD5: Protection of Landscape Character
- HD6: Integration of New Housing
- IN3: Parking and New Development
- IN4: Pedestrian Provision and Safety
- EN3: The High Weald AONB and Countryside Protection

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## 6.0 CONSULTATIONS

### 6.1 RDC Waste and Recycling – **NO OBJECTION**

6.1.1 There are no issues here, the collection vehicle would not access the driveway so bins will need to be presented at the entrance on Isherwood.

### 6.2 Planning Notice

6.2.1 12 letters of objection and a petition with 39 signatories have been received. The comments are summarised below:

- Concerns regarding land ownership.
- Construction of an illegal access to the site which does not have consent of Meads (Battle) Ltd Company.
- None of the reserved matters from the previous application have been addressed.

- Proposed development would be overpopulated and overbearing.
- The development proposal impacts on neighbour amenity to the properties along Isherwood and North Trade Road i.e. overlooking and overshadowing.
- Overbearing development with a detrimental impact on the landscape and character of the settlement.
- The proposed development does not reflect the character or setting of the surrounding settlement. The raised site level and large, closely set properties create a bulky and dominant scheme detrimental to the Isherwood street scene.
- Concerns over road safety, low visibility, extra road traffic, visitors parking and emergency access.
- Overdevelopment of the site.
- Drainage and land slippage issues.
- Site unsuitable given topography.
- Road construction and access illegally constructed without permission.
- Since previous approval the applicant has made no progress in developing the site or in addressing reserved matters.
- Contravention of normal planning and design policies.
- Landscaping and visual impact considerations.
- The developments overcrowding and appearance would have an adverse impact on the AONB.
- Concerns over bins being placed on Isherwood.
- Concerns over property values and sales.
- Unclear how development would contribute to upkeep of the private Isherwood Road.
- Noise pollution from building works.

### 6.3 Battle Town Council – **OBJECTION**

- 6.3.1 Battle Town Council is opposed to this application as it is contrary to Battle Design Guidelines, Policy HD5 - over development and presents insurmountable access issues for vehicles.

## 7.0 **LOCAL FINANCE CONSIDERATIONS**

- 7.1 The proposal is for a type of development that is Community Infrastructure Levy (CIL) liable although this would need to be calculated at reserved matters stage when the scale of the dwellings was finalised.
- 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 £20,052 over four years.

## 8.0 **APPRAISAL**

- 8.1 The site is located within the development boundary of Battle where the principle of providing new dwellings can be acceptable. The main issues to consider in the determination of this application include:

- The impact of the proposal on the character and appearance of the locality and the AONB.
- The impact of the proposal on neighbouring amenities and the living conditions of future occupiers of the dwellings.
- Highway safety.

## 8.2 Character and appearance of the locality and the AONB

8.2.1 Isherwood is characterised by large modern detached dwellings which occupy substantial plots. They were constructed around 20 years ago under permissions granted in the 1990s. Properties along North Trade Road are more varied in age and character with examples of bungalows, chalets and two storey dwellings. Plot sizes also vary. Beyond the Isherwood properties to the north of the site is open countryside made up of irregularly shaped fields and pockets of woodland, typical of the AONB landscape.

8.2.2 As before the proposed plot sizes are comparable to others in the vicinity and would not appear cramped within the site. They would therefore not cause harm to the character and appearance of the locality.

8.2.3 The existing access originally involved the removal of trees and earth and the construction of retaining walls. There are other accesses and retaining structures nearby, and Isherwood, although rather leafy in appearance, is generally sub-urban in character. For these reasons it is considered that the construction of the access has not harmed the character of the area.

8.2.4 The site is surrounded by 20<sup>th</sup> Century housing development. Providing some form of housing development within the existing development would not be harmful to the wider landscape and scenic beauty of the AONB.

## 8.3 Amenities of neighbouring properties and living conditions of future occupiers

8.3.1 As shown by the indicative plans, three dwellings would be able to be positioned on the site in excess of 30m from all of the neighbouring properties apart from Nos. 12 and 13 Isherwood to the southwest of the site. The indicative plans show that the dwelling to the southeast would be approximately 11m from the rear elevation of No. 12 and approximately 17.5m from No. 13.

8.3.2 Even with the site being elevated, a separation of at least 30m together with some vegetation screening should ensure that the proposed development would not result in unacceptable levels of direct overlooking or the buildings appearing overbearing or causing any unacceptable levels of loss of light or overshadowing, to those neighbouring properties positioned more than 30m away.

8.3.3 Whilst a new dwelling could be positioned along the rear boundary of No. 12 Isherwood, a separation of at least 10m would remain which is sufficient for the development to not unacceptably impact on the living conditions of occupiers of No. 12. Specific design issues so as to preclude overlooking and whether the dwelling would appear overbearing could be addressed at reserved matters stage.

- 8.3.4 In respect of No. 13 Isherwood, any new dwellings could be positioned close to 20m away and would be at an oblique angle, which should mean that the occupants living conditions would not be adversely affected.
- 8.3.5 The application site is of an adequate size to provide three family sized dwellings with good sized outdoor amenity spaces, in compliance with the internal and external space standards required by Policies DHG3 and 7 of the Development and Site Allocations Local Plan. In terms of providing acceptable living conditions for future occupiers, there is potential for three dwellings to be constructed on the site.
- 8.4 Highway safety
- 8.4.1 Isherwood is a private road which is capable of accommodating two-way traffic up to the point of the existing site access. To the northeast of the access the road narrows and is only capable of accommodating a single vehicle at a time. Given that the narrow part of Isherwood only serves five private residences, occupiers of the proposed development would have no reason to drive up that section of road. The development would therefore not result in an increase in traffic to the narrow part of the road. The wider section of Isherwood, which the site access adjoins, is lightly trafficked and is capable of accommodating the increased level of traffic created from three dwellings.
- 8.4.2 The access road that has been constructed is over 4.5m in width, which is the minimum for a shared access, meaning that vehicles would be able to pass one another.
- 8.4.3 There would be adequate space on the site for each of the dwellings to have at least two off road parking spaces and an area to turn, meaning that vehicles would be able to leave the site in a forward gear.
- 8.4.4 The access has been constructed at an angle of around 45° with Isherwood and slopes up relatively steeply. These factors mean that turning right out of the access would be awkward although, as explained earlier in the report, vehicles are very unlikely to egress in this direction as it only serves a small number of private residences and is not a through road. Whilst visibility from the access to the northeast is somewhat restricted by an earth bank and vegetation, the road is very lightly trafficked, with the narrow part only serving five dwellings, and where vehicles also travel at low speeds. For these reasons the access that has been constructed is considered not to prejudice road safety.
- 8.4.5 It is appreciated that Isherwood has no pavements. However, the addition of three dwellings would not add significantly to the amount of traffic using the two-way section of Isherwood and with vehicle speeds being low, it is not envisaged that pedestrian safety would be compromised.
- 8.4.6 Construction traffic can potentially be managed by condition in the event that planning permission is granted.
- 8.4.7 Overall it is considered that the development would not have an adverse impact on road or pedestrian safety and adequate on-site parking and turning facilities can be provided.

## 8.5 Other issues

- 8.5.1 Comments from Waste and Recycling are acknowledged. Details of a waste and recycling store can however be secured at reserved matters stage. The location and design of any storage area would need to be carefully considered.
- 8.5.2 The issues that have been raised by locals regarding land stability and drainage are material planning considerations, as detailed within the PPG. No details relating to these technical matters have been provided with the application. However, in the event that permission was granted details could be secured via a condition so that any necessary remedial/preventative works are carried out.
- 8.5.3 Issues raised by locals relating to property values and the ownership of the private road are not material planning considerations.
- 8.5.4 The issue raised in respect of the access being unauthorised, is a private civil matter. The correct notice has been served on any other owners and Certificate B accompanies the application. The application can therefore not be refused on these grounds, but it is for any developer to ensure separately that they have rights of access to implement any development if permission were to be granted.
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## 9.0 **PLANNING BALANCE AND CONCLUSION**

- 9.1 The provision of three additional dwellings within this sustainable location within the development boundary, would help boost the local housing supply to the town, which would bring modest social and economic benefits. There would be no adverse impact on the character and appearance of the locality, including to the landscape and scenic beauty of the AONB. In addition, the development would not harm the living conditions of occupants of neighbouring properties or prejudice highway or pedestrian safety.
- 9.2 For the reasons explained, the proposal would comply with Core Strategy, Development and Site Allocations Local Plan and Neighbourhood Plan policies and the various provisions contained within the National Planning Policy Framework. The application can therefore be supported.
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## **RECOMMENDATION: GRANT (OUTLINE PLANNING)**

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### **CONDITIONS:**

1. Approval of the details of layout, appearance, landscaping and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development commences on each phase of the development.  
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.



2. Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.  
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.
3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
Reason: In accordance with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
4. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.  
Reason: In accordance with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
5. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Location Block Plan- 7623/LBP, dated 29.03.23  
Reason: For the avoidance of doubt and in the interests of proper planning.
6. Pursuant to Condition 1, details shall be submitted of the finished ground floor levels for any building(s) on the site in relation to existing and proposed site levels, the adjacent road and adjacent properties, together with details of levels of all accesses, to include pathways, driveways, steps and ramps. Any development shall subsequently be carried out in accordance with the approved details.  
Reason: To protect the character and appearance of the locality and the living conditions of occupants of neighbouring properties in accordance with Policy OSS4 (ii) and (iii) of the Rother Local Plan Core Strategy and Policy DEN1 of the Development and Site Allocations local Plan.
7. The soft landscaping details to be submitted pursuant to Condition 1 shall include the following:
  - a) indications of all existing trees and hedgerows on the land and on adjoining land including details of those to be retained, together with measures for their protection in the course of development;
  - b) design, layout and appearance of structural and amenity green space, including verges;
  - c) planting plans;
  - d) written specifications (including cultivation and other operations associated with plant and grass establishment);
  - e) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
  - f) details for implementation.
 The development shall thereafter be carried out as approved and in accordance with an agreed implementation programme.  
Reason: To ensure the creation of a high quality public realm and landscape setting that enhances the landscape and scenic quality of the High Weald Area

of Outstanding Natural Beauty in accordance with Policies EN1 and EN3 of the Rother District Local Plan Core Strategy and Policy DEN1 and DEN2 of the Development and Site Allocations Local Plan.

8. Within the details required under Condition 1, proposals for the siting and form of bins for the storage and recycling of refuse within the site (internally or externally), and a collection point, shall be submitted for the consideration and subsequent approval of the Local Planning Authority. The approved details shall be implemented prior to the occupation of any dwellings and thereafter continued, with all bins and containers available for use, maintained and replaced as need be.

Reason: In the interests of providing sustainable development and protect and safeguard the residential and visual amenities of the locality in accordance with Policy OSS4 (i), (ii) and (iii) of the Rother Local Plan Core Strategy.

9. Within the details required under Condition 1, a scheme for the provision of foul water drainage works and surface water drainage shall be submitted for the consideration and subsequent approval of the Local Planning Authority and none of the dwellings shall be occupied until the drainage works to serve the development have been provided in accordance with the approved details.

Reason: These details are integral to the whole development and are therefore required as part of the design and layout for the site and prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and Policy DEN5 of the Development and Site Allocations local Plan and paragraphs 167 of the National Planning Policy Framework 2023.

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

- a) the method of access and egress and routing of vehicles during construction;
- b) the parking of vehicles by site operatives and visitors;
- c) the loading and unloading of plant, materials and waste;
- d) the storage of plant and materials used in construction of the development;
- e) the erection and maintenance of security hoarding;
- f) the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
- g) details of public engagement both prior to and during construction works; and
- h) details of the management of the public footpaths during construction to allow pedestrian use.

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

11. No development in respect of the dwellings or any retaining structures shall take place until details of a full site investigation, including stability report, with a scheme for remedial/preventative works, has been submitted to and approved

in writing by the Local Planning Authority and the development shall be completed in accordance with the approved details.

Reason: The application site is within an area of unstable land and in order to safeguard the safety of future occupiers of the land, in accordance with the requirements of Policy OSS3 (viii) of the Rother Local Plan Core Strategy.

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

Reason: To ensure a high quality public realm taking account of the characteristics of the locality and enhancing the landscape character and quality of the High Weald Area of Outstanding Natural Beauty in accordance with Policies OSS4 (iii), EN1 and EN3 (ii) (e) of the Rother Local Plan Core Strategy and Policy DEN1 of the Development and Site Allocations local Plan.

13. If within a period of five years from the date of occupation any retained tree, planted tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, [or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective] another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To enhance the appearance of the development and the landscape of the High Weald Area of Outstanding Natural Beauty in accordance with Policies EN1 and EN3 of the Rother Local Plan Core Strategy and Policy DEN1 of the Development and Site Allocations local Plan.

#### **NOTES:**

1. The Applicant/developer is advised that the submitted illustrative layout is not approved.
2. The proposed development will be subject to the CIL at the reserved matters stage.
3. This planning permission does not grant or imply the right to retain the part of the access that has been constructed on land not in the Applicant's ownership. The Applicant will need to seek the consent of the owners of the land not in their ownership to retain and carry out any subsequent maintenance works.

**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 assessing the proposal against all material considerations, including planning policies and any representations that have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

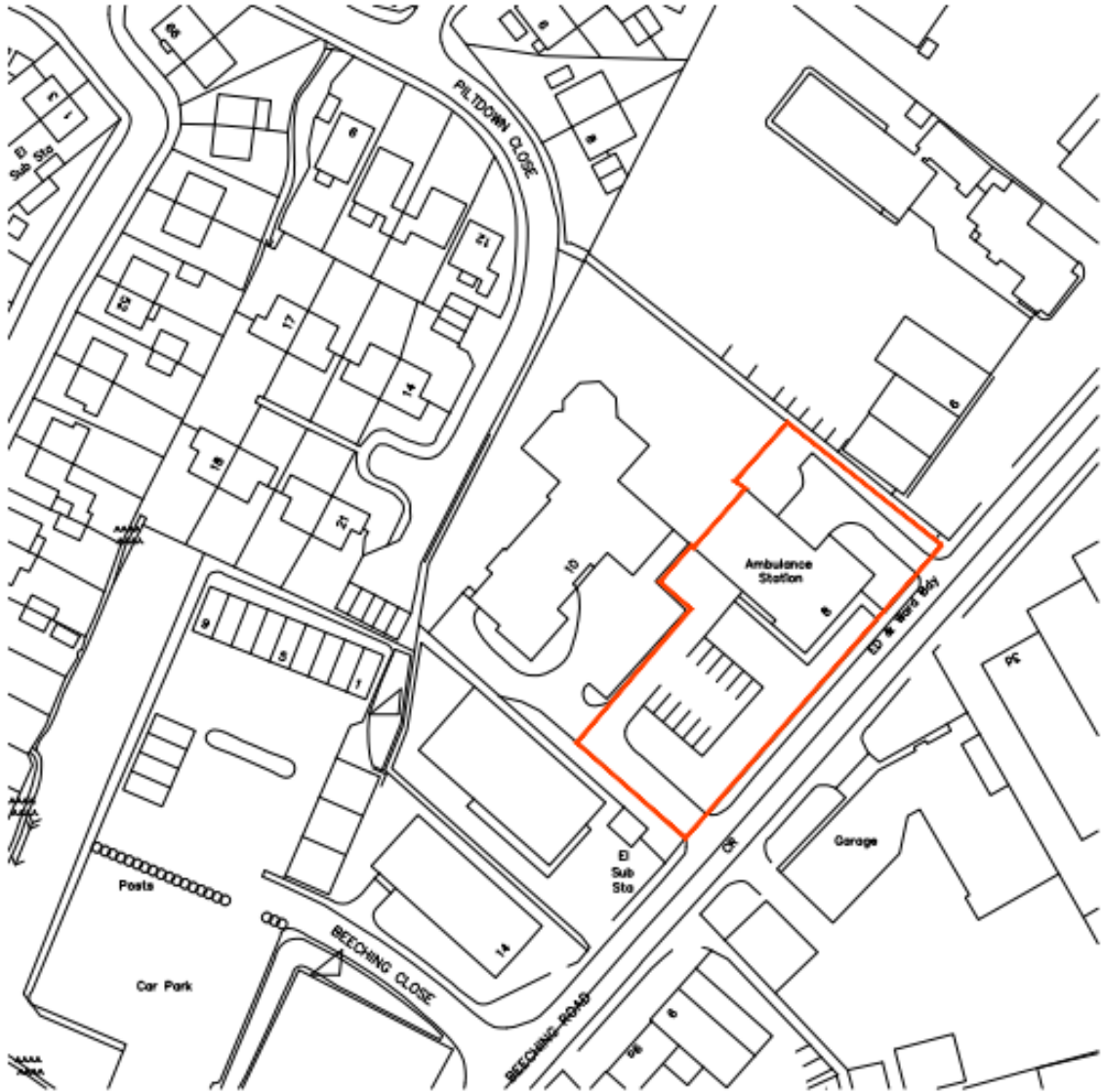
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SITE PLAN

BEXHILL

RR/2023/1710/P

8 Beeching Road,  
Bexhill.



## Rother District Council

Report to - Planning Committee  
Date - 12 October 2023  
Report of the - Director – Place and Climate Change  
Subject - Application RR/2023/1710/P  
Address - 8 Beeching Road, Bexhill  
Proposal - Installation of a railway carriage and associated access platform and toilet to function as an arts community cafe, and installation of a sculpture (part retrospective).

[View application/correspondence](#)

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

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**Director: Ben Hook**

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**Applicant:** Cathedral Group Limited  
**Agent:** Stagg Architects Limited  
**Case Officer:** Miss Katie Edwards  
(Email: [katie.edwards@rother.gov.uk](mailto:katie.edwards@rother.gov.uk))

**Parish:** BEXHILL KEWHURST  
**Ward Members:** Councillors B.J. Drayson and A.P. Hayward

**Reason for Committee consideration:** Landowner is Rother District Council

**Statutory 8-week date:** 9 October 2023  
**Extension of time agreed to:** 26 October 2023

---

### 1.0 SUMMARY

1.1 This proposal for a café, contained within a train carriage, with access and a sculpture (already on site), would not cause harm to the local area, neighbouring dwellings, or road safety. As such it is recommended for approval.

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### 2.0 SITE

2.1 The application site relates to land within the old ambulance station, more recently given permission to be used as an artisan blacksmith, artist studios and office space. The site is within the development boundary for Bexhill as outlined in the Development and Site Allocations Local Plan and is part of the Beeching Road Industrial Estate, where the majority of buildings have industrial or commercial uses. To the rear of the site is Hastings and Rother

Day Support Service run by East Sussex County Council which is between the site and the closest residential properties in Piltdown Close.

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### **3.0 PROPOSAL**

- 3.1 This application seeks planning permission for the siting of a train carriage on tracks to be used as a café with seating area. There would be an accessible ramp and staircase leading to the carriage and an accessible WC within a timber shed at ground level.
- 3.2 The works would be situated on the grass verge to the western side of the car park so would not result in a loss of parking spaces. There are 12 parking spaces to be retained.
- 3.3 The café would have the following hours of operation:
- Monday to Friday = 7:00 – 22:00
  - Saturday = 8:00 – 20:00
  - Sunday and Bank Holiday = 9:00 – 18:00
- 3.4 The café would have one full-time worker and two part-time workers. They would sell both hot and cold food and drinks.
- 3.5 The carriage would be painted by local artists and would be re-painted every couple of years. The timber WC building would also be painted by a local artist. The decking would be a non-slip timber left to a natural finish and the balustrading would be steel painted dark green. This would be constructed by the resident blacksmith.
- 3.6 Additionally proposed is the retention of a sculpture to the east of the main building, titled “Excalibur 7.62” and adjacent the roadside.
- 3.7 This application is part retrospective meaning the works have already begun. In this case the train carriage has been positioned on a track and the sculpture has been put in place.
- 

### **4.0 HISTORY**

- 4.1 RR/2021/1464/P Change of use from former sui generis ambulance station to a flexible use comprising artisan blacksmith, artists' studios and office space – APPROVED CONDITIONAL
- 

### **5.0 POLICIES**

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:
- BX1: Overall Strategy for Bexhill
  - OSS4: General Development Considerations
  - EC3: Existing Employment Sites
  - EN3: Design Quality
  - CO1: Community Facilities and Services

- 5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:
- DCO1: Retention of Site of Social or Economic Value
  - DEC3: Existing Employment Sites and Premises
  - DEN1: Maintaining Landscape Character
  - DEN7: Environmental Pollution
  - DIM2: Development Boundaries
- 5.3 The National Planning Policy Framework and Planning Policy Guidance are also material considerations.
- 

## 6.0 CONSULTATIONS

- 6.1 [ESCC Minerals and waste](#) – **NO COMMENTS RECEIVED**
- 6.2 [Planning Notice](#) – **NO COMMENTS RECEIVED**
- 6.3 [Bexhill-on-Sea Town Council](#) – **NO COMMENTS RECEIVED**
- 

## 7.0 APPRAISAL

### 7.1 [Principle of Development](#)

- 7.1.1 The site is within the development boundary for Bexhill where new development is acceptable in principle subject to compliance with other policy considerations to ensure there would be no adverse impact.
- 7.1.2 Policy BX1 provides support for economic growth within the town and states that the overall strategy for Bexhill is to “promote the economic growth of the town, and wider area, including through encouraging growth in new and established local firms, especially in high value-added sectors, prioritising development for employment purposes, increasing the supply of land and premises and promoting efficient infrastructure.”
- 7.1.3 The National Planning Policy Framework also gives support for local businesses to expand and states at paragraph 81 that “planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.”
- 7.1.4 Beeching Road is part of an industrial estate in Bexhill to the northwest of the primary shopping area. A new café use of part of this land would provide a new service in this area for use by the local arts studio and other business employees and wider community. The use is considered appropriate for the location and would be considered to make a positive contribution to the economy of Bexhill and as such the principle of development is considered to be acceptable, subject to other considerations below.



## 7.2 Design: Layout, Appearance and Landscaping

- 7.2.1 National Planning Policy Framework (2021) Chapter 12 'Achieving well-designed places' sets out the expectation regarding Good Design. Paragraph 126 states that "the creation of high-quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."
- 7.2.2 Policy EN3 (Design Quality) of the Rother Local Plan Core Strategy requires that "new development...contributes positively to the character of the site and surroundings, including taking opportunities to improve areas of poor visual character or with poor townscape qualities." It sets out eight Key Design Principles which will be consolidated with those of the National Planning Policy Framework to review the design resolution of the application.
- 7.2.3 Policy OSS4 of the Rother Local Plan Core Strategy requires that all development should (iii) respect and does not detract from the character and appearance of the locality.
- 7.2.4 Policy BX1 of the Rother Local Plan Core Strategy states that the strategy for Bexhill is to (i) conserve and enhance the town's distinct and independent character.
- 7.2.5 Both the train carriage and the WC building would be painted with abstract art by local artists, tying them together. The road is an industrial area where there is no clear character and many of the businesses here have construction vehicles or cars for sale parked at the roadside and have metal clad walls. As such there is a strong industrial appearance. Whilst the train carriage and the abstract art would be a new addition to the road, it is not considered to harm the character of the locality. It could be considered to inject some colour and life into the local scene. A condition could be secured to ensure that the carriage is well maintained so as not to degrade the appearance of the road.
- 7.2.6 The proposed sculpture is considered to be minor in terms of its impact on the street scene and while quite large, its scale is not harmful in relation to the neighbouring larger commercial buildings. As it is retrospective it can be observed that it does not negatively harm the character or appearance of the locality.

## 7.3 Impact on Surrounding Amenity

- 7.3.1 Policy OSS4 (ii) states that all development should not unreasonably harm the amenities of adjoining properties.
- 7.3.2 The site lies within an established industrial area and is not adjoined by any residential properties. The nearest residences are on Piltdown Close to the rear of the site just over 60m away, with the art studios building between the site and these neighbours. The café use would be for sociable day time hours only. It is not considered that the proposed use would have a detrimental harm on the amenities of the neighbouring properties.

## 7.4 Access, Transportation and Highways Safety

- 7.4.1 Policy TR4 (i) states that proposed developments 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.
- 7.4.2 Policy CO6 of the Rother Local Plan Core Strategy states that a safe physical environment will be facilitated by (ii) ensuring that all development avoids prejudice to road and/or pedestrian safety.
- 7.4.3 There would be no loss of parking spaces for the existing site. The carriage is set back from the roadside by approximately 2.5m so would not harm the visibility exiting the car park. It is considered that the café would encourage sustainable travel from the north of Bexhill into the town shopping centre giving a place to stop on-route for those walking or cycling and would provide a local facility for those working close by who could access the site on foot.

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## 8.0 **PLANNING BALANCE AND CONCLUSION**

- 8.1 The proposed development would not harm the character of the locality, neighbouring dwellings or road safety and would provide a local facility for the surrounding area as well as a local exhibit for local art. As such the application is recommended for approval.

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## **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 and details:  
Site Location Plan 52105-P-01A, dated 27/07/23  
Proposed Block Plan, Drawing No. 52105-P-03 dated 27.07.23  
Proposed Elevations, Drawing No. 52105-P-60 rev B, dated 26.09.23  
Proposed Floor Plan, Drawing No. 52105-P-20 rev B, dated 26.09.23  
Proposed Sculpture Elevations, Drawing No. 52105-P-62, dated 11.08.23  
Reason: For the avoidance of doubt and in the interests of proper planning.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as described within the application, unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To ensure that the development is in keeping with the character and appearance of the area and to maintain the visual amenities of the area, having

regard to Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy and Policy DEN1 of the adopted Development and Site Allocations Local Plan.

4. Prior to the painting of the train carriage and WC building, details of the proposed design shall 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 is in keeping with the character and appearance of the area and to maintain the visual amenities of the area, having regard to Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy and Policy DEN1 of the adopted Development and Site Allocations Local Plan.

5. The external walls of the train carriage and the WC building shall be maintained in a clean and tidy condition that does not impair the visual amenity of the site.

Reason: To preserve the visual amenities of the locality in accordance with Policy OSS4 (iii) and EN3 of the adopted Rother Local Plan Core Strategy and Policy DEN1 of the adopted Development and Site Allocations Local Plan.

**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 assessing the proposal against all material considerations, including planning policies and any representations that have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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SITE PLAN  RR/2023/1448/T	BEXHILL  2 Hamilton Terrace, Bexhill.
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## Rother District Council

Report to - Planning Committee  
Date - 12 October 2023  
Report of the - Director – Place and Climate Change  
Subject - Application RR/2023/1448/T  
Address - 2 Hamilton Terrace, BEXHILL.  
Proposal - T1 - Oak Tree (TPO 323) - Reduce crown by 2.5m (approximately 30%); and slight lift over and away from electrical sub-station, electrical cables and neighbouring residential property.

[View application/correspondence](#)

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**RECOMMENDATION:** It be recommended to raise **NO OBJECTION**

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**Director: Ben Hook**

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**Applicant:** Mr Daniel Bontoft  
**Agent:** -  
**Case Officer:** Miss Isla Wilson  
(Email: [Isla.Wilson@rother.gov.uk](mailto:Isla.Wilson@rother.gov.uk))

**Parish:** BEXHILL KEWHURST  
**Ward Members:** Councillors B.J. Drayson and A.P. Hayward

**Reason for Committee consideration:** Application by Staff Member of Rother District Council

**Statutory 8-week date:** 4 September 2023  
**Extension of time agreed to:** 26 October 2023

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### 1.0 SUMMARY

- 1.1 The application seeks to request consent for works to a Tree Preservation Order (TPO) protected tree to the rear (south) of 2 Hamilton Terrace. The Rother Tree Officer has been consulted on the proposals and raised no objections to the works.
- 1.2 The Oak Tree (TPO 323) is under the ownership of the Applicant.
- 

### 2.0 SITE

- 2.1 The Oak Tree (T1) is large tree located within the rear garden of No. 2 Hamilton Terrace. The tree is near the roadside of Eastwood Road and the adjacent electrical sub-station. The canopy of the tree overhangs the garden

of adjacent neighbour (No. 42 Eastwood Road) and is close to the roof of the house and various overhead cables.

2.2 TPO 323 is proposed to have works undertaken.

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### **3.0 PROPOSAL**

3.1 Works are proposed to TPO 323, which is indicated on a sketch plan.

3.2 Detailed works proposed a reduction in crown of the Oak Tree by 2.5m (approximately 30%) and a slight lift over and away from the adjacent neighbouring properties, electrical sub-station and related electrical cables.

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### **4.0 HISTORY**

4.1 No relevant history.

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### **5.0 POLICIES**

5.1 When assessing applications for works to TPO trees, the Local Planning Authority is advised to:

- Assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area.
  - Consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it.
  - Consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.
  - Consider whether any requirements apply in regard to protected species.
  - Consider other material considerations, including development plan policies where relevant.
  - Ensure that appropriate expertise informs its decision.
- 

### **6.0 CONSULTATIONS**

6.1 Planning Notice – **NO OBJECTION**

6.1.1 One letter of support has been received (from one representative). The reasons are summarised as follows:

- Letter expressing appreciation of the Oak Tree by the local community and recognises the requirement to make the tree safe for the surrounding urban community.
- Requests that only essential work is carried out to the tree under supervision of arborist experts in reducing Oak Trees.
- Further requests that if permission is granted, works are to be completed at an appropriate time of year, to prevent disease and minimise interference with the inhabitants of the tree.

6.2 Bexhill-on-Sea Town Council – **NO COMMENTS RECEIVED**

### 6.3 Rother Tree Officer

- 6.3.1 “This is a large oak tree measured at approximately 18m in height and 10m in radius (Eastwood Road side) in the back garden of 2 Hamilton Terrace. The tree is near the roadside of Eastwood Road and the adjacent sub-station. The canopy of the tree overhangs the garden of 42 Eastwood Road and is close to the roof of the house and various overhead cables.

The aim of crown reduction may be to make the tree more suited to its immediate environment or to reduce the effects of shading and light loss, etc., and any perceived nuisance or damage to structures. A crown should normally be reduced in proportion to its original shape, so as to avoid altering the balance of the tree as a whole and the objective should not be to achieve symmetry for its own sake. The final result should retain the main framework of the crown, and so a significant proportion of the leaf bearing structure capable of producing dense leaf cover during the following growing season which is important for the maintenance of vitality and leave a similar, although smaller outline. There are some small pendulous branches over the garage next to the substation. These could be pruned to give approximately 2m clearance of the structures.

Oak trees generally respond well to this type of pruning. The pruning will serve to retain the tree at close to its current size and present a slightly more compact and managed appearance which may be considered to be appropriate in this residential area. Therefore, there is no objection to the proposed pruning. All work should be in accordance with BS 3998:2010 Tree work – Recommendations.”

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## 7.0 **APPRAISAL**

- 7.1 The Oak Tree is a prominent tree located on Eastwood Road and can be seen from the north of Holmesdale Road and intersection at Cranston Avenue. It is an outstanding feature, which alongside other trees in the vicinity, contributes to the wider setting and street scene of the area.
- 7.2 The tree is currently seen to be in close proximity to a public footpath along Eastwood Road and it is thereby considered that any overhanging branches could pose a risk to pedestrians. The pruning of these branches would not be detrimental to the amenity value of the tree and therefore there should be no objection to their removal.
- 7.3 The proposed pruning and crown lifting would raise ground clearance which fundamentally mitigates harm to the amenities of the surrounding neighbours, electrical substation and associated electric cables. The Applicant has also advised that on the morning of 22 September 2023, a large branch fell from the tree, causing damage to their fence.
- 7.4 The proposed works are, in their totality, considered to be necessary for the purposes of safety and would not result in a significant loss to the amenity value of the tree.



## 8.0 PLANNING BALANCE AND CONCLUSION

8.1 It is considered that no objection should be raised to the works to the Oak Tree TPO 323 to the south of 2 Hamilton Terrace.

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**RECOMMENDATION:** **NO OBJECTION** to works to TPO 323 (T1 - Oak Tree) at 2 Hamilton Terrace, Bexhill.

**GRANT CONSENT** for Oak Tree (TPO 323) - Reduce crown by 2.5m (approximately 30%); and slight lift over and away from electrical sub-station, electrical cables and neighbouring residential property.

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### CONDITIONS:

1. This consent is valid for two years beginning with the date of its grant and the works for which such consent is granted may only be carried out once, in accordance with The Town and Country Planning (Tree Preservation) (England) Regulations 2012.
2. All works shall be carried out in accordance with BS3998:2010 Recommendations for Tree work.
3. All trees recommended for tree surgery works will need to be checked for the presence of bats or nesting birds prior to works commencing. Disturbance to bats or nesting birds could contravene the Wildlife and Countryside Act 1981.

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**Rother District Council**

<b>Report to:</b>	Planning Committee
<b>Date:</b>	12 October 2023
<b>Title:</b>	Performance Report for Development Management
<b>Report of:</b>	Kemi Erifevieme, Development Manager
<b>Ward(s):</b>	All
<b>Purpose of Report:</b>	To update the Planning Committee
<b>Officer</b>	
<b>Recommendation(s):</b>	It be <b>RESOLVED</b> : That the report be noted.

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**Purpose**

1. This report sets out the team performance for Development Management as an informative to the Planning Committee. The report will set out performance on planning application decisions and targets in-line with central Government set performance targets (PS1 and PS2). It will also aim to provide a benchmark of the department's performance against similar local planning authorities.
2. The report also covers appeals performance in addition to Enforcement report on caseload.
3. Finally, at the end of the report there is a summary of appeals allowed by the Planning Inspectorate (PINs) and what the Inspector concluded in allowing the appeal.
4. Government targets as set is as follow:

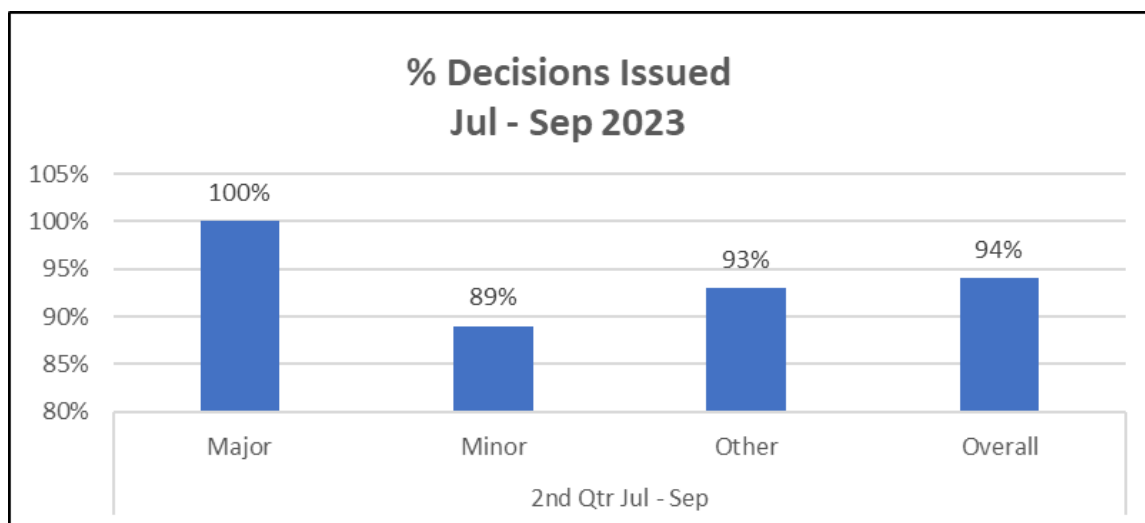
**For applications for major development:** less than 60% of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the Applicant.

**For applications for non-major development:** less than 70% of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the Applicant.

The **threshold** for designation on applications for both major and non-major development, above which a local planning authority is eligible for designation, is **10%** of an authority's total number of decisions on applications made during the assessment period being overturned at appeal.

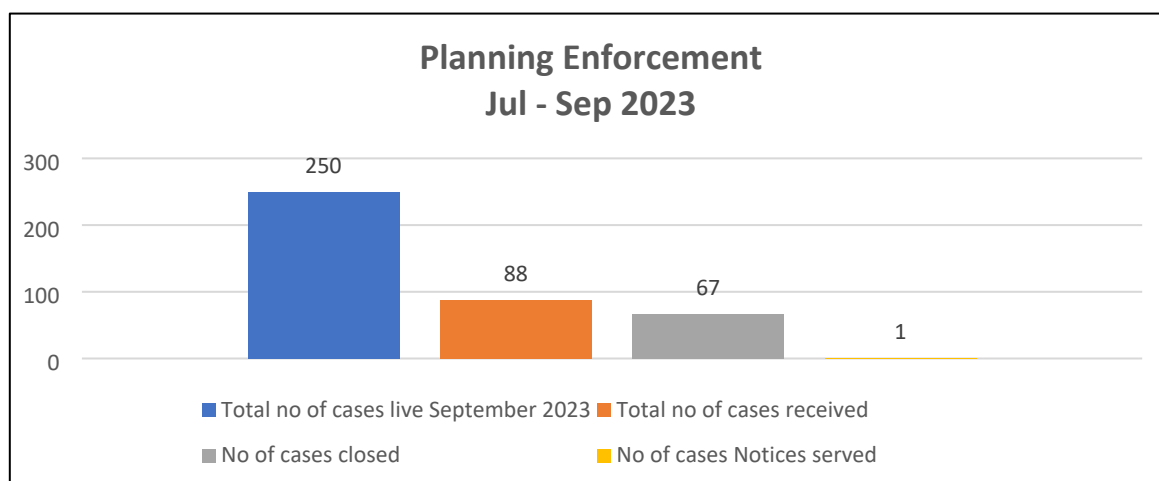
## Planning Decisions July – September 2023

5. The Council's performance for the second quarter July – September 2023



## Enforcement: July – September 2023

6. This table provides the figures for enforcement on hold, being investigated and those where Enforcement Notices have been served.

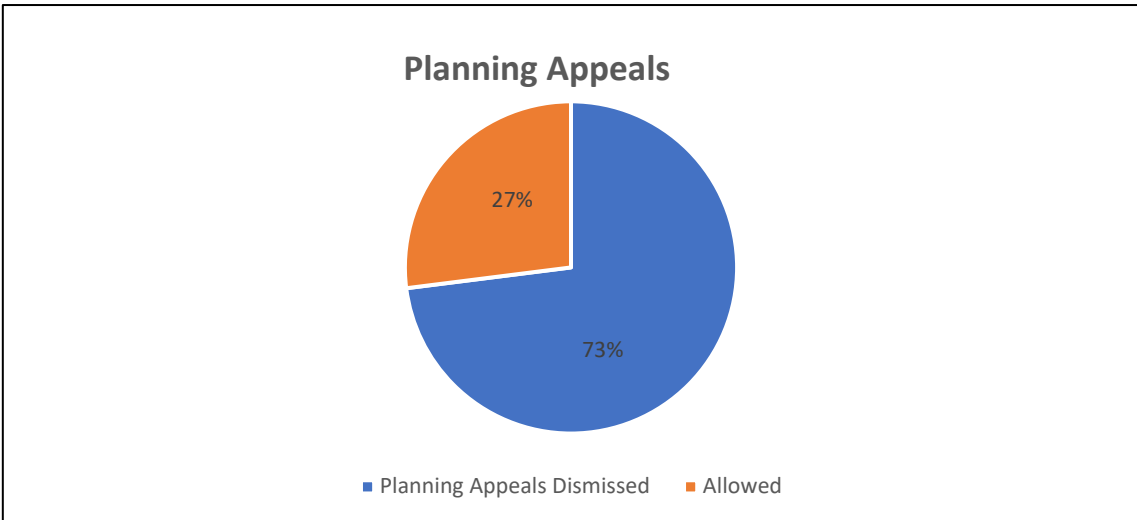


## Appeals

7. Currently there are 58 appeals on hand. 28 appeals lodged but not started; 30 appeals have started (with timetable etc) and 30 are awaiting decisions.

### July – September 2023

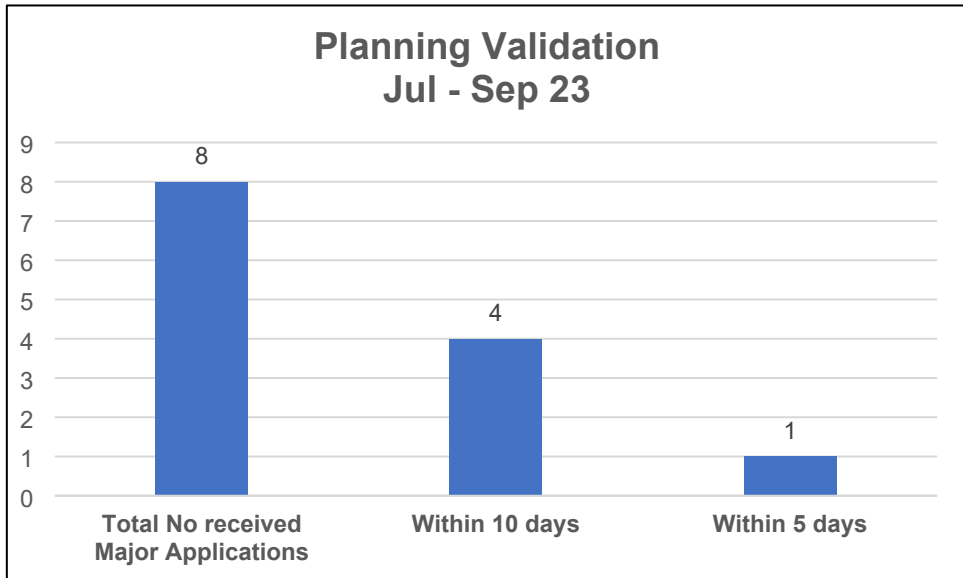
8. Seven were allowed which is a percentage of 27% and 19 were dismissed, 73%. The Council's record for allowed is therefore significantly below the Government's threshold.



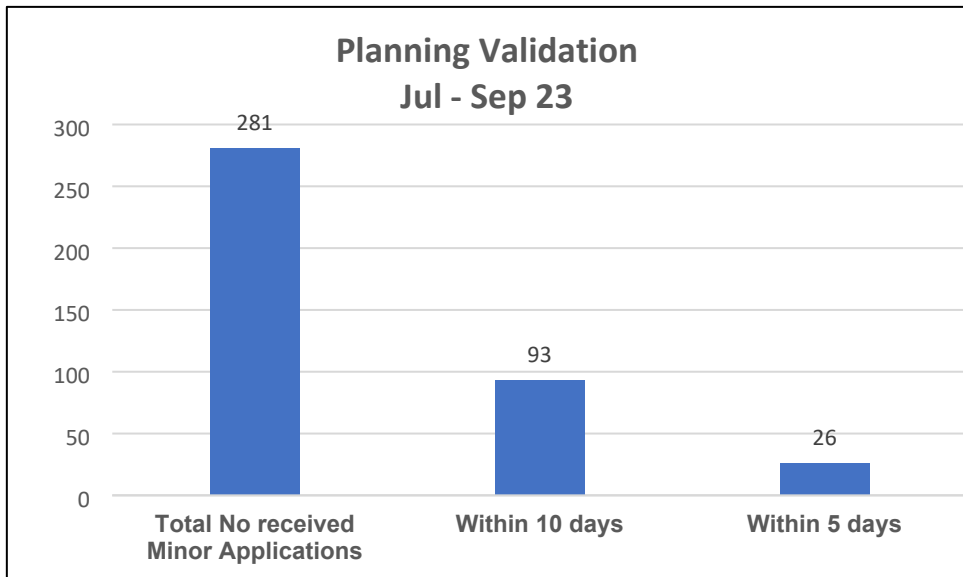
**Validation**

Planning Validation Qtr2

Major Applications



Minor Applications



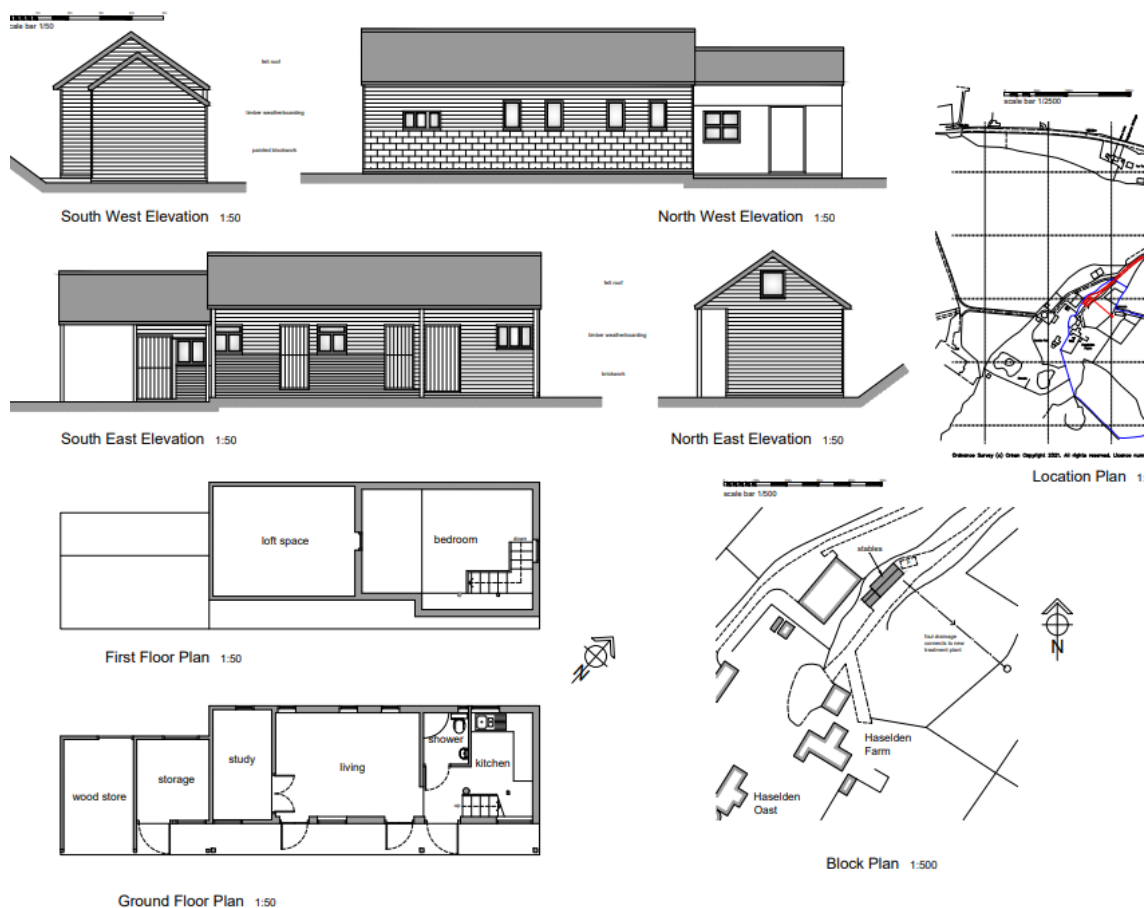
## APPEAL DECISIONS

**Application ref/address:** RR/2021/2992/P Haselden Farm, Battle Road, Dallington, TN21 9LG

**Appeal proposal:** Change of use of stables to residential annexe, and installation of sewage treatment plant (Retrospective)

Reason for refusal:

The proposal is tantamount to the creation of a new dwellinghouse, by virtue of it containing all the necessary facilities to operate as a self-contained, independent unit. However, by virtue of its inadequate floorspace across two storeys and the lack of designated and private outdoor amenity space, the development is considered to provide an inadequate standard of accommodation, to the detriment of occupier amenity. The proposal is therefore contrary to Policies OSS4(i) of the Rother Local Plan Core Strategy and DHG3 and DHG7 of the Development and Site Allocations Local Plan.



Summary of decision:

While the Inspector comment that, 'the annexe contains the necessary facilities for occupation as an independent dwellinghouse. If this was to happen there would be conflict with the interior and exterior space standards in Policies DHG3 and DHG7 of the LP'. They however noted 'the description of development and form of application mean that, if I were to allow the appeal, occupation as an independent dwelling would be a material change of use. In addition, the imposition of a suitably worded planning

condition would ensure that occupation of the annexe building remains ancillary to the main dwellinghouse. This condition would accord with Policy DHG10 of the LP’.

The Inspector in awarding full cost found fault that the ‘Council did not weigh all the substantive matters raised by the applicants relating to the functional relationship between occupation of the annexe and the main dwellinghouse. Furthermore, the Council unreasonably decided that just because the annexe could function as a dwellinghouse, that it necessarily would function as a dwellinghouse, and there is little evidence before me to indicate that it considered whether occupancy of the annexe could be controlled by condition to avoid unlawful occupation as an independent dwellinghouse, as it was directed to by Policy DHG10’.

### **Enforcement appeals Upheld:**

**Appeal Ref:** APP/U1430/C/23/3320233

**Land at 19 Starrs Mead, Battle, East Sussex TN33 0UB**

Inspector dismissed the appeal and upheld the Enforcement Notice with minor variation as follow:

(i) deletion of the text ‘Reinstate the original access and steps removed to facilitate the unauthorised development in the approximate position shown coloured blue on the attached plan’ at Section 5 of the enforcement notice and its substitution with the text ‘Restore the land in the approximate position coloured blue on the attached plan to its condition before the breach of planning control took place’; and (ii) deletion of the text ‘equipment, tools’ at Section 5 of the enforcement notice.

**Appeal A Ref:** APP/U1430/C/22/3296273

**Appeal B Ref:** APP/U1430/C/22/3296274

**Land at Moorings, Forewood Lane, Crowhurst, Battle TN33 9AB**

Inspector dismissed the appeal and upheld the Enforcement Notice in its entirety.

The requirements of the notice are: (i) Remove the structure in its entirety from the land. (ii) Remove any associated materials and debris from the land.

The period for compliance with the requirements is: Four months.

Chief Executive:	Lorna Ford, Chief Executive
Report Contact Officer:	Kemi Erifevieme
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Appendices:	N/A
Relevant previous Minutes:	N/A
Background Papers:	N/A
Reference Documents:	N/A

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