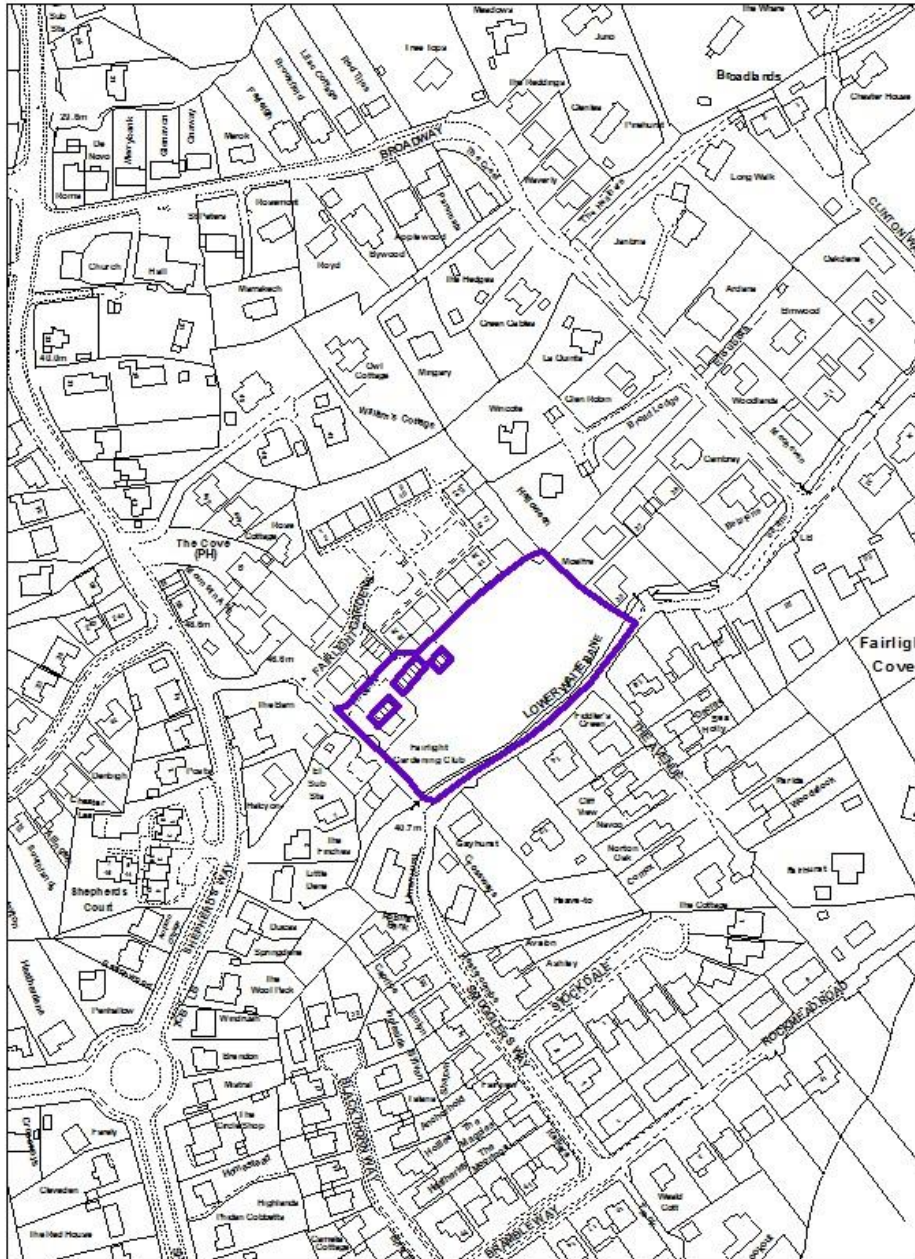


SITE PLAN

FAIRLIGHT

RR/2017/457/P

FORMER MARKET GARDEN, LOWER WAITES LANE.



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Not To Scale

Rother District Council

Report to	-	Planning Committee
Date	-	16 July 2020
Report of the	-	Executive Director
Subject	-	Application RR/2017/457/P
Address	-	Former Market Garden, Lower Waites Lane FAIRLIGHT
Proposal	-	Construction of 16 houses together with associated parking, access and wildlife area

[View application/correspondence](#)

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

- The completion of off-site road improvements at the junction of Lower Waites Lane and Smugglers Way.
 - Reptile relocation site.
-

Head of Service: Tim Hickling

Applicant: Gemselect Ltd
Case Officer: Mr S Batchelor
(Email: samuel.batchelor@rother.gov.uk)
Parish: FAIRLIGHT
Ward Member(s): Councillor R.K. Bird and A.S. Mier

Reason for Committee consideration: Head of Service Strategy & Planning referral: In accordance with the scheme of delegation Committee consideration is required as the Applicant has submitted financial viability information to explain that no affordable housing can be provided.

Statutory 13 week date: 30 May 2017

Extension of time agreed to: 30 September 2019 (further extension requested)

1.0 UPDATE

- 1.1 This application was previously reported to Planning Committee on 15 March 2018 where it was resolved to grant planning permission subject to the delegated completion of a Section 106 agreement relating to:
- the provision of 6 shared ownership affordable housing units;
 - the completion of off-site road improvements at the junction of Lower Waites Lane and smugglers way; and
 - a reptile relocation site.

- 1.2 The application was originally accompanied by a viability appraisal that was independently assessed by the District Valuation Service (DVS). At the time the DVS concluded that the development was able to bear an element of on-site affordable housing. Whilst the applicant doubted the values that the DVS considered could be achieved, they were willing to enter into a legal agreement to provide 4 x 2 bedroom and 2 x 3 bedroom dwellings on a 'shared ownership for sale' basis. At the time, the Housing and Asset Development Officer confirmed that was an acceptable offer and that the proposed mono-tenure and unit size mix specified was acceptable given the location and small number of dwellings involved.
- 1.3 Since the resolution to grant planning permission was made the applicant has reconsidered their position and, despite the concession they were willing to make previously, are now more adamantly of the view that the provision of any affordable housing would make the scheme unviable. Therefore, a 100% market housing scheme is now proposed.
- 1.4 It is accepted that the assessment carried out by the DVS in 2017/2018 confirmed that the scheme was only marginally viable at the time, and was not for example, capable of delivering a policy compliant level of affordable rented housing (4 rented and 2 shared ownership with a commuted sum of 40% for the remaining provision). As stated, the view was taken at the time to agree 6 shared ownership dwellings to maximise onsite affordable housing delivery and to support scheme viability. Whilst this recommendation was based on the facts of the viability of the case it can also be said that the approach taken would provide some certainty in delivering the scheme, which was important in respect of securing a willing RP to take ownership of such a small number of affordable homes in a rural location.
- 1.5 Following the committee resolution and during the Section 106 negotiations last year to secure this provision the applicant further raised the issue of viability, advising that several costs had increased since the DVS assessment was carried out in 2017. Given the specific issue of development costs, it was agreed that instead of a full review, Altair (in place of the DVS who did not have capacity to review the case) would independently review the specific cost assumptions considered to have increased since the previous was carried out, with the view that all other inputs would remain the same as agreed by the DVS in the above report.
- 1.6 Altair's findings and the applicant's information are publicly available online. The submitted information and Altair's view have been considered in consultation with the Housing and Asset Development Officer who, having reviewed Altair's report and findings, applied the revised cost increases in a 'Pod Plan' financial assessment with all other key inputs remaining the same, as agreed previously by the DVS. The following can now be confirmed:
- 1.7 The scheme generates a residual land value (RLV) of £144,778 based on 17.5% profit on GDV limited to a wholly private scheme of 16 outright market sales. This totals a surplus of just £1,778 above the revised benchmark land value (BLV) of £143,000. Based on this assessment, the scheme is clearly not viable to deliver any onsite provision of affordable housing.

- 1.8 The Housing Development Officer further advises against the inclusion of any clawback of the above surplus (£1,788) as it is a very small amount of money which will, in any case, be quickly absorbed by legal costs to secure the provision in a legal agreement.
- 1.9 The Housing and Asset Development Officer has also considered some alternative scenarios – such as if the Applicant were to continue to challenge the profit on GDV, which is quite likely. If a higher profit was sought, the residual value reduces significantly below the minimum BLV required (20% of GDV generates a RLV of just £36,262).
- 1.10 As with previous viability arguments a full financial assessment in the form of a review mechanism is an option to consider at a later stage of the development process once cost assumptions become known. However, the Housing Development Officer recommends that given this is a small scheme that is not viable to deliver any affordable housing provision currently, that any mechanism is limited to independent review the above cost inputs only - with a trigger of 50% of properties occupied. Any surplus above the agreed BLV can then be ring-fenced for delivery of affordable housing in the district.
- 1.11 Whilst the imposition of a review mechanism is advocated in the Government's Planning Practice Guidance (Paragraph: 009 Reference ID: 10-009-20190509), this needs to be agreed with the applicant, should be set out in planning policy and should be used in relevant circumstances. The Council's current affordable housing policy does not have a specific position on viability reviews and the RICS guidance 'Financial viability in planning' states that "re-appraisals are generally suited to phased schemes over the longer term rather than a single phase scheme to be implemented immediately, which requires certainty." With this in mind, and given the small size of the proposal, a review mechanism is not considered appropriate in this instance.
- 1.12 A number of objections have been submitted since the viability information was updated These are set out below. These objections have been considered but they do not provide any material evidence to counter the applicant's information or the conclusions of Altair and the Housing and Asset Development Officer.
- 1.13 In addition to the revised development viability, since the previous committee, the Council have adopted the Development and Site Allocations Local Plan (DaSA). The main impact of this is that there are now a number of policies in relation to housing standards – namely DRM1, Water Efficiency, DHG3: Residential Internal Space Standards, DHG4: Accessible and Adaptable Homes and DHG7: External Residential Areas.
- 1.14 The application of standard conditions will help address the requirements of policies DRM1 and DHG4. Furthermore, all the proposed homes exceed the internal space standards of Policy DHG3.
- 1.15 Having regard to Policy DHG7, five of the proposed houses (plots 3, 5, 7, 9 and 11) do not meet the minimum, normally expected, 10m minimum rear-garden length. On average each is approximately 7m.

- 1.16 Whilst this policy requirement is expected to normally be met, in the first instance, this scheme was previously assessed and resolved to be approved before the policy was adopted. Once you also factor in the precarious viability situation, the fact that a brownfield site is being reused and factoring in the Council's housing land supply position, it is considered that the short fall of the five units identified can be accepted.
- 1.17 The previous committee report is appended below for information, but it is now recommended that planning permission be resolved to be approved without the requirement for affordable housing.
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2.0 CONSULTATIONS

2.1 Planning Notice

- 2.1.1 Since the application was republicised four representations have been received generally objecting to the loss of affordable housing not being acceptable.
- 2.1.2 One of the objections is more detailed and criticises the approach taken to the re-assessment of viability. Queries include why a fuller review was not been undertaken and states that the developer has not shown if anything less than 6 affordable units could be provided viably (i.e. 1-5 units).
- 2.1.3 The Housing and Asset Development Officer's approach to re-assessing the viability of the development is set out above and the focused approach was agreed given the relatively small size of the development and the applicant's specific concern regarding development costs.
- 2.1.4 It is also considered unnecessary for the applicant to show if a lesser amount of affordable housing can be provided as a 100% market scheme is only just viable. Adding in any further affordable housing would immediately make the development unviable.
- 2.2 Fairlight Parish Council - **NO OBJECTION** but general comment as follows:
- 2.2.1
- 1) Fairlight Parish Council regrets that the 40% affordable housing units agreed at the outset by the developer are now considered non-viable.
 - 2) However, it reluctantly accepts officers' advice that the scheme would not be viable with affordable housing as without this site it may create pressure to build extra dwellings on other sites within Fairlight.
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3.0 LOCAL FINANCE CONSIDERATIONS

- 3.1 The proposal is for a type of development that is CIL liable. The total amount of CIL money to be received is subject to change, including a possible exemption, but the development could generate approximately £233,685.
- 3.2 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 £106,944 over four years.
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RECOMMENDATION: GRANT (FULL PLANNING) DELEGATED SUBJECT TO THE COMPLETION OF A SECTION 106 AGREEMENT RELATING TO:

- The completion of off-site road improvements at the junction of Lower Waites Lane and Smugglers Way.
 - Reptile relocation site.
-

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 documents:
Drawing Nos. 662/303 P2 dated 26 April 2017
Drawing Nos. 021 P2, 022 P2, 023 P2, 024 P2, 025 P2, 026 P2, 027 P2 and 030 P dated 6 July 2017
Drawing Nos. 007 P3, 008 P3, 028 P3 and 031 P2 dated 8 August 2017
Drawing Nos. 304 P4, 002 P5, 003 P5, 004 P5 006 P4 dated 27 November 2017
Drainage Strategy and Sustainable Drainage Management and Maintenance Plan (Issue B) Monson dated 11 July 2017
8330P/301 Rev B Surface Water Drainage Layout and 8330P/302 Rev B Foul Water Drainage Layout dated 11 July 2017
7556 100 P2 Proposed Carriageway and Access Alignment dated 1 November 2007
Written Scheme of Archaeological Investigation, Chris Butler Archaeological Services Project No. CBAS0525 dated June 2014
Arboricultural Report, Sylvan Arb Ref: SA/91/14 dated 27 June 2014
Reason: For the avoidance of doubt and in the interests of proper planning, as advised in Planning Practice Guidance Paragraph: 022 Reference ID: 21a-022-20140306.
3. No development shall commence until the vehicular access serving the development and the improvements to Lower Waites lane and Smugglers Way have been constructed in accordance with the approved plan Drawing No. 7556 100 P2 dated 1/11/2007.
Reason: A pre-commencement condition is required because the works are required to be carried out prior to any other development commencing to ensure that conditions of access and safety on Lower Waites Lane and Smugglers Way are maintained for all road users including during the construction period in accordance with Policies TR3 and CO6 of the Rother Local Plan Core Strategy.
4. 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 restricted to the following matters:
 - a. Anticipated number, frequency, and types of vehicles used during

- construction.
- b. The method of access and egress and routing of vehicles during construction.
- c. The parking of vehicles by site operatives and visitors.
- d. The loading and unloading of plant, materials and waste.
- e. The storage of plant and materials used in the construction of the development.
- f. The erection and maintenance of security hoarding.
- g. The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction on the public highway (including the provision of temporary traffic Regulation Orders).
- h. Details of public engagement both prior to and during construction works.
- i. A named construction site manager with full contact details.

Reason: A pre-commencement condition is required because the works need to be managed in all stages of construction to maintain safe traffic conditions on Lower Waites Lane and Smugglers Way, to maintain the safety of all road users and to maintain the amenities of the locality in accordance with Policies OSS4, TR3 and CO6 of the Rother Local Plan Core Strategy.

5. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity has been submitted to and approved in writing by the Local Planning Authority.

The EDS shall include the following:

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

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

Reason: A pre-commencement condition is required to enable the Local Planning Authority to properly ensure the protection of protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5 (ii), (v) and (viii) of the Local Plan Core Strategy.

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

- a. Purpose and objectives of the proposed works.
- b. Detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used).
- c. Extent and location of proposed works shown on appropriate scale maps and plans.

- d. Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction.
- e. Persons responsible for implementing the works.
- f. Initial aftercare and long-term maintenance (where relevant).
- g. Disposal of waste arising from works.

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

Reason: A pre-commencement condition is required to enable the Local Planning Authority to properly ensure the protection of protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Local Plan Core Strategy.

- 7. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with the approved Written Scheme of Investigation (WSI) prepared by Chris Butler Archaeological Services dated June 2014 Project No. CBAS0525.

Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.

- 8. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Lead Flood Authority: The scheme will require:

- a. Carry forward into the detailed design the principles outlined in the Monsoon Drainage Strategy and Sustainable Drainage Management and Maintenance Plan (Issue B) dated 11 July 2017. The scheme should limit surface water runoff from the completed development to 2.7l/s for all rainfall events, including those with a 1 in 100 (plus climate change) annual probability of occurrence. Evidence of this (in the form of hydraulic calculations should take into account the connectivity of difference surface water drainage features.

- b. The proposed watercourse diversion should be designed such that the amended channel has an equal or greater capacity for conveying water than currently exists. Evidence of this (in the form of hydraulic calculations) should be submitted with the detailed drainage drawings.

- c. A Maintenance and Management Plan for the entire drainage system The Plan shall clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and the appropriate authority should be satisfied with the submitted details. Evidence that these responsibility arrangements will remain in place throughout the lifetime of the development should be provided to the Local Planning Authority as part of the Maintenance and Management Plan.

- d. Thereafter none of the dwellings shall be occupied until the surface water drainage works to serve the development have been provided in accordance with the approved details and evidence of such provided to and approved in writing by the Local Planning Authority.

Reason: These details are integral to the whole development and are therefore required prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 100 and 103 of the National Planning Policy Framework with

accompanying ministerial statement of December 2014.

9. Construction of the development shall not commence until details of the proposed means of foul water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority.
Reason: These details are integral to the whole development and are therefore required prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 100 and 103 of the National Planning Policy Framework with accompanying ministerial statement of December 2014.
10. No development shall commence until details for the protection of existing trees and hedgerows on the site to be retained have been submitted to and approved in writing by the Local Planning Authority. The details shall include indications of all existing trees and hedgerows on the land including details of those to be retained, together with a scheme for protection, which shall include locations for protective fencing, ground protection and no dig surface construction methods in accordance with the Arboricultural Report prepared by Sylvan Arb, Ref: SA/91/14 dated 2 June 2014. The approved scheme shall be put in place prior to the commencement of any development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
Reason: These details are required prior to commencement of works to ensure the protection of retained trees and hedgerows during construction and the creation of a high quality public realm and landscape setting in accordance with Policy EN3 of the Rother Local Plan Core Strategy.
11. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include:
 - a. creation of escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
 - b. open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.Reason: To properly ensure the protection of rare and protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Local Plan Core Strategy.
12. No development above foundation level shall commence until a scheme of soft and hard landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - a. Details of all hard landscaping;
 - b. Design, layout and appearance of structural and amenity green space, including verges.
 - c. Planting plans, including for landscape and ecological mitigation.

- d. Written specifications (including cultivation and other operations associated with plant and grass establishment).
- e. Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- f. Details for implementation.

The development shall thereafter be carried out in accordance with the details as approved in writing by the Local Planning Authority and in accordance with an agreed implementation programme.

Reason: To ensure the creation of a high quality public realm and landscape setting that enhances the character and appearance of the development and its locality in accordance with Policies OSS4 and EN3 of the Rother Local Plan Core Strategy.

- 13. No development above ground level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, height, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
Reason: To ensure a high quality development taking account of the semi-rural characteristics of the locality in accordance with Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy.
- 14. No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
Reason: To preserve the visual amenities of the area in accordance with Policies OSS4 (iii) of the Rother Local Plan Core Strategy.
- 15. No development above ground level shall take place before any external lighting scheme proposed is submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall comply with the Institution of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011(or later versions) and 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. The lighting scheme shall thereafter be implemented and maintained only as approved. Reason: To prevent light pollution in the interests of the amenities of adjoining residents and to protect the dark sky environment that is characteristic of Fairlight village in accordance with Policy OSS4 (ii) and (iii) of the Local Plan Core Strategy.
- 16. No part of the development shall be occupied until full details of refuse and recycling storage facilities have first been submitted to and approved in writing and those facilities have been provided in accordance with the approved details. The areas shall thereafter be retained for that use and shall not be used for any other purpose.
Reason: To ensure that the satisfactory appearance of the development and the area is maintained in accordance with Policies TR3 and OSS4 (iii) of the Rother Local Plan Core Strategy.
- 17. No part of the development shall be occupied until the car parking spaces have been constructed and provided in accordance with the approved plan

(Drawing No. 622/003 P5 dated 27/11/2017). The areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To ensure the provision of adequate on-site parking that does not prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6, TR4 and TR3 of the Rother Local Plan Core Strategy.

18. No part of the development shall be occupied until the vehicle turning space has been constructed within the site in accordance with the approved Drawing No. 622/003 P5 dated 27/11/2017. The space shall thereafter be retained at all times for this use only and shall not be obstructed.

Reason: To ensure the provision of adequate turning facilities that do not prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6 and TR3 of the Rother Local Plan Core Strategy.

19. No part of the development shall be occupied until the road, footways and parking areas serving the development have been constructed, drained and lit in accordance with plans and details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision of adequate pedestrian and vehicular access and on-site parking so as not to prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6, TR4 and TR3 of the Rother Local Plan Core Strategy.

20. No part of the development shall be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: in order that the development site is accessible by non-car modes and to meet the objectives of sustainable development in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

21. The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved WSI and that provision for analysis, publication and dissemination of results and archive deposition has been secured, unless an alternative timescale for submission of the report is first agreed in writing by the Local Planning Authority.

Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.

22. Prior to the occupation of the development, a landscape management plan, including management responsibilities and maintenance schedules for the communal hard and soft landscape areas including any street furniture and minor artefacts therein, shall be submitted to and approved by the Local Planning Authority. The landscape management plan shall be carried out as approved.

Reason: To ensure a high quality public realm taking account of the

characteristics of the locality and enhancing the landscape character and quality of the High Weald AONB in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

23. Unless alternative times are specifically agreed in writing by the Local Planning Authority, construction activities associated with the development hereby permitted shall not be carried out other than between the hours of 08:00 and 18:00 hours on Mondays to Fridays inclusive and 08:00 and 13.00 on Saturdays and not at any time on Sundays, Bank and Public Holidays. Reason: So as not to unreasonably harm the amenities of adjoining properties in accordance with Policies OSS4 (ii) and CO6 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.
24. If within a period of five years from the date of occupation any tree planted 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 character and appearance of the locality in accordance with Policies OSS4 and EN3 of the Rother Local Plan Core Strategy.
25. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of five years from the date of the occupation of the building for its permitted use.
 - a. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
 - b. If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - c. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
 - d. No fire shall be lit within 10m from the outside of the crown spread of any tree which is to be retained.
 - e. No equipment, machinery or structure shall be attached to or supported by a retained tree.
 - f. No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area.
 - g. No alterations or variations to the approved works or tree protection

schemes shall be made without prior written consent of the Local Planning Authority.

Reason: To ensure that trees are not damaged or otherwise adversely affected by building operations and soil compaction to enhance the appearance of the development in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting this Order with or without modification), the garages hereby approved shall retained for such use and shall not be altered internally or externally for use as habitable accommodation.

Reason: To ensure a satisfactory level of off-road parking facilities so as not to prejudice the free flow of traffic and conditions of general safety along the highway and to accord with Policy TR4 of the Rother Local Plan Core Strategy.

27. Notwithstanding the provisions of Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting this Order with or without modification), no fences, gates or walls, buildings or structures of any kind, shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road.

Reason: To safeguard the open and green character and appearance of the development and area in accordance with Policy OSS4 (iii) of the Rother Local Plan Core Strategy.

28. The dwelling(s) hereby approved shall meet the requirement of no more than 110 litres/person/day water efficiency set out in Part G of Schedule 1 of the Building Regulations 2010 (as amended) for water usage. The dwelling(s) hereby permitted shall not be occupied until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwelling(s) has been constructed to achieve water consumption of no more than 110 litres per person per day.

Reason: To ensure that the dwelling(s) is built to acceptable water efficiency standards in line with sustainability objectives and in accordance with Policy SRM2 (v) of the Rother Local Plan Core Strategy and Policy DRM1 of the Rother Development and Site Allocations Local Plan.

29. The dwelling(s) hereby permitted shall not be occupied until it they have been constructed in accordance with Part M4(2) (accessible and adaptable dwellings) of Schedule 1 of the Building Regulations 2010 (as amended) for access to and use of buildings.

Reason: To ensure that an acceptable standard of access is provided to the dwelling(s) in accordance with Policy OSS4 (i) of the Rother Local Plan Core Strategy and Policy DHG4 of the Rother Development and Site Allocations Local Plan.

NOTES:

1. This permission is the subject of an obligation under Section 106 of the Town and Country Planning Act 1990.
2. The Applicant is reminded of the need to enter into Section 278 agreement

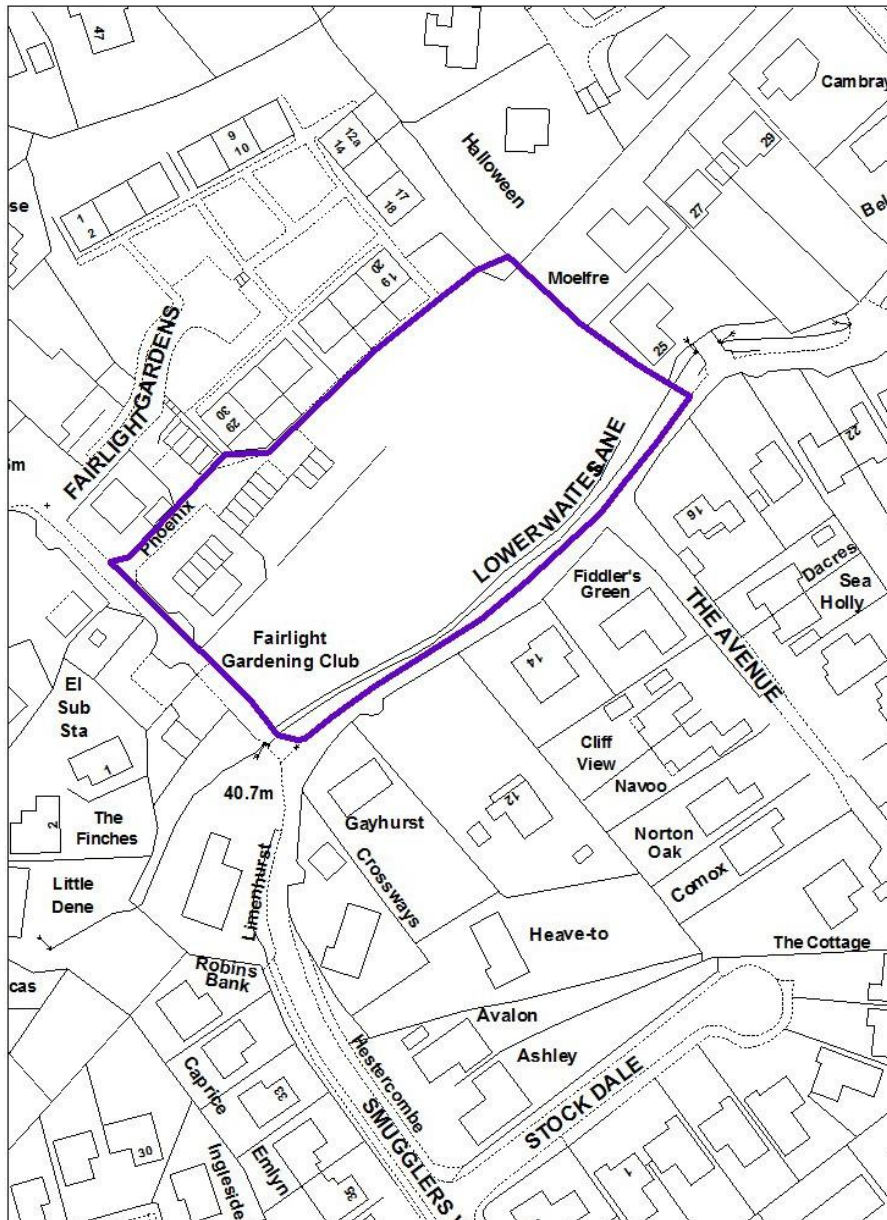
with the Highway Authority to tie the road improvement works into the public highway.

3. The Highway Authority would wish to see the roads within the site laid out and constructed to standards at, or at least close to, adoption standards.
4. A formal application for connection to the public sewerage system is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk
5. Part of the site is affected by a public foul sewer. It might be possible to divert this so long as it would not result in an unacceptable loss of hydraulic capacity and the work is carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions. Please see Southern Water's correspondence of 13 April 2017 for the relevant criteria to be applied to any diversion of apparatus.
6. Due to changes in legislation that came into force on 1 October 2011 it is possible that a sewer now deemed to be public could be crossing the application site. Should any such sewer be found during construction works an investigation of the sewer will be required to ascertain its condition, the number of properties served and potential means of access before any further works take place on site.
7. The Applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.
8. The Applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning permission for a development does not provide a defence against prosecution under European and UK wildlife protection legislation. The presence of protected species cannot be discounted on this site given its character and location and a precautionary approach must be taken to all site clearance and construction works. Should any protected species is encountered during these works all work on site should cease and advice sought on how to proceed from a suitably qualified and experienced ecologist. Separate licences and consents may be required to undertake work on the site where protected species are found.
9. This development will be subject to the Community Infrastructure Levy (CIL) and all interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.
10. The Applicant is advised that it is their responsibility to notify their Building Control Body (Local Authority or Approved Inspector) that conditions triggering the optional technical standards for Water Efficiency and Accessibility and Wheelchair Housing Standards are attached to this planning permission and that development should be built accordingly. Enforcement

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

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.

SITE PLAN	Fairlight
RR/2017/457/P	Former Market Garden, Lower Waites Lane



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Not To Scale

RR/2017/457/P

FAIRLIGHT Former Market Garden, Lower Waites Lane

Construction of 16 houses together with associated parking, access and wildlife area

Applicant: Gemselect Ltd
Agent: None
Case Officer: Ms J. Edwards (Email: jo.edwards@rother.gov.uk)
Parish: FAIRLIGHT
Ward Members: Councillor R.K. Bird and Councillor C.J. Saint

Reason for Committee consideration: Member referral: Cllrs R.K. Bird and C.J. Saint

Statutory 13 week date: 30 May 2017 Extension of time agreed to: 30 March 2018

This application is included in the Committee site inspection list.

1.0 POLICIES

1.1 The following 'saved' policies of the adopted Rother District Local Plan 2006 are relevant to the proposal:

DS3 Development Boundaries
 VL3 Land adjacent to Fairlight Gardens, Fairlight Cove – allocates the site for at least 15 dwellings with 40% affordable.

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

- PC1 Presumption in favour of sustainable development OSS1 Overall spatial development strategy
- OSS3 Location of Development
- OSS4 General Development Considerations
- RA1 Villages (at least 44 new homes in Fairlight between 2011 and 2028 including existing allocations, commitments and new sites)
- SRM2 Water Supply and waste water management
- CO6 Community Safety
- LHN1 Achieving mixed and balanced communities
- LHN2 Affordable housing
- EN1 Landscape stewardship
- EN2 Stewardship of the historic built environment
- EN3 Design quality
- EN5 Biodiversity and green space
- EN6 Flood risk management
- TR3 Access and new development TR4 Car parking

- 1.3 A Neighbourhood Plan was to have been produced by Fairlight Parish Council however that now looks unlikely to proceed and no weight can be given to it.
- 1.4 The National Planning Policy Framework and Planning Policy Guidance are also material considerations. In particular paragraphs:
- Paragraphs 7 – 14 – presumption in favour of sustainable development
 - Paragraph 17 – core planning principles for sustainable development
 - Paragraph 47 – delivering a wide choice of high quality homes via ‘deliverable and developable’ sites
 - Paragraph 49 – five-year supply of deliverable housing sites
 - Chapter 7 – Requiring good design
 - Paragraphs 99 – 108 Climate change, flood risk and coastal change.
 - Paragraphs 203 – 206 Planning conditions and obligations
-

2.0 **SITE**

- 2.1 The application site comprises vacant land previously used as a market garden (horticulture) located fairly centrally within the village of Fairlight and within the 2006 development boundary of Fairlight Cove. The site is bounded by Lower Waites Lane to the south west and south east; existing single detached dwelling houses; Moelfre and no. 25 Lower Waites Lane to the north east; and by flats at Fairlight Gardens to the north-west.
- 2.2 The applicant’s ownership extends to approximately 0.6 hectares that in the north-west comprises existing garages and a forecourt area that are in use. That part of the applicant’s land is contained within the red line boundary but excluded from the development proposal. The part of the site to be developed comprises approximately 0.54 hectares and until very recently (August 2017) was heavily overgrown primarily with bramble scrub comprising predominantly hawthorn, ivy and blackberry.
- 2.3 On the margins of the site there are several mature trees including two oaks on the south west and north east boundaries respectively that are protected by TPO. There is a dense band of young mixed species and several other trees on the south east boundary fronting onto Lower Waites Lane that currently serve to screen the site from residential properties on the south side of this private road. Along the length of this boundary there is also an existing stream. The site slopes downwards from the north-west corner towards the south east by approximately 10m.
-

3.0 **HISTORY**

- 3.1 RR/2014/1868/P Construction of 11 x houses and 9 x flats together with associate parking and access road and ecological areas – WITHDRAWN
-

4.0 PROPOSAL

4.1 The proposal is for a residential development of 16 dwellings comprising a mix of two and three bedroom houses made up as follows:

Dwelling Type	Bedrooms / persons	No.
Terraced cottage	2 bed / 4 person	6
Semi-detached house	3 bed / 5 persons	2
Semi-detached house	3 bed / 6 persons	4
Detached house	3 bed / 5 persons	1
Detached house	3 bed / 6 persons	3
Total		16

4.2 Revised design and layout drawings were received on 9th August and these were re-consulted on together with amended surface and foul water drainage schemes received on 14th July for a further 14 day period in August 2017. Further amendments were made in November 2018 including the incorporation of a further public footpath in the south west corner of the site and an increase in the size of the 'wildlife area'.

4.3 The proposed houses would all be two storey and would be completed externally in Sussex red multi brick with clay roof tiles and hanging tiles at first floor, UPVC white casement windows and light oak UPVC front and garage doors. The dwellings are shown arranged around a short cul-de-sac taking access from the south west corner of the site. The road would slope slightly downwards from a high point near the existing, fenced off access to the site and terminate in a courtyard providing a turning area for larger service vehicles. Off street parking within the site would be made for 36 vehicles in communal parking courts, private driveways and garages. Surface materials to the road and open parking areas would comprise permeable block paving and granite setts and bound gravel providing a 'shared surface for pedestrians and vehicles. A new pedestrian footway linking Fairlight Gardens with the southern length of would be provided on the south west edge of the site.

4.4 The orientation and geometry of the site entrance is designed so as to encourage future residents to access the site to and from Smugglers Way to the south and to discourage the use of Lower Waites Lane in either direction for vehicular movements associated with the site.

4.5 The scheme includes a central wildlife area on the north-west boundary with linear features on both the south east and north east edges. Existing trees are generally to be retained and supplemented.

4.6 The development would include underground surface water holding tanks within the courtyard area and would also involve the realignment of the stream on the south east boundary.

4.7 Supporting documents to the application include a Design and Access Statement (amended August 2017), Statement of Significance and

Archaeological Written Scheme of Investigation (June 2014), Drainage Strategy and Sustainable Drainage Management and Maintenance Plan (amended July 2017), Traffic Report, Ecological Report (October 2016) with supplementary information and correspondence, Arboricultural Report (dated June 2014) and Viability Appraisal.

5.0 **CONSULTATIONS**

5.1 Parish Council

- 5.1.1 The Parish Council's comments on the original submission are available to view in full on line. In summary they address the following:
- Would have preferred to see site used as public open space but recognise housing allocation;
 - Consider that the density is too high and character of development not in keeping with village;
 - Onsite parking provision considered inadequate – transport report considered to under estimate amount
 - Vehicular access to site is restricted;
 - The proposal for sewage disposal is considered unacceptable: the system should be upgraded before any further planning consents are given;
 - If permission is granted there should be conditions imposed relating to lighting, external materials, boundary treatments, pollution control to stream, destabilisation of bank through any tree removal and long term maintenance; wildlife protection and relocation; construction traffic management and considerate contractor scheme.
- 5.1.2 In response to the re-consultation on amended details in August, the PC commented that it would wish to see an independent assessment of the potential consequences of the stream realignment undertaken to ensure that it would not lead to the bank collapsing further downstream.

5.2 Highway Authority

- 5.2.1 The Highway Authority has some concerns about access to the site from private roads but its formal comments are necessarily limited to the impact of the development on the public highway that commences approximately 50m to the south of the site on Smugglers Way. Comments are made under the headings: Trip generation and highway impact; internal layout, parking, accessibility and construction traffic management plan and are available to view on line. In summary it is considered that the development would generate approximately 9 two way vehicle journeys in AM and PM peak hours that would not adversely impact on the public road network; the 36 parking spaces are provided against an assessed need of 32. Although 6 of these are provided in garages and the Highway authority would prefer these to be open as they meet minimum internal space standards there is no objection. Cycle parking needs to be provided also in accordance with ESCC standards. The site is located centrally within the village and although local facilities are limited there is a relatively frequent weekday and Saturday service to Rye and Hastings. Notwithstanding that destinations are limited and any development is likely to remain largely dependent on private vehicles particularly for work trips. However, with some local facilities

available within walking distance and public transport The highway authority is keen to ensure that this development does not have an adverse effect on the existing highway infrastructure and therefore request that a Construction Traffic Management Plan is submitted to and agreed with ESCC prior to the commencement of works to be secured by a relevant planning condition. This should take into account the character of the roads serving the site and include a construction traffic routing agreement, hours of working, wheel washing, and secured compounds for materials storage, machinery and contractor parking. Conditions are suggested if planning permission is granted.

5.3 Southern Water

- 5.3.1 Southern Water has advised a number of times concerning the development of this site, on occasions seemingly giving seemingly conflicting advice. However in its most recent communication dated 31st May 2017 it confirmed, *“in light of further modelling work, and a review of the likely risks of foul sewerage flooding and predicted possible flooding locations, Southern Water are now happy to confirm there is sufficient capacity to serve the above development.”* Other comments contained in its letter dated 13th April including suggested conditions remain unchanged. All of the correspondence received is available to view on line.

5.4 ESCC Lead Local Flood Authority (LLFA)

- 5.4.1 In its initial response dated 22 March the LLFA requested further information. Having received that on 14 July 2017 it has now commented that *“there is no objection in principle subject to the imposition of conditions, whilst the application documentation has not met all of the County Council’s requirements, it is possible that the risk is capable of being mitigated to acceptable levels by the application of planning conditions which are outlined in this response”*. Appropriate conditions are proposed should permission be granted.

5.5 Environment Agency

- 5.5.1 The development is assessed as being of low environmental risk and therefore the EA has no comment to make noting that, *“the development is near to a watercourse that is not a main river designated by the EA. The applicant should therefore contact the Internal Drainage Board. The applicant may be required to apply for other consents directly from the EA.*

5.6 County Archaeologist

- 5.6.1 The County Archaeologist would have preferred that an archaeological evaluation of the site in accordance with a written scheme of investigation prepared in 2014 for the applicant had been undertaken in advance of the application but accepts that ecological constraints on the site make that impossible. In the event that planning permission is granted it is requested that conditions are attached requiring a full archaeological evaluation to be undertaken before any development commences. It is noted that this could result in significant archaeological costs or the scheme design having to be amended if any significant remains requiring preservation in situ are found. Conditions are proposed

5.7 County Ecologist

5.7.1 The County Ecologist has commented on the scheme design and the detailed wildlife mitigation measures proposed. If planning permission is granted suitable conditions are suggested.

5.9 Sussex Police

5.9.1 Generally supportive of layout being a cul de sac with no through route, the layout will encourage ownership and a sense of community; natural surveillance will deter trespass.

5.10 Planning Notice

5.10.1 A petition signed by 17 people has been received from local residents and a spokesperson for them has been invited to address the Committee. The matters of objection cited are, "*drainage both foul and surface water*"

5.10.2 Fifty four letters of objections to the application, including from Campaign for Rural England Sussex Branch as originally submitted were received with some respondents submitting several separate letters or emails. . A further 17 letters of objection were received in response to the re-consultation on amended drawings and drainage proposals in August.

5.10.3 Five general comments about the boundary line and potential impact on the TPO tree on the north east boundary of the site and slow progress of the application were received.

5.10.4 One letter of support was received that considered that the site serves no useful purpose and the current proposal is a reasonable compromise. Previous criticisms of the development have been listened to and largely addressed.

5.10.5 All of the comments received are available to view in full on-line but the matters in objection raised are summarised as:

Density, design and layout

- Scheme represents overdevelopment of the site and is uncharacteristic of the surrounding area;
- Proposed houses are overcrowded and poor quality;
- Government advice concerning densities on which minimum 15 dwellings required by policy has been abolished, density should be based on local circumstances taking account of facilities i.e. wildlife; drainage; parking etc. also required to be met on the site;
- Site is smaller (excluding garages) than considered when Local Plan 2006 made therefore number of dwellings too great;
- The (uniform and tightly packed) design is more suitable to an urban area than this village;
- To the south and east, to which the development mainly relates, development is characterised by low density detached dwellings, mainly low - rise;
- The development would introduce a scale of noise and activity into this very quiet part of the village that would completely alter its character;
- Scheme looks like 'Toy Town'

- Some of the houses don't have front gardens;
- If the site has to be developed it should be for 4 to 5 bungalows;
- The boundary line in the amended drawings is moved but not enough to allow a house to be built there.

Traffic, highways and access

- Development will place an intolerable strain on Lower Waites Lane;
- All routes to the site offer sites of potential blockage to larger vehicles that might include fire engines and ambulances;
- No permission should be granted until a minimum of one full width carriageway in each direction is provided;
- The road junctions of the preferred vehicular route Shepherd's Way, Bramble Way and Smugglers Way are too tight to allow more traffic and too narrow to cope with the proposed development not permitting two cars to pass;
- Ramblers walk in the middle of the road on Smuggler's Way;
- The amount of parking on the site is inadequate;
- Cars from the development would be encouraged to park on surrounding roads increasing congestion;
- Construction traffic would harm the road surfaces and verges;
- Future residents will use the shortest and quickest drive route not the one proposed;
- The widening at Limenhurst has not been completed – the traffic report is wrong;
- Communal parking courts do not enable residents to be able to charge their electric vehicles in the near future;
- Parking on the road in the site would cause hazard to pedestrians;
- The proposal for a communal bike store is a joke;
- Storage is required for disabled buggies and other electric vehicle charging points;

Drainage and land stability

- Will create an intolerable burden on land stability in the area
- Scheme doesn't make provision for the long term maintenance of flood storage mechanism;
- There is insufficient foul water disposal infrastructure capacity for the development
- The flow of surface water along the stream may overwhelm the culverts at Broadway;
- Parts of the stream are blocked this development will make the situation worse;
- Poor maintenance of the stream will add to the possibility of these becoming blocked;
- The drains already overflow along Lower Waites Lane;
- Will access to the application site side of the boundary fence for the maintenance of our drains be retained
- Soakaways are unacceptable and there is inadequate capacity in the local network;
- There are existing drains on the site;
- Proposals don't take into account other development already permitted that will discharge into the system;
- The proposal to straighten the stream will only speed up flows and

bring the stream closer to the road leading to more erosion of both the road and the banks;.

- The attenuation tanks will need to be maintained otherwise they will silt up;
- The development will add to the residents misery with raw sewage problems;
- The whole drainage system should be replaced before anymore development is allowed;
- The reliability of Southern Waters comments and the proposals made in the updated Monson drainage report accompanying amended proposals in July 2017 have been questioned.
- The development should contribute towards off site drainage improvements as required by policy VL3.

Ecology

- No provision made for long term maintenance of wildlife protection area;
- No care has been taken of the wildlife, the small areas shown on the drawing is totally inadequate;
- Some of the trees are subject to TPO, could others be protected in the same way;
- The site is valuable to wildlife
- There is wildlife on the site that isn't acknowledged by the ecology report;
- Some of the houses are too close to the trees and the canopy of the protected tree on the north east boundary extends further than shown on the drawings;

Miscellaneous

- Japanese Knotweed is known to have been present on the site. Although some treatment was carried out in 2012 and subsequent years the plant has re-established itself and may have spread to other parts of the site;
- The knotweed needs to be dealt with by a professional company and a certificate issued that the weed will not regrow before any digging commences;
- Windows from the new houses should not be allowed to overlook existing houses or their private amenity space; proposed buffer planting of 1.2m height is insufficient;
- No mention is made in the application of affordable housing;
- Archaeology on the site is not addressed;
- The village doesn't have street lighting so this is not acceptable;
- Apart from glasshouses and temporary outbuildings, the site has never been built on;
- There are electricity lines crossing under the site affecting the gardens of dwellings 1, 3, 5, 7, 9, 11, 13, 15 and 16;
- The communal bin store proposed near to the northern boundary will create unacceptable odours;
- Loss of last remaining green space in village centre;
- The amendments made do not impact on the previously expressed concerns of many residents regarding the complete unsuitability of this site for development in a village environment;
- There is no more capacity for development in the village

6.0 APPRAISAL

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.2 The site lies within the village development boundary for Fairlight Cove as defined by the Rother District Local Plan 2006 (RDLP) where proposals for development are supported in principle subject to all other material considerations. It is also specifically allocated for housing development by saved Policy VL3 of the RDLP for at least 15 dwellings.

6.3 The principal issues with this application are considered to be: the extent to which the proposal complies with Policy VL3; its design and character within the context of the village; impact on adjoining properties and the amenity of future residents; surface and foul water drainage; traffic, access and parking; impact on wildlife and trees and affordable housing and other section 106 planning requirements.

6.4 Policy Position

6.4.1 The Government requires that all local planning authorities identify annually a supply of specific deliverable sites sufficient to provide a five year supply of housing against their housing requirements with an additional appropriate buffer to ensure choice and competition in the market for land. Policy OSS1 of the Core Strategy (CS) that sets out the overall spatial development strategy includes a requirement to plan for at least 5,700 additional dwellings (net) in the district over the Plan period. Figure 8 sets out approximate development levels for different parts of the district, including a total of 1670 dwellings within villages. Policy RA1 (v) sets a target of at least 44 new dwellings (net) in Fairlight over the CS period 2011-2028. Taking into account seven net completions locally since April 2011 the remaining requirement is for 37 dwellings.

6.4.2 Saved Policy VL3 of the RDLP 2006 allocates the site for housing development. It states:

“Land adjacent to Fairlight Gardens, Fairlight Cove, as shown on the Proposals Map, is allocated for housing purposes. Proposals will be permitted where:-

- (i) at least 15 dwellings are provided, of which 40% are affordable;*
- (ii) developer contributions are made for widening the junction of Lower Waites Lane with Smugglers Way and for the upgrading of Smugglers Way, and towards off-site drainage improvements to accommodate the development;*
- (iii) no development will be occupied until the 275m rock armour revetment at the toe of the cliffs adjacent to Rockmead Road has been constructed, together with the associated re-profiling and draining of the existing landslide slope and the installation of a line of pumped wells at the cliff top;*

(iv) developer contributions are made to the construction of the village hall'

6.4.3 The suitability of the application site for future development was reassessed in the Council's 2013 SHLAA review. At the time the site was assessed as being the only 'green' site in the village being suitable and developable, subject to more detailed investigations.

Five-year housing land supply

6.4.4 Paragraph 49 of the National Planning Policy Framework requires that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 47 requires local authorities to maintain a five year supply of deliverable housing sites including a buffer.

6.4.5 In respect of the five-year supply issue at October 2017, the latest date for which figures are available, the Council could only demonstrate a 3.2 year supply of available housing sites including a 20% buffer. As a consequence, planning applications fall to be considered in the context of paragraph 14 of the National Planning Policy Framework. However that does not mean that housing schemes which are unacceptable for other sound planning grounds must now be allowed; but it does add weight to the benefits that the contribution to boosting housing supply would bring when determining planning applications 'on balance' and that weight to be given here in the specific context of Fairlight would be 'significant' in light of the fact that that site is an extant allocation and that no other sites within the village suitable for development on the scale required have been identified.

6.4.6 Paragraph 14 states:

"For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted."*

6.5 Design and character within the context of the village

6.5.1 The proposal is for a development of 16 two and three bedroom two storey houses arranged around a small cul-de-sac. The layout of the scheme has been developed by the applicant in discussion with the Council's planning and design officers and is considered to provide a good arrangement of dwellings on the site that would create a sense of place within the new development, while meeting the policy requirement for a minimum of 15 dwellings.

6.5.2 Public concerns have been raised both regarding the density of the scheme and its two storey character, in an area where a large proportion of dwellings are bungalows or chalet bungalows, however it is noted that whilst bungalows might predominate, there is other two storey development in the area including at Fairlight Gardens immediately to the north west of the

application site.

- 6.5.3 While the supporting text to Policy VL3 recognises that the site relates more to the dwellings on the south side of Lower Waites Lane than to Fairlight Gardens that is due more to the common green hedgerows that line both sides of Lower Waites Lane than to the relationship between existing and proposed dwellings. Maintaining the green semi- rural character of Lower Waites Lane here will be the most important factor in ensuring that the development is satisfactorily assimilated within the village requiring careful attention to preserving and enhancing the existing soft edge of the site and the use of appropriate boundary treatments and lighting.

6.6 Impact on adjoining properties

- 6.6.1 The orientation of the proposed dwellings onto a central cul-de-sac means that their rear gardens would back onto adjoining roads / pathways to the north west and south east boundaries with the front elevations of the nearest existing dwellings set back behind. This arrangement provides a separation distance between front and rear elevations on the north-west side of the site of 19- 20m although due to the falling nature of the ground there is no direct relationship between the existing and proposed dwellings.

- 6.6.2 On the south east side separation distances are between 20 and 44m with intervening soft boundary hedges limiting the opportunity for any direct inter-visibility. Providing that these boundaries are maintained, and where necessary enhanced, the existing amenity of these neighbouring properties will not be harmed.

- 6.6.3 To the north east, the relationship between existing and proposed dwellings is different and closer with the rear / side elevations and gardens of the proposed dwellings backing onto the rear garden of Moelfre beyond a line of existing mature trees and a small external area at 25 Lower Waites Lane that has its principal private garden area to the front of the house. On this part of the site the distance of separation between facing elevations is between 15 and 24 m. However in respect of the relationship between proposed plot no. 16 and Moelfre the careful positioning of windows and with the principal first floor views being directed to the northwest a satisfactory relationship between existing and proposed dwellings and their private amenity areas would be maintained. With respect to the relationship with 25 Lower Waites Lane and proposed plot 12 only the obscure glazed bathroom window would look over the rooflight windows that are installed on the south west single storey roof slope of the existing dwelling with views from a rear bedroom being directed down Lower Waites Lane. The proposed dwelling on plot 14 straddles the boundary of Moelfre and no. 25, with rear bedroom views directed between the existing houses or onto the blank gable end of the two storey element of no. 25. With existing boundary tree and hedgerow planting - also proposed to be enhanced to maintain its value as a wildlife corridor - the proposed arrangement adequately maintains the amenity of existing properties.

6.7 Amenity of future residents

- 6.7.1 All of the dwellings substantially exceed the minimum internal space standards set out in the Nationally Described Space Standards. In terms

of external private space - although, given the relatively narrow and sloping character of the site, the garden spaces are irregularly arranged and generally terraced - in overall terms they provide a satisfactory level of amenity with opportunities to provide for a good degree of privacy within a naturally landscaped framework.

6.8 Surface and foul water drainage

6.8.1 With regard to surface water drainage, following amendments to the proposed SUDS scheme agreed with County Council as the Local Lead Flood Authority (LLFA) in July 2017 and involving the re-alignment and re-profiling of part of the water course to enable greater hydraulic performance, the LLFA has advised that the development is able to satisfactorily deal with surface water run-off arising. The scheme agreed in principle would, by way of a 75mm outfall orifice to the stream, restrict flows from the completed development to the same as from the existing greenfield site or less in extreme rainfall events - with the excess volumes generated at such extreme times being stored beneath the ground in tanks to be released gradually into the watercourse.

6.8.2 Responding to the raising of further local concerns about the possible consequences of the agreed scheme on the stability of the watercourse further along Lower Waites Lane, the LLFA has responded as follows,

“In terms of the realignment of the watercourse, we do recognise that this needs to be carried out sensitively to ensure flood and erosion risk is not increased downstream. We have agreed to the principle of this realignment but have yet to agree the detail. We would expect the applicant to provide further details as part of the planning conditions imposed on the development. As you are aware, East Sussex County Council is also responsible for regulating works on this watercourse and the applicant will have to apply to us (separate to the planning permission) for consent to undertake the realignment. As part of the further details, we will ensure that the proposed realignment mimics the existing watercourse as closely as possible. The volume and velocity of flows and their effect on conditions downstream will be the main considerations when we determine an application for consent. The applicant will also be expected to provide a Maintenance Plan setting out how they propose to maintain the surface water drainage network and existing watercourse over the lifetime of the development. We will assess this and then they will be bound by this as a condition to the planning permission, should it be given by Rother District Council.”

6.8.3 Regarding foul drainage, Southern Water’s most recent correspondence of 31 May 2017 considers, in light of further information provided by the applicant, that it is able to provide foul sewage disposal to service the development. In this regard it is the case that the local foul sewage infrastructure has had a tendency to fail during storm water events when surface run-off inundates the sewers that - although officially intended to be for foul drainage only - are acknowledged to serve a combined role taking both foul and surface water. The ability to store surface water in underground tanks on the site during these events for subsequent, regulated, discharge should have a net beneficial effect on the local sewerage network. The Council is dependent on the professional advice of the LLFA and Southern

Water regarding the ability of local existing and proposed drainage infrastructure to meet the requirements of new development. It is recommended therefore their technical advice is accepted.

6.9 Traffic, access and parking

6.9.1 Vehicular access to the site would be from the existing, but blocked-off, entrance to the south west corner, close to the junction of the north-west arm of Lower Waites Lane and Smuggler's Way. Policy VL3 recognises that access to the site is restricted and that the south east arm of Lower Waites Lane is not an appropriate route for associated vehicular traffic and therefore requires access to be taken from the south via Smugglers Way. The geometry of the proposed junction layout favours that route and once the current informal arrangements outside of Limenhurst are formalised it is considered that this will provide the most desirable route for future residents accessing the site by car.

6.9.2 Pedestrian access would also be taken from this point with new pedestrian footways provided on the south west boundary of the site to Fairlight Gardens and to the south east arm of Lower Waites Lane. The latter means that pedestrian movement in the vicinity of the vehicular junction can be separated which will benefit public safety in this constrained area.

6.9.3 Tracking drawings confirm that cars, emergency vehicles and the medium sized 15t refuse vehicles used on Lower Waites Lane, that would need to access the site are able to enter, turn and leave the site in a forward gear via the Smugglers Road junction arrangement.

6.9.4 On the site, off street parking provision exceeds the ESCC standards, notwithstanding that some spaces are provided within garages. The highway authority has raised concerns that the parking arrangement is sub optimal and might result in parking on the internal road restricting access for other vehicles, particularly emergency or refuse vehicles. In response, the Applicant proposes that soft and hard landscape features should be engaged to prevent such opportunities that would be agreed by condition. It is also noted that the actual distances between dwellings and parking spaces is not great.

6.9.5 With regards to accessibility, the site is located centrally within the village and is therefore well located to the village's, albeit limited, facilities and services. There is a local bus stop in close proximity to the north-west on Waites Lane from which a fairly regular bus service operates throughout the week between Hastings and Rye. While acknowledging that - as with much of the rural area of the district - residents in Fairlight are predominantly car-reliant, the site is considered to be accessible in policy terms.

6.10 Impact on wildlife and trees

6.10.1 The application was supported by an ecological report dated October 2016 that has been supplemented by further information in response to comments made by the County Ecologist. Arising from this officers are satisfied that adequate mitigation on or off site for European and UK protected species likely to be present of the site can be made and the County Ecologist has recommended a number of appropriate conditions to be attached in the

event that planning permission is granted.

6.10.2 With regard to trees, an arboricultural report prepared in support of the earlier application has been resubmitted with the current proposal and remains relevant. Ten mature trees have been surveyed including two, one on each of the southwest and northeast boundaries that are subject to TPO. Of these four, comprising three on the south east boundary and one in the south west corner of the site are required to be removed. One of these, a willow, has already collapsed, the others are considered of low value with poor form limited life potential. All other trees including the two subject to TPO are intended to be retained. There is also opportunity for further hedge and tree planting to enhance the site's landscape amenity and ecological value on three of the site's boundaries.

6.11 Affordable housing and other section 106 planning requirements

6.11.1 The application was accompanied by a confidential viability appraisal that has been independently assessed for the Council by the District Valuation Service (DVS). This process has been the subject of some very protracted discussion but in summary it has been concluded by the DVS that the development is able to bear an element of on-site affordable housing. Whilst the applicant company continues to doubt the values that the DVS considers can be achieved it is willing to enter into a legal agreement under s.106 with the Council to provide 4 x 2 bedroom and 2 x 3 bedroom dwellings on a 'shared ownership for sale' basis based on the values the DVS identifies can be achieved. The Affordable Housing Development Officer has confirmed that this is an acceptable offer and that the proposed mono tenure and unit size mix specified is acceptable given the location and small number of dwellings involved.

6.11.2 The s.106 legal agreement to be negotiated will also contain clauses related to the provision of a reptile relocation site and for off-site improvements to the private stretch of road at the junction of Lower Waites Lane and Smuggler's Way. The applicant will need to enter into an agreement under s.278 of the Highways Act with the Highway Authority in connection with tying in those improvements with the public highway. Long term maintenance of the SuDS scheme will be agreed and approved by way of condition in consultation with the LLFA.

6.11.3 VL3 of the 2006 RDLP refers to the cliff stabilisation works at Rockmead Road, which have now been carried out. The policy also envisaged that an off-site foul drainage treatment package would be required but the up to date advice provided by Southern Water in connection with both recent applications on the site confirms that that is not the case. It has been suggested that the applicant should be required to make contributions to the on-going maintenance of the cliff and off site foul sewerage improvements in any event however the cost of those has not been quantified. Neither of these requirements would meet the test for obligations set out in the CIL Regulations 2010 that they must be:

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development. In the context of the above matters, however, 15% of the CIL receipts from

the development will pass to the Parish Council if permission is granted.

6.12 Other matters

- 6.12.1 In other parts of the district objections to new development have been raised by Wealden District Council in regard to potential cumulative impacts on the air quality at Ashdown Forest and Lewes Downs Special Areas of Conservation (SACs). Nearby, the Hastings Cliffs SAC lies to the west of Fairlight Cove. Having regard to the conclusions of the Habitats Regulation Assessments undertaken for the adopted Core Strategy, supplemented by available evidence of commuting data for this locality, there is no discernable prospect of additional traffic from the proposed development impacting on these Special Areas of Conservation in particular. Hence, any likely significant effects upon European sites, even in combination with other relevant plans and projects, can be screened out.

7.0 **SUMMARY**

- 7.1 The site is located centrally within Fairlight village and within the established Development Boundary where development remains acceptable in principle subject to all other material considerations. The site is also an extant allocation for housing development as set out in saved Policy VL3 of the Rother District Local Plan 2006.
- 7.2 There is a requirement over the Local Plan Core Strategy period 2011 – 2028 for at least 37 dwellings (net) to be provided in the village and there are currently no other sites either allocated or identified to meet this need. In the circumstances significant weight must be given to the contribution that the development of the site would make both to the village housing and district requirement.
- 7.3 The applicant has worked with officers to develop a scheme that addresses previous concerns regarding site layout and vehicular circulation, building design and affordable housing and it is confirmed that key matters including traffic and access, surface and foul water drainage and impact on protected species can be adequately addressed and mitigated subject to appropriate conditions and the completion of a s. 106 legal agreement.

8.0 **COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 8.1 The development is liable for CIL in respect of the market dwellings proposed. The 6 shared ownership dwellings are a type of development where an exemption can be considered.

RECOMMENDATION: GRANT (FULL PLANNING) DELEGATED (COMPLETION OF A SECTION 106 AGREEMENT RELATING TO:

- **Provision of 6 shared ownership affordable housing units**
 - **The completion of off-site road improvements at the junction of Lower Waites Lane and Smugglers Way Reptile relocation site**
-

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 documents:
Drawing Nos. 662/303 P2 dated 26 April 2017
Drawing Nos. 021 P2, 022 P2, 023 P2, 024 P2, 025 P2, 026 P2, 027 P2 and 030 P dated 6 July 2017
Drawing Nos. 007 P3, 008 P3, 028 P3 and 031 P2 dated 8 August 2017
Drawing Nos. 304 P4, 002 P5, 003 P5, 004 P5 006 P4 dated 27 November 2017
Drainage Strategy and Sustainable Drainage Management and Maintenance Plan (Issue B) Monson dated 11 July 2017
8330P/301 Rev B Surface Water Drainage Layout and 8330P/302 Rev B Foul Water Drainage Layout dated 11 July 2017
7556 100 P2 Proposed Carriageway and Access Alignment dated 1 November 2007
Written Scheme of Archaeological Investigation, Chris Butler Archaeological Services Project No. CBAS0525 dated June 2014
Arboricultural Report, Sylvan Arb Ref: SA/91/14 dated 27 June 2014
Reason: For the avoidance of doubt and in the interests of proper planning, as advised in Planning Practice Guidance Paragraph: 022 Reference ID: 21a-022-20140306.

3. No development shall commence until the vehicular access serving the development and the improvements to Lower Waites lane and Smugglers Way have been constructed in accordance with the approved plan drawing no. 7556 100 P2 dated 1/11/2007.
Reason: A pre-commencement condition is required because the works are required to be carried out prior to any other development commencing to ensure that conditions of access and safety on Lower Waites Lane and Smugglers Way are maintained for all road users including during the construction period in accordance with Policies TR3 and CO6 of the Rother Local Plan Core Strategy.

4. 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 restricted to the following matters:
 - a) Anticipated number, frequency, and types of vehicles used during construction.
 - b) The method of access and egress and routing of vehicles during construction.
 - c) The parking of vehicles by site operatives and visitors.
 - d) The loading and unloading of plant, materials and waste.
 - e) The storage of plant and materials used in the construction of the development.

- f) The erection and maintenance of security hoarding.
- g) The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction on the public highway (including the provision of temporary traffic Regulation Orders).
- h) Details of public engagement both prior to and during construction works.
- i) A named construction site manager with full contact details.

Reason: A pre-commencement condition is required because the works need to be managed in all stages of construction to maintain safe traffic conditions on Lower Waites Lane and Smugglers Way, to maintain the safety of all road users and to maintain the amenities of the locality in accordance with Policies OSS4, TR3 and CO6 of the Rother Local Plan Core Strategy

5. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity has been submitted to and approved in writing by the Local Planning Authority.

The EDS shall include the following:

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

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

Reason: A pre-commencement condition is required to enable the Local Planning Authority to properly ensure the protection of protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5 (ii), (v) and (viii) of the Local Plan Core Strategy.

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

- a) Purpose and objectives of the proposed works.
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used).
- c) Extent and location of proposed works shown on appropriate scale maps and plans.
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction.
- e) Persons responsible for implementing the works.
- f) Initial aftercare and long-term maintenance (where relevant).

g) Disposal of waste arising from works.

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

Reason: A pre-commencement condition is required to enable the Local Planning Authority to properly ensure the protection of protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Local Plan Core Strategy.

7. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with the approved Written Scheme of Investigation (WSI) prepared by Chris Butler Archaeological Services dated June 2014 Project No. CBAS0525.

Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.

8. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Lead Flood Authority: The scheme will require:

a) Carry forward into the detailed design the principles outlined in the Monsoon Drainage Strategy and Sustainable Drainage Management and Maintenance Plan (Issue B) dated 11 July 2017. The scheme should limit surface water runoff from the completed development to 2.7l/s for all rainfall events, including those with a 1 in 100 (plus climate change) annual probability of occurrence. Evidence of this (in the form of hydraulic calculations should take into account the connectivity of difference surface water drainage features.

b) The proposed watercourse diversion should be designed such that the amended channel has an equal or greater capacity for conveying water than currently exists. Evidence of this (in the form of hydraulic calculations) should be submitted with the detailed drainage drawings.

c) A Maintenance and Management Plan for the entire drainage system. The Plan shall clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and the appropriate authority should be satisfied with the submitted details. Evidence that these responsibility arrangements will remain in place throughout the lifetime of the development should be provided to the Local Planning Authority as part of the Maintenance and Management Plan.

Thereafter none of the dwellings shall be occupied until the surface water drainage works to serve the development have been provided in accordance with the approved details and evidence of such provided to and approved in writing by the Local Planning Authority.

Reason: These details are integral to the whole development and are therefore required prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 100 and 103 of the National Planning Policy Framework with accompanying ministerial statement of December 2014. Construction of the development shall not commence until details of the proposed means of foul

water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority.

Reason: These details are integral to the whole development and are therefore required prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 100 and 103 of the National Planning Policy Framework with accompanying ministerial statement of December 2014.

9. No development shall commence until details for the protection of existing trees and hedgerows on the site to be retained have been submitted to and approved in writing by the Local Planning Authority. The details shall include indications of all existing trees and hedgerows on the land including details of those to be retained, together with a scheme for protection, which shall include locations for protective fencing, ground protection and no dig surface construction methods in accordance with the Arboricultural Report prepared by Sylvan Arb, Ref: SA/91/14 dated 2th June 2014. The approved scheme shall be put in place prior to the commencement of any development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

10. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the LPA. The measures may include:

- a) creation of escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: To properly ensure the protection of rare and protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Local Plan Core Strategy.

11. No development above foundation level shall commence until a scheme of soft and hard landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) Details of all hard landscaping;
- b) Design, layout and appearance of structural and amenity green space, including verges.
- c) Planting plans, including for landscape and ecological mitigation
- d) Written specifications (including cultivation and other operations associated with plant and grass establishment).
- e) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

f) Details for implementation.

The development shall thereafter be carried out in accordance with the details as approved in writing by the Local Planning Authority and in accordance with an agreed implementation programme.

Reason: To ensure the creation of a high quality public realm and landscape setting that enhances the character and appearance of the development and its locality in accordance with Policies OSS4 and EN3 of the Rother Local Plan Core Strategy.

12. No development above ground level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, height, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.

Reason: To ensure a high quality development taking account of the semi rural characteristics of the locality in accordance with Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy.

13. No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To preserve the visual amenities of the area in accordance with Policies OSS4 (iii) of the Rother Local Plan Core Strategy.

14. No development above ground level shall take place before any external lighting scheme proposed is submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall comply with the Institution of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011(or later versions) and 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. The lighting scheme shall thereafter be implemented and maintained only as approved.

Reason: To prevent light pollution in the interests of the amenities of adjoining residents and to protect the dark sky environment that is characteristic of Fairlight village in accordance with Policy OSS4 (ii) and (iii) of the Local Plan Core Strategy.

15. No part of the development shall be occupied until full details of refuse and recycling storage facilities have first been submitted to and approved in writing and those facilities have been provided in accordance with the approved details. The areas shall thereafter be retained for that use and shall not be used for any other purpose.

Reason: To ensure that the satisfactory appearance of the development and the area is maintained in accordance with Policies TR3 and OSS4 (iii) of the Rother Local Plan Core Strategy.

16. No part of the development shall be occupied until the car parking spaces have been constructed and provided in accordance with the approved plan (drawing no. 622/003 P5 dated 27/11/2017). The areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To ensure the provision of adequate on-site parking that does not prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6, TR4 and TR3 of the Rother Local Plan Core Strategy

17. No part of the development shall be occupied until the vehicle turning space has been constructed within the site in accordance with the approved drawing no. 622/003 P5 dated 27/11/2017. The space shall thereafter be retained at all times for this use only and shall not be obstructed.
Reason: To ensure the provision of adequate turning facilities that do not prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6 and TR3 of the Rother Local Plan Core Strategy.
18. No part of the development shall be occupied until the road, footways and parking areas serving the development have been constructed, drained and lit in accordance with plans and details that have first been submitted to and approved in writing by the Local Planning Authority
Reason: To ensure the provision of adequate pedestrian and vehicular access and on-site parking so as not to prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6, TR4 and TR3 of the Rother Local Plan Core Strategy.
19. No part of the development shall be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.
Reason: in order that the development site is accessible by non-car modes and to meet the objectives of sustainable development in accordance with Policy TR3 of the Rother Local Plan Core Strategy.
20. The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved WSI and that provision for analysis, publication and dissemination of results and archive deposition has been secured, unless an alternative timescale for submission of the report is first agreed in writing by the Local Planning Authority.
Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.
21. Prior to the occupation of the development, a landscape management plan, including management responsibilities and maintenance schedules for the communal hard and soft landscape areas including any street furniture and minor artefacts therein, shall be submitted to and approved by the Local Planning Authority. The landscape management plan shall be carried out as approved.
Reason: To ensure a high quality public realm taking account of the characteristics of the locality and enhancing the landscape character and quality of the High Weald AONB in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy

22. Unless alternative times are specifically agreed in writing by the Local Planning Authority, construction activities associated with the development hereby permitted shall not be carried out other than between the hours of 08:00 and 18:00 hours on Mondays to Fridays inclusive and 08:00 and 13.00 on Saturdays and not at any time on Sundays, Bank and Public Holidays. Reason: So as not to unreasonably harm the amenities of adjoining properties in accordance with Policies OSS4 (ii) and CO6 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.
23. If within a period of five years from the date of occupation any tree planted 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 character and appearance of the locality in accordance with Policies OSS4 and EN3 of the Rother Local Plan Core Strategy.
24. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.
- a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
 - b) If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
 - d) No fire shall be lit within 10m from the outside of the crown spread of any tree which is to be retained.
 - e) No equipment, machinery or structure shall be attached to or supported by a retained tree.
 - f) No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area.
- No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the Local Planning Authority.
- Reason: To ensure that trees are not damaged or otherwise adversely

affected by building operations and soil compaction to enhance the appearance of the development in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting this Order with or without modification), the garages hereby approved shall be retained for such use and shall not be altered internally or externally for use as habitable accommodation.
Reason: To ensure a satisfactory level of off-road parking facilities so as not to prejudice the free flow of traffic and conditions of general safety along the highway and to accord with Policy TR4 of the Rother Local Plan Core Strategy
26. Notwithstanding the provisions of Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting this Order with or without modification), no fences, gates or walls, buildings or structures of any kind, shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road.
Reason: To safeguard the open and green character and appearance of the development and area in accordance with Policy OSS4 (iii) of the Rother Local Plan Core Strategy

NOTES:

1. This permission is the subject of an obligation under Section 106 of the Town and Country Planning Act 1990.
2. The applicant is reminded of the need to enter into Section 278 agreement with the Highway Authority to tie the road improvement works into the public highway
3. The Highway Authority would wish to see the roads within the site laid out and constructed to standards at, or at least close to, adoption standards
4. A formal application for connection to the public sewerage system is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk
5. Part of the site is affected by a public foul sewer. It might be possible to divert this so long as it would not result in an unacceptable loss of hydraulic capacity and the work is carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions. Please see Southern Water's correspondence of 13 April 2017 for the relevant criteria to be applied to any diversion of apparatus.
6. Due to changes in legislation that came into force on 1 October 2011 it is possible that a sewer now deemed to be public could be crossing the application site. Should any such sewer be found during construction works an investigation of the sewer will be required to ascertain its condition, the number of properties served and potential means of access before any further works take place on site.

7. The Applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.
8. The Applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning permission for a development does not provide a defence against prosecution under European and UK wildlife protection legislation. The presence of protected species cannot be discounted on this site given its character and location and a precautionary approach must be taken to all site clearance and construction works. Should any protected species be encountered during these works all work on site should cease and advice sought on how to proceed from a suitably qualified and experienced ecologist. Separate licences and consents may be required to undertake work on the site where protected species are found.
9. This development will be subject to the Community Infrastructure Levy (CIL) and all interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.

NATIONAL PLANNING POLICY FRAMEWORK:

In accordance with the requirements of the Framework (paragraphs 186 and 187) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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