

## **Rother District Council**

Report to - Council  
Date - 21 September 2022  
Subject - Council Motion – RR/2022/840/P – Motion to Rescind

---

### **Motion submitted by Councillor Mrs M.L. Barnes**

#### **Planning Application: RR/2022/840/P - Land at Beech Farm, Sedlescombe**

1. In accordance with Council Procedure Rule 16, Previous Decisions and Motions, the following Motion has been received from Councillor Mrs M.L. Barnes, duly signed by 13 Members of Council:

“That the approval granted to Planning Application be RR/2022/840/P by the Planning Committee on 27 July 2022 be rescinded. The principal grounds are the misinterpretation of the requirements of the NPPF para 80 (e) and the implications of the decision for the rural parishes of Rother and the Area of Outstanding Natural Beauty.”

A copy of the Minute, as amended by the Planning Committee at the subsequent meeting on 1 September in relation to this application is attached at Appendix A.

Should the Motion be supported, the application will be referred back to the Planning Committee to reconsider.

Councillor Mrs M.L Barnes

Supported by:

Councillor J. Barnes  
Councillor R.K. Bird  
Councillor G.S. Browne  
Councillor J.J. Carroll  
Councillor Mrs D.C. Earl-Williams  
Councillor T. Ganly  
Councillor N. Gordon  
Councillor L. Hacking  
Councillors Mrs E.M. Kirby-Green  
Councillor C.R. Maynard  
Councillor M. Mooney  
Councillor G. Stevens

PL22/36.  
(9)

**RR/2022/840/P – LAND AT BEECH FARM, HAWKHURST ROAD,  
SEDLSCOMBE**

**RM**

**DECISION: APPROVE (FULL PLANNING) SUBJECT CONDITIONS  
DELEGATED TO OFFICERS**

Members had visited the site which was for the erection a new detached carbon negative live/work dwelling with a ground floor design studio, including landscaping (tree/hedge removal and replanting) with biodiversity enhancements. The development had been specifically promoted as a design of exceptional quality to meet the requirements of paragraph 80 e) of the National Planning Policy Framework (NPPF). It was described as a modern interpretation of a High Weald vernacular building. The existing storage building and access track would be removed, a new access point on Hawkhurst Road and an attenuation pond installed in the southwest corner of the field. The site was located within the countryside, the High Weald Area of Outstanding Natural Beauty (AONB) and outside the development boundary. The officer's opinion was that the design was not bespoke architecture or of exceptional design quality. There were concerns regarding the landscaping, domestication of the site, creation of a new access and associated earthworks. In conclusion the proposal would not meet the exceptional requirements of paragraph 80 e) of the NPPF would be harmful to the landscape and scenic beauty of the AONB, contrary to Policy EN1(i) of the Rother Local Plan Core Strategy, Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan and paragraph 176 of the NPPF. It would be a creation of a new unjustified dwelling in the countryside / unsustainable location contrary to the spatial strategy for Sedlescombe within its Neighbourhood Plan and the district, with no affordable housing contribution provided.

The Planning Committee heard from two spokespersons who objected to the scheme. They also heard from the Applicant who outlined the history of the site, provided details of the application, proposed usage and landscaping/replanting details. Members also had the opportunity to hear from Dr Feltwell, a local ecologist who outlined the ecological benefits and clarified that the development met the High Weald AONB Unit's criteria. Consideration was also given to the verbal comments made by the Clerk to Sedlescombe Parish Council and the local Ward Member.

Members asked a series of questions in relation to several issues. These included: impact on and protection of the AONB; whether pre-application advice was sought from the Council (High Weald AONB Unit only); suitable or unsuitable location for development; ecological weight and biodiversity issues; access; highway safety particularly increased traffic movements on a busy high speed road; business usage of the property; visibility of the site from the main road; landscaping (replacement trees); design and materials proposed (not traditional); length of construction and foundation materials; compliant with the Council's policies; energy efficiency (generates more energy than uses) and supply; battery storage; no affordable housing

provision; site not identified within the Sedlescombe Neighbourhood Plan; opportunity for this project to be the first within the UK / World; and could lead to increased number of these types of properties within the AONB.

Councillor Gray suggested that the application proposals did meet the terms of Part E of Paragraph of the NPPF, which was a material consideration in respect of this application. In her view the scheme, did meet a truly outstanding standard of design, through its form, based on the shape of historic barns. The materials, appearance and function, achieving carbon negative standard would be achieved. It was also clear that, due to the method of construction and affordability, the proposals could act to raise design standards locally, thus contributing to the aim of achieving sustainable development and addressing the climate emergency. The design could also be considered on a site wide basis where it had been demonstrated that the scheme would restore and enhance the character of the High Weald landscape and net gains in biodiversity within the wider site, thus enhancing its setting and would be sensitive to the local area as acknowledged by the High Weald AONB Unit advice. The live work arrangement of the proposals, and the improved highway safety were further material considerations in favour of the development and when considered, in light of, the Council's current housing supply shortfall, an approval was considered to be justified subject to the imposition of suitable conditions and securing the long-term landscape and ecology benefits. It was agreed by the Vice-Chair that this, as well as it being an exemplar design were the reasons for recommending approval contrary to officer recommendation.

Therefore, the Planning Committee resolved to grant full planning permission and the inclusion of relevant standard conditions (delegated to officers to consider in consultation with and subject to the agreement of the Vice-Chair) including the removal of permitted development rights.

Councillor Norton moved the motion to APPROVE (Full Planning) and this was seconded by Councillor Gray.

In accordance with Council Procedure Rule 17.5(b) a vote by roll call for the substantive Motion was taken.

**FOR the Motion (10):** T.J.C. Byrne, G.C. Curtis, B.J. Drayson, S.J. Errington, P.J. Gray, L.M. Langlands, C.A. Madeley, A.S. Mier, Rev. H.J. Norton and S.M. Prochak.

**AGAINST the Motion (4):** Mrs. M.L. Barnes, A.E. Ganly, N. Gordon and G.F. Stevens.

The Motion being put forward was declared **CARRIED**.

**CONDITIONS:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with section 91 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

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

Drawing No. 7095/LBP dated March 2022

Drawing No. 7095/100 dated May 2022

Drawing No. GHA-BEC-LS-001 revision C dated 10/02/22

Drawing No. WA2E revision A dated 3.3.22

Drawing No. WA2P revision B dated 24.3.22

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

3. No development shall commence until the tree protection measures have been provided in accordance with The Mayhew Consultancy Ltd Arboricultural Report (AR/110922 dated March 2022). The tree protection measures shall be retained for the duration of the development and until all machinery, equipment and building materials have been removed from the site.

Reason: To protect the health of the retained trees on the site and to preserve the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty in accordance with Policies EN1 and EN5 of the Rother Local Plan Core Strategy and Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan.

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

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

5. No development shall take place (including any demolition, ground works, site clearance) until a method statement for the protection of Hazel Dormouse has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:

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

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

Reason: To protect species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended, and The Conservation of Habitats and Species Regulations 2017, as amended, and to accord with Policy EN5 of the Rother Local Plan Core Strategy and Policy DEN4 of the Rother Development and Site Allocations Local Plan.

6. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site to provide biodiversity net gain has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:
  - a) purpose and conservation objectives for the proposed works;
  - b) review of site potential and constraints;
  - c) detailed design(s) and/or working method(s) to achieve stated objectives;
  - d) extent and location/area of proposed works on appropriate scale maps and plans;
  - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
  - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - g) persons responsible for implementing the works;
  - h) details of initial aftercare and long-term maintenance;
  - i) details for monitoring and remedial measures; and
  - j) details for disposal of any wastes arising from works.

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

Reason: To provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 174 and 180 of the National Planning Policy Framework, Policy EN5 of the Rother Local Plan Core Strategy and Policy DEN4 of the Rother Development and Site Allocations Local Plan.

7. No development shall commence until the vehicular access serving the development has been constructed in accordance with plans and details that shall have been submitted to and approved in writing by the Local Planning Authority.

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

8. Prior to the occupation of the development hereby permitted a landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority. The content of the LEMP shall include the following:
  - a) description and evaluation of features to be managed;
  - b) ecological trends and constraints on site that might influence management;
  - c) aims and objectives of management;

- d) appropriate management options for achieving aims and objectives;
- e) prescriptions for management actions, together with a plan of management compartments;
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) details of the body or organisation responsible for implementation of the plan; and
- h) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long-term management of habitats, species and other biodiversity features in accordance with Policy EN5 of the Rother Local Plan Core Strategy and Policy DEN4 of the Rother Development and Site Allocations Local Plan.

9. All ecological measures and/or works shall be carried out in accordance with the details contained in Response to Environment Team Comments (Wildlife Matters Consulting Unit, 08/06/22) with respect to the protection of badgers and Reasonable Avoidance Measures (Wildlife Matters Consulting Unit, 25/05/22) with respect to the protection of great crested newts and reptiles as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, as required by paragraphs 174 and 180 of the National Planning Policy Framework, Section 40 of the Natural Environment and Rural Communities Act 2006, and Policy EN5 of the Rother Local Plan Core Strategy and Policy DEN4 of the Rother Development and Site Allocations Local Plan.

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

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

The access shall not be used until visibility splays of 2.4m by 160m are provided in both directions and maintained thereafter.

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

11. The development shall not be occupied until a parking area has been provided in accordance with Drawing No. GHA-BEC-LS-001 revision C dated 10/02/22 and shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway in accordance with Policies CO6 (ii) and TR4 (i) of the Rother Local Plan Core Strategy.

12. The proposed parking spaces shall measure at least 2.5m by 5m (add an extra 50cm where spaces abut walls).

Reason: To provide adequate space for the parking of vehicles and to ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway in accordance with Policies CO6 (ii) and TR4 (i) of the Rother Local Plan Core Strategy.

13. The development shall not be occupied until a cycle parking area has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and the area shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development in accordance with Policies PC1 and TR3 of the Rother Local Plan Core Strategy.

14. The gate shall be positioned at least 5.5m back from the edge of the highway and open inwards in order that a vehicle may wait clear of the highway whilst the garage door is being operated

Reason: To ensure that the use of the highway by persons and vehicles is not obstructed by waiting vehicles in accordance with Policy CO6 (ii) of the Rother Local Plan Core Strategy.

15. The dwelling 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 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 has been constructed to achieve water consumption of no more than 110 litres per person per day.

Reason: To ensure that the dwelling 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.

16. The dwelling hereby permitted shall not be occupied until it has 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 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.

17. 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), no extensions, buildings, structures, alterations, installations or hardstandings as defined within classes A-H inclusive of Part 1 of the Schedule 2 of the order, shall be carried out on the site otherwise than in accordance with a planning permission granted by the Local Planning Authority.

Reason: To preserve the natural landscape quality and character of the High Weald Area of Outstanding Natural Beauty in accordance with Policies OSS4 (iii), EN1 and EN3 of the Rother Local Plan Core Strategy and Policies DEN1 and DEN2 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 that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.
3. The Applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.



4. The Applicant will be required to enter a Section 184 Licence with East Sussex Highways, for the provision of a new vehicular access. The applicant is requested to contact East Sussex Highways (0345 60 80 193) to commence this process. The Applicant is advised that it is an offence to undertake any works within the highway prior to the licence being in place.
5. The Applicant will be required to obtain a permit for any highway works in accordance with the requirements of the Traffic Management Act, 2004. The Applicant should contact East Sussex Highways (0345 60 80 193) to commence this process. The Applicant is advised that it is an offence to undertake any works within the highway prior to the permit being in place.
6. 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 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.
7. The development is subject to the Community Infrastructure Levy (CIL). Full details will be set out in the CIL Liability Notice which will be issued in conjunction with this decision. All interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.

(Councillor Vine-Hall declared a Disclosable Pecuniary Interest in so far as he was the Applicant and in accordance with the Members' Code of Conduct left the room during the consideration thereof, after addressing the Planning Committee in accordance with the public speaking scheme).