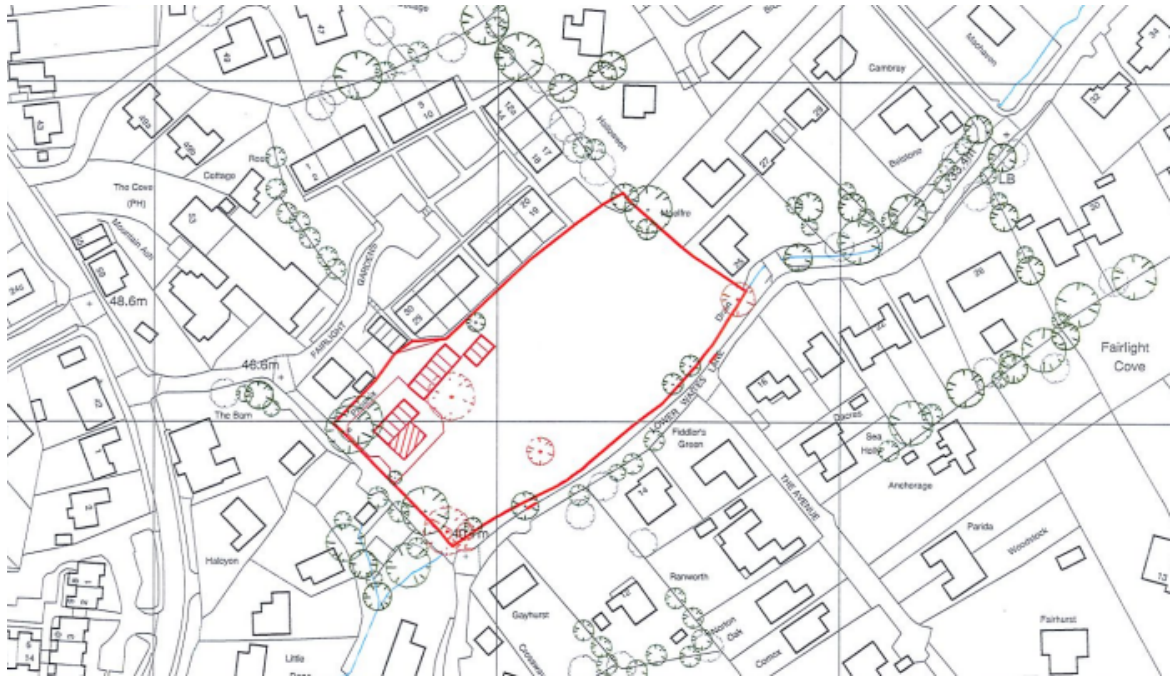


SITE PLAN

RR/2022/2069/P

FAIRLIGHT

Former Market Garden,
Lower Waites Lane,



Rother District Council

Report to	-	Planning Committee
Date	-	10 November 2022
Report of the	-	Director – Place and Climate Change
Subject	-	Application RR/2022/2069/P
Address	-	Former Market Garden, Lower Waites Lane, FAIRLIGHT
Proposal	-	Variation of Conditions(s) 2, 22, 23 imposed on RR/2017/457/P. To amend site layout to accommodate enlarged wildlife area.

[View application/correspondence](#)

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

Director: Ben Hook

Applicant:	C/o agent
Agent:	Kember Loudon Williams
Case Officer:	Mr M Worsley (Email: matthew.worsley@rother.gov.uk)

Parish:	FAIRLIGHT
Ward Members:	Councillor R.K. Bird and A.S. Mier

Reason for Committee consideration: Councillor Mier referral: Loss of parking, reduced space for large vehicles to turn, impact on wildlife.

Statutory 13-week date: 17 November 2022

1.0 SUMMARY

- 1.1 The revised layout would involve relatively minor changes, with the wildlife area increased in size to provide more space to retain the habitat of protected species. The amendments would result in two of the dwellings moving around 5.5m eastwards which would reduce the garden size of one of the dwellings and result in the loss of two parking spaces. However, overall the character and appearance of the locality and living conditions of future occupiers would be preserved. In addition, there would be no material harm to highway safety and satisfactory bin and recycling facilities would be provided.
- 1.2 The proposal would comply with development plan policies together with the various provisions set out in the National Planning Policy Framework and therefore the application can be supported.

1.3 PROPOSAL DETAILS

PROVISION	
No of houses	16
No of affordable houses	0
CIL (approx.)	£282,971.29
New Homes Bonus (approx.)	£0

2.0 SITE

2.1 The site measures around 0.6 hectares in area and comprises land previously used as a market garden (horticulture) located centrally within the village of Fairlight Cove. It is bound by Lower Waites Lane to the southeast and southwest and Fairlight Gardens to the northwest. The land slopes down from northwest to southeast. There are several mature trees on the margins of the site, including two oak trees on the southwest and northeast boundaries which are protected by a Tree Preservation Order.

3.0 PROPOSAL

3.1 The current application relates to a development that was allowed at appeal for the construction of 16 houses together with associated parking, access and wildlife area. It is proposed to vary certain conditions to amend the site layout to accommodate an enlarged wildlife area. The amendments would involve enlarging the wildlife area in an eastward direction, moving a bin store, moving two of the dwellings east, reducing the total number of parking spaces by two and reducing the size of the turning head at the eastern end of the site.

4.0 HISTORY

4.1 RR/2017/457/P Construction of 16 houses together with associated parking, access and wildlife area.
Refused – Appeal Allowed.

5.0 POLICIES

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

- PC1 (presumption in favour of sustainable development)
- OSS4 (general development considerations)
- RA1 (villages)
- SRM1 (towards a low carbon future) (part (i) superseded)
- SRM2 (water supply and wastewater management)
- CO6 (community safety)
- LHN1 (achieving mixed and balanced communities)
- EN3 (design quality)
- EN4 (management of the public realm)
- EN5 (biodiversity and green space)
- EN7 (flood risk and development)
- TR3 (access and new development)

- TR4 (car parking)
- 5.2 The following policies of the [Development and Site Allocations Local Plan \(DaSA\)](#) are relevant to the proposal:
- DRM1 (water efficiency)
 - DHG1 (affordable housing)
 - DHG3 (residential internal space standards)
 - DHG4 (accessible and adaptable homes)
 - DHG7 (external residential areas)
 - DHG11 (boundary treatments)
 - DHG12 (accesses and drives)
 - DEN1 (maintaining landscape character)
 - DEN4 (biodiversity and green space)
 - DEN5 (sustainable drainage)
 - DEN7 (environmental pollution)
 - DIM2 (development boundaries)
 - FAC1 (land at Former Market Garden, Lower Waites Lane, Fairlight Cove)
- 5.3 The National Planning Policy Framework and Planning Practice Guidance are also material considerations.
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6.0 CONSULTATIONS

6.1 Highway Authority – **NO OBJECTION**

Condition 22 (parking)

- 6.1.1 The East Sussex County Council (ESCC) Parking Demand Calculator indicates that the parking requirement for the mix of dwellings proposed is 32 car parking spaces. This presumes that larger dwellings will be allocated a minimum of two parking spaces and smaller dwellings one.
- 6.1.2 The submitted plan indicates that the proposed development will be served by 28 open parking spaces plus 6 garages. Regardless of their size garages are less likely to be used for parking and therefore it would be preferred for the full parking requirement to be met with open parking spaces or car ports; however, as the garages meet the 6m x 3m minimum internal measurements required the parking provision is considered to be acceptable.
- 6.1.3 It is noted that some of the parking spaces within the site are located quite remotely from the dwellings, and as a result on-street parking is likely to occur in front of these dwellings. This could potentially restrict access for larger vehicles (refuse/emergency) and with this in mind measures should be introduced to discourage on-street parking on this stretch of road.
- 6.1.4 Overall, the parking provision and distribution of spaces within the site is considered to be less than ideal; however, as the parking provision only falls one space short of the requirement based on the ESCC Parking Demand Calculator an objection on this basis would be difficult to justify.

Condition 23 (vehicle turning space)

- 6.1.5 Tracking drawings have been submitted to demonstrate that a large refuse vehicle is able to turn and manoeuvre within the site in a safe and convenient manner. The turning area provided is therefore acceptable.
- 6.2 Lead Local Flood Authority (LLFA) – NO OBJECTION
- 6.2.1 The proposed changes will have no bearing on local flood risk and will not affect the proposed surface water management for the site. Therefore, the County Council as the LLFA has no objection to the proposed variation of Conditions 2, 22 and 23.
- 6.3 Southern Water (SW) – GENERAL COMMENTS
- 6.3.1 The developer is currently in consultation with SW with regards to entering a sewer diversion agreement. The details of the proposed diversion need to be agreed and approved by SW before implementing on site. The comments in our response dated 31/05/2017 remain unchanged and valid for the above variation of conditions, which advised their initial investigations indicate that SW can provide foul sewage disposal to service the proposed development, which requires a formal application for a connection to the public sewer to be made by the Applicant or the developer.
- 6.4 County Archaeologist – NO OBJECTION
- 6.4.1 All archaeological works required by condition have now been completed and therefore we have no additional comments to make, further to our recommendation letter submitted on 12 August 2022 which recommended that Conditions 8 and 9 may be discharged in full.
- 6.5 County Ecologist – NO OBJECTION
- 6.5.1 Enlargement of wildlife area would be beneficial to protected species but would be subject to a licence application.
- 6.6 Planning Notice
- 6.6.1 18 objections have been received (from 15 representatives). The comments are summarised as follows:
- Highway safety concerns.
 - Lack of parking.
 - Ecological concerns.
 - Gardens too small.
 - Infrastructure cannot handle more surface and foul water drainage.
 - Development more cramped.
 - Number of houses should be reduced.
 - Inadequate bin and recycling storage.
 - Land is unstable.
- 6.6.2 Three general comments received (summarised):
- Parking concerns.
 - Loss of privacy.
 - Ground levels have been raised – development towers over everything.
 - Branches on their oak tree removed.

- Request that a tall fence or evergreen trees are planted on their boundary to give them privacy.
- Too many houses proposed.

6.6.3 One supportive set of comments received (summarised):

- Extension to wildlife area welcomed but protected species present on another part of the site.

6.7 Parish Council – **OBJECTION**

6.7.1 Significant reduction in turning space; removal of two parking spaces; reduction in size of the bin storage and the distance from the properties; removal of bike store; impact on attenuation tank size; ecological concerns; request comments from neighbours are considered.

7.0 **LOCAL FINANCE CONSIDERATIONS**

7.1 The proposal is for a type of development that is Community Infrastructure Levy (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 £282,971.29.

8.0 **APPRAISAL**

8.1 The principle of providing 16 dwellings on this site has been established through the appeal that was allowed in September 2021. It is also the case that this site is allocated under Policy FAC1 of the DaSA to provide 16 dwellings.

8.2 The main issues to consider with this variation of conditions application include the impact of the layout changes on:

- The character and appearance of the locality.
- Ecology.
- Highway safety, including parking.
- Living conditions of future occupiers.
- Bin and recycling storage.

8.3 Character and appearance

8.3.1 In allowing the appeal, the Inspector recognised that the site is in an area of diverse building types, ages and styles, with fluctuations in density across the village. The spread of the proposal was considered well thought-out and a relatively spacious development with individual gardens that would not look out of place in the diverse built form surrounding the site. The Inspector also commented that the development would be sufficiently spacious to accommodate not only gardens to each dwelling, but also a generous wildlife area which would be likely to be enjoyed by younger and older age-groups alike.

8.3.2 The revised layout would increase the size of the wildlife area around 5.5m to the east and thus reduce the amount of space to construct the dwellings and associated infrastructure. A bin store would also be moved southwards. The

changes have most impact at the east end of the site where two parking spaces would be deleted from the north end of 'The Courtyard'. The garden serving Plot 16 would also be reduced in size.

8.3.3 Whilst the revised layout would create less space at the eastern end of the site, this would be compensated for by the increase in size to the wildlife area in the centre of the site. The changes proposed are relatively minor and therefore it can be concluded that the spread of the revised layout can still be considered well thought-out and a relatively spacious development. Compared to the scheme that was allowed at appeal, there would be no material difference to the impact that the development will have on the character and appearance of the locality.

8.4 Ecology

8.4.1 The amended site layout would provide an enlarged wildlife area to reduce disturbance to protected species. The amendments would allow the retention of habitat in situ and should therefore be supported. As stated in the supporting ecological reports, works will require a licence from Natural England. In respect of the presence of protected species on the remainder of the site, works in these areas may also require licence applications, which will be informed by ongoing monitoring. The ESCC Ecologist has reviewed all the revised submitted evidence and documentation and raises no objection to the revised layout.

8.5 Highway safety

8.5.1 The revised layout has two main impacts in relation to highway safety and parking. This includes the reduction in size of the turning head at the eastern end of the site and the loss of two parking spaces, meaning that 28 open parking spaces are now proposed compared to the approved 30. Six garages measuring 6m x 3m internally would remain.

8.5.2 The Highway Authority has commented on the revised layout and whilst they advise the loss of two parking spaces is less than ideal, it does only fall one space short of the requirement based on the ESCC Parking Demand Calculator and therefore an objection on this basis would be difficult for them to justify. It should also be noted that a condition was attached to the appeal decision requiring garages to be retained for such purposes and not to be converted to habitable accommodation.

8.5.3 Turning to the turning head, the submitted plans include tracking drawings to demonstrate that a large refuse vehicle would be able to turn and manoeuvre within the site in a safe and convenient manner. The turning area provided is therefore acceptable, as confirmed by the Highway Authority.

8.6 Living conditions of future occupiers

8.6.1 The revised layout would result in the reduction in size of the private garden serving Plot 16 in the northeast corner of the site. However, this is a corner plot and arguably had one of the more generously sized gardens in the scheme allowed at appeal. Occupiers of Plot 16 would still have appropriate and proportionate levels of private usable external space, which would align with Policy DHG7 (i) of the DaSA.

8.6.2 In allowing the appeal scheme, the Inspector commented on the ‘...*generous wildlife area which would be likely to be enjoyed by younger and older age-groups alike...*’ The wildlife area was to be surrounded by ‘pedestrian proof fencing’ which means the public would not have access to it. The Inspector’s use of the term ‘enjoyed’ could be interpreted in different ways, but for the avoidance of doubt, the area would not be useable as an amenity space by residents. Any benefits would be visual, which could be limited given the lie of the land. Nevertheless, given the wildlife area is proposed to be enlarged, any visual benefits it brings can only be increased by the revised layout.

8.7 Bin and recycling storage

8.7.1 For the approved scheme, a bin and recycling store was proposed in the centre of the site, on the southern edge of the wildlife area which measured 4.8m x 2.3m. On the revised layout, the bin and recycling store has been moved further south, but still on the edge of the wildlife area, and slightly to the east. It measures 4.7m x 2.8m. The revised location would be more convenient for residents to use as it would not be contained behind parking spaces. It would also be slightly greater in size, thus providing more storage capacity.

8.8 Other issues

8.8.1 Issues relating to neighbouring amenity, Japanese Knotweed, drainage, unstable land and tree works have been raised by interested parties, as they were at appeal. However, the Inspector concluded that given the submitted technical evidence, the DaSA, and the suggested conditions, they found no justification to dismiss the appeal. The same reasons apply to this variation of conditions application.

8.8.2 Planning obligations related to off-site road improvements at the junction of Lower Waites Lane and Smugglers Way and a reptile relocation site were agreed at appeal and still stand.

8.8.3 The Applicant has previously submitted viability evidence demonstrating that it was not possible to provide affordable housing. This issue was not a reason for refusing the original scheme and was not raised by the Inspector in allowing the appeal.

9.0 **PLANNING BALANCE AND CONCLUSION**

9.1 The revised layout would involve relatively minor changes, with the wildlife area increased in size resulting in two of the dwellings moving around 5.5m eastwards. This would reduce the garden size of one of the dwellings and result in the loss of two parking spaces. However, overall the character and appearance of the locality and living conditions of future occupiers would be preserved. In addition, there would be no material harm to highway safety, ecology would be better protected, and satisfactory bin and recycling facilities would be provided.

9.2 For the reasons explained the proposal would comply with development plan policies together with the various provisions set out in the National Planning Policy Framework and therefore the application can be supported.

RECOMMENDATION: GRANT (FULL PLANNING)

CONDITIONS:

Condition 2 is varied as follows:

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

662/002 P7 - Proposed Site Plan, dated 07/07/22

662/003 P6 – Proposed Site Plan, dated 18/06/21

662/004 P6 – Roof Plan, dated 07/07/22

662/006 P5 – Site Sections 1-4, dated 07/07/22

662/007 P4 – Site Sections 5-8, dated 07/07/22

662/008 P4 – Site Sections 9-12, dated July 2022

662/021 P3 – House Types 1,3,5,7,9 & 11, dated 07/07/22

662/022 P2 – House Types 13 & 15, dated 6 July 2017

662/023 P2 – House Types 2,4,8 & 10, dated 6 July 2017

662/024 P2 – House Type 6, dated 6 July 2017

662/025 P2 – House Type 12, date 6 July 2017

662/026 P2 – House Type 14, dated 6 July 2017

662/027 P2 – House Types 16, dated 6 July 2017

662/028 P4 – Bin Store 1, dated 07/07/22

662/029 P2 – Bin Store 2, dated 6 July 2017

662/030 P3 – Detailed Section/Elevation, dated 07/07/22

662/031 P2 – 3D View, dated 8 August 2017

662/303 P2 – Location Plan, dated 26 April 2017

662/304 P5 – Site Location Plan, dated 07/07/22

8330P/301B – Surface Water Drainage Layout, dated 11 July 2017

8330P/302B – Foul Water Drainage, dated 11 July 2017

100 P2 – Proposed Carriageway and Access Alignment, 5 November 2007

Written Scheme of Archaeological Investigation (Chris Butler), dated June 2015

Drainage Strategy and Sustainable Drainage Management and Maintenance Plan (Issue B) – Monson, dated 11 July 2017

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.

Condition 22 is varied as follows:

22. No part of the development shall be occupied until the car parking spaces have been constructed and provided in accordance with Drawing No 662/003 P6 – Proposed Site Plan, dated 18/06/21. 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.

Condition 23 is varied as follows:

23. No part of the development shall be occupied until the vehicle turning space has been constructed within the site in accordance with Drawing No 662/003 P6 – Proposed Site Plan, dated 18/06/21. 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.

The following conditions of RR/2017/457/P remain extant:

10. No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water. Before any details are submitted to the Local Planning Authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to DEFRA's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; ii) include a timetable for its implementation; and, iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
Reason: 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.
11. None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.
Reason: 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.
17. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority, including indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
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.

18. 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.
Reason: To ensure a high-quality public realm taking account of the characteristics of the locality in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.
19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees, or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
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. 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.
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 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.

The following conditions of RR/2017/457/P require amended details to be agreed:

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.

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.

25. 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.

Conditions 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 20 and 21 have been approved.

Condition 1 has been complied with.

Condition 3 has been complied with in part.

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.