

SITE PLAN

RR/2022/2836/P

BEXHILL

South of Barnhorn Road and west of Ashridge Court
Barnhorn Road



Rother District Council

Report to	-	Planning Committee
Date	-	16 March 2023
Report of the	-	Director – Place and Climate Change
Subject	-	Application: RR/2022/2836/P
Address	-	South of Barnhorn Road and West of Ashridge Court Care Home, Barnhorn Road, Bexhill.
Proposal	-	Proposed residential development including parking and access.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT FULL PLANNING PERMISSION SUBJECT TO CONDITIONS**

Director: Ben Hook

Applicant: Park Lane Homes (SE) Ltd
Agent: Town & Country Planning Solutions
Case Officer: Asma Choudhury
(Email: asma.choudhury@rother.gov.uk)

Parish: BEXHILL ST MARKS WARD
Ward Members: Councillors S.J. Errington and K.M. Harmer

Reason for Committee consideration: Director – Place and Climate Change referral: This application is ‘called-in’ by Cllr Errington owing to the loss of affordable housing, as required by policy.

Statutory 13 week date: 1 March 2023
Extension of time: No date agreed

1.0 SUMMARY

- 1.1 This is a Section 73 application i.e. an Application for the Removal or Variation of a Condition following the grant of planning permission.
- 1.2 In this case, planning permission was allowed at appeal under ref: RR/2016/3206/P for a total of 29 dwellings. This application seeks to remove Condition 5 on the Inspector’s decision requiring affordable housing.
- 1.3 This application includes a viability report to demonstrate that the provision of affordable housing would render the development unviable. This has been independently reviewed on behalf of the Council.
- 1.4 Following interrogation of the Applicant’s viability report, the current economic conditions particularly the increased construction costs and the

reducing market value of the proposed dwellings, have significantly affected the schemes ability to provide affordable housing.

- 1.5 It is a material consideration that the Council cannot demonstrate a 5-year housing land supply which has worsened since the initial outline consent from 3.44 years to 2.79 years.
- 1.6 In addition, the development plan policies, National Planning Policy Framework and Planning Policy Guidance (PPG), permits exceptions where the developer can adequately demonstrate that affordable housing provision would render the scheme unviable.
- 1.7 In this case, following interrogation of the Applicant’s viability report, undertaken by Altair on behalf of the Council, it has been adequately demonstrated that the provision of affordable housing would render the development scheme unviable.
- 1.8 It is therefore recommended that the removal of Condition 5, requiring affordable housing, is approved.

1.9 **PROPOSAL DETAILS**

PROVISION	
No of houses	29
No of affordable houses	0
Other developer contributions 1	0
Other developer contributions 2	0
Other developer contributions 3	0
CIL (approx.)	£ 488,529.16
New Homes Bonus (approx.)	£193,836

2.0 SITE

- 2.1 The site lies on the south side of the A259 Barnhorn Road, immediately to the west of Ashridge Court care home. It lies outside of, but adjacent to the development boundary, and approximately 1.4km from the Little Common district centre.
- 2.2 The rectangular site has an area of 1.5 hectares which falls away gently southwards. They Leylandii hedge along the road-side frontage was cleared in 2020.
- 2.3 There is a treed boundary to the west separating the site from a paddock associated with farmland at Upper Barnhorn Manor. To the east, is Ashridge Court Care Home separated by a simple “Sussex” fence along the boundary behind which there is a row of protected trees. To the south there are extensive open views across the Pevensy Levels to the sea.
- 2.4 To the north of this part of Barnhorn Road there are open views across the countryside. To the west, the Grade II listed Upper Barnhorn Manor and related buildings lie at a distance of approximately 55m in a rural setting clearly separate from the built-up area of Bexhill that commences east of the

application site. The isolated development known as 'Northeye' lies off the north side of Barnhorn Road approximately 200m to the north-west.

3.0 PROPOSAL

- 3.1 This is a Section 73 application i.e. an application for the removal or variation of a condition following grant of planning permission.
- 3.2 In this case, permission was allowed on appeal under ref: RR/2016/3206/P for a total of 29 dwellings, comprising a mix of detached, semi-detached and terrace houses
- 3.3 This application seeks to remove Condition 5 on the Inspector's decision requiring affordable housing.
- 3.4 This application includes a Viability Report undertaken by Turner Morum (TM) in order to demonstrate that the provision of affordable housing would render the development unviable.
- 3.5 It is worth noting, there is a separate application, ref: RR/2022/2915/P (running parallel with this application) which is a collectively resubmission of the 2016 outline and reserved matter applications but with one exception which is to remove the affordable housing requirement.
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4.0 HISTORY

- 4.1 RR/2016/3206/P Outline: Proposed residential development including parking and access.
REFUSED 22/06/17 APPEAL ALLOWED 23/11/18
- 4.2 RR/2020/840/DC Outline: Submission of details required by condition 10 imposed on RR/2016/3206/P. WCS approved only.
CONDITION PARTIALLY DISCHARGED 10/07/20
- 4.3 RR/2020/1410/P Reserved matters relating to residential development for 29 dwellings (outline permission RR/2016/3206/P), appearance, landscaping, layout and scale as well as the discharge of planning conditions 7 (Construction Method Statement), 8 (tree protection measures), 9 (foul and surface water drainage), 11 (translocation protected species), 12 (boundary treatment), 13 (Residential Travel Plan) and 14 (Electric Vehicle Charging Infrastructure). APPROVED 18/03/21
- 4.4 RR/2021/1523/DC Submission of details required by condition 10 (programme of archaeological work).
PARTIAL DISCHARGE 20/12/21
- 4.5 RR/2022/2837/P Variation of condition 10 imposed on RR/2016/3206/P to enable the development to be commenced out in

conjunction with phased archaeological works.
APPROVED 22/02/23

- 4.6 RR/2022/2915/P Proposed residential development including parking and access. UNDER CONSIDERATION.
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5.0 RELEVANT POLICIES

5.1 Rother Local Plan Core Strategy 2014:

- PC1 Presumption in Favour of Sustainable Development
- OSS1 Overall Spatial Development Strategy
- OSS2 Use of Development Boundaries
- OSS3 Location of Development
- OSS4 General Development Considerations
- RA2 General Strategy for the Countryside
- RA3 Development in the Countryside
- CO6 Community Safety
- EN1 Landscape
- EN3 Design
- EN4 Management of the Public Realm
- EN5 Biodiversity and Green Space
- TR2 Integrated Transport
- TR3 Access and New Development
- TR4 Car Parking
- SRM2 Towards a Low Carbon Future

5.2 Development and Site Allocations Local Plan (DaSA):

- DHG4: Accessible and Adaptable Homes
- DHG7: External Residential Areas
- DHG11: Boundary Treatments 57
- DHG12: Accesses and Drives
- DEN1: Maintaining Landscape Character
- DEN2: The High Weald Area of Outstanding Natural Beauty (AONB)
- DEN4: Biodiversity and Green Space
- DEN5: Sustainable Drainage
- DIM1: Comprehensive Development
- DIM2: Development Boundaries

5.3 Rother District Council Local Plan Viability Assessment in October 2018 (RDCLPVA).

5.4 National Planning Policy Framework 2021.

5.5 Planning Policy Guidance: VIABILITY (PPG:Viability)

6.0 CONSULTATIONS

- 6.1 Bexhill Town Council – **OBJECTION:** *The town council objects to the removal of Condition 5.*

- 6.2 Planning Notice – OBJECTIONS from 7x households (10 responses in total):
- Strong objections concerning the lack of affordable housing provisions and the adequacy of the Applicant’s viability report.
 - Condition 5 should not be removed.
 - Affordable housing is essential, required by the inspector and should be provided.
 - Whether the development should proceed if it is not profitable at all.
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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 £488,529.16.
- 7.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band D property, be approximately £193,836 over four years.
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8.0 APPRAISAL

8.1 Principle

- 8.1.1 The principle of this development proposal has been established by the outline and reserved matters approvals (RR/2016/3206/P & RR/2020/1410/P), which were permitted within the current development plan period.
- 8.1.2 As stipulated in the Inspector’s decision, Condition 5 requires the provision of affordable housing, required at the time by Rother Local Plan Core Strategy Policy LHN2 (which remains extant) and reiterated in recent DaSA Policy DHG1 (both for Affordable Housing). These policies set out the following:

On housing sites or mixed use developments, the Council will expect the following percentages of affordable housing within the district:

- (i) *In Bexhill and Hastings Fringes, 30% on-site affordable housing on schemes of 15 or more dwellings (or 0.5 hectares or more);*

.....

Where it can be demonstrated that these requirements would either render otherwise suitable development unviable, or where the local need for affordable housing would no longer justify the above levels, the Council will respectively expect the proportion of affordable housing to be the most that does not undermine viability or is needed locally.

- 8.1.3 It is also pertinent that the outline permission was allowed at appeal and the Inspector (amongst other considerations) attached significant weight to the Council’s shortfall in delivering a 5-year Housing Land Supply (5YHLS),

which was 3.44 years at the time. At this current time, the Council's deliverability of the 5YHLS has fallen quite significantly to 2.79 years.

8.1.4 This is pertinent as National Planning Policy Framework Para 11 (and footnote 8) requires 'a *presumption in favour of sustainable development*', making it clear that when policies for housing provision are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole i.e. in this case, where the viability of the development cannot be adequately demonstrated, the Council's 5YHLS must be given significant weight in assessing the planning balance. National Planning Policy Framework Para 11 states the following:

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- i: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or*
- ii: 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.*

Footnote 8 to Para 11 states: *This includes, for applications involving the provision of housing, situations where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites....*

8.1.5 Therefore, Policies LHN2 and DHG1 may be considered out of date for decision making purposes and planning permission must be granted unless it conflicts with Paras 11di and 11dii.

8.1.6 In terms of 11.di, footnote 7 specifies Areas of Outstanding Natural Beauty (AONB) and irreplaceable habitats such as ancient woodland, as areas/assets protected by National Planning Policy Framework policies. In this case, the site is not located in the AONB nor within a sensitive landscape designation. There is therefore no conflict with Para 11di.

8.1.7 In terms of 11.dii, the application must demonstrate that the benefits outweigh the harm, having regard to the National Planning Policy Framework as a whole. The principle of the development i.e. the physical works: the number of dwellings, layout etc. has been established within the same (current) development plan period and therefore requires no further consideration in this regard. The material consideration here is the removal of the condition requiring affordable housing provision. As such, taking the National Planning Policy Framework as a whole, regard is had to paragraphs 34 and 63 as follows:

Para 34: Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital

infrastructure). Such policies should not undermine the deliverability of the plan.

Para 63: Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:

- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and*
- b) the agreed approach contributes to the objective of creating mixed and balanced communities*

8.1.8 However, the same policies permit exceptions where it can be adequately demonstrated that the development would be unviable if affordable housing is provided. To that end, the Applicant has provided a viability assessment (undertaken by Turner Morum (TM)) in order to demonstrate that the provision of affordable housing would render the development financially unviable.

8.1.9 As per National Planning Policy Framework paragraph 58 (concerning decision making), the onus remains with the developer to demonstrate this:

Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the Applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

8.1.10 Furthermore, the PPG provides additional guidance in line with the National Planning Policy Framework. The following paragraphs from the PPG are considered relevant for when considering viability assessments:

Paragraph: 010 Reference ID: 10-010-20180724

Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.

Paragraph: 007 Reference ID: 10-007-20190509

Where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. It is up to the Applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

Such circumstances could includewhere a recession or similar significant economic changes have occurred since the plan was brought into force.

8.1.11 Overall, having regard to the policy context, the main issue is whether the site is viable to include affordable housing provision.

8.2 Viability

- 8.2.1 The main issue is that the proposal does not provide affordable housing on site, as required by the Rother Local Plan Core Strategy Policy LHN2 and DaSA Policy DHG1.
- 8.2.2 The purpose of a viability assessment is to determine the level of affordable housing which can be reasonably and viably provided by a proposed development in accordance with policy and guidance. This takes into account the existing and benchmark land value; total build costs (materials, abnormal costs, professional fees, finance costs, CIL and developers profit); the gross development value (residential sales, rents etc.) and the residual land value (derived from subtracting the total cost value from the gross development value). The values generated from these costs determine the surplus/deficit value, which in turn determines the viability of the site.
- 8.2.3 The Applicant's consultant appraisal concludes:
- The provision of 30% affordable housing would render the development unviable, resulting in a deficit of £1.238m and
 - The provision of 100% market housing would also render the development unviable, albeit at a lower deficit of £610,000.
- 8.2.4 The Council's advisor, in their appraisal of TM's report, initially concluded that the scheme cannot viably provide affordable housing on site but that a contribution of £76,790 could be made.
- 8.2.5 The Applicant's consultant responded, challenging the Council's consultant appraisal, specifically concerning the following that are considered in more details in the sections below:
- Market revenues
 - Contingency allowance
 - Developer profit allowance for the market housing.
- 8.2.6 Market revenues: The Applicant's consultant disagrees with Council's advisor's assessment of the market revenues (being higher) stating that market revenues will have reduced further (since the initial report undertaken in November 2022) and according to '*Savills January 2023 UK Housing Market Update citing house prices falling for the fourth consecutive month. I believe this is reaffirmed by the UK House Price Index (locationally adjusted for Rother District Council) showing a 1.2% drop between October 2022 and December 2022 (the latest available figures)*'.
- 8.2.7 Whilst the Council's advisor does not dispute the Applicant's data, they do not accept the way in which the data was applied. The data used to assume the value of the proposed dwellings does not reflect comparable evidence i.e. the condition and age of the dwellings, and whether they have drives, garages and larger gardens in comparison.
- 8.2.8 Contingency allowance: The Council's advisor's contingency figure is 4%, which derives from Rother District Council Local Plan Viability Assessment in October 2018. However, the Applicant consultant's contingency figure is 5% to reflect the current economic conditions i.e. constructions costs etc. The Council's advisor does not dispute this.
- 8.2.9 Developers profit allowance: The Council's advisor considers that the developers profit figure would be 17.5% which also derives from Rother

District Council Local Plan Viability Assessment. The Applicant has assumed a figure of 20%, stating: *I remain firmly of the view that a 20% of market housing GDV remains entirely appropriate, again having regards to current economic conditions at the time of the submission, which have worsened since.*

8.2.10 In respect of developers' profit, PPG: Viability states the following:

For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development.

8.2.11 The Applicant's consultant also refers to a recent appeal decision at Effingham (APP/Y3615/W/22/3298341 & 3298390) where the Inspector states the following:

Given the fairly difficult and comparatively uncertain economic circumstances for the construction sector at present and regardless of what profit margin the appellant has worked to in the past, it is reasonable to assume developer risk is greater now than at other more economically stable times. Consequently, notwithstanding the evidence regarding house prices and demand for housing in the area, and in respect to programming and sales revenue, a profit target to the higher end of the range, up to 20% of gross development value, is reasonable.

8.2.12 Whilst the Effingham case is materially different (providing a greater number of dwelling units and community facilities), the current economic conditions and subsequent impact to the developers' risk is recognised as a material consideration. It should be noted that the PPG: Viability advises that a recession or similar significant economic change may affect viability.

8.2.13 The Council's advisor therefore does not dispute the developer's assumption of profit.

8.2.14 Overall, notwithstanding the disagreement with the Applicant's consultant's assumption of the scheme's market value, it is considered that the current economic conditions together with the increased construction costs and the reducing market value of the proposed dwellings, have significantly affected the scheme's ability to provide affordable housing.

8.2.15 To conclude, following interrogation of the Applicant's viability report, undertaken by Altair on behalf of the Council, it has been adequately demonstrated that the provision of affordable housing would render the development scheme unviable.

9.0 PLANNING BALANCE AND CONCLUSION

9.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 9.2 For the purposes of the National Planning Policy Framework, Rother District Council are unable to demonstrate a 5-year supply of housing so the relevant development plan policies are not up-to-date. The National Planning Policy Framework states that plans and decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Accordingly, granting permission should be granted unless the National Planning Policy Framework provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.
- 9.3 Whilst affordable housing would be ideal, the development plan policies, National Planning Policy Framework and PPG, permits exceptions where the developer can adequately demonstrate that affordable housing provision would render the scheme unviable. The Applicant has demonstrated that in this instance, including the current economic conditions, the provision of affordable housing would put the implementation of the whole scheme at jeopardy.
- 9.4 It is regrettable that affordable housing cannot be provided but refusing this application on the basis of no affordable housing provision would not improve the Council's housing land supply situation (which includes this site). It is important to note that the situation has worsened since the initial outline consent from 3.44 years to 2.79 years.
- 9.5 Therefore, on balance, taking account of the above assessment, the lack of affordable housing provision would be significantly and demonstrably outweighed by the benefits when assessed against the policies in the Framework taken as a whole and engaging Paragraph 11(d) of the National Planning Policy Framework. Condition 5 should therefore be removed from the outline consent.

RECOMMENDATION: GRANT FULL PLANNING PERMISSION SUBJECT TO CONDITIONS

CONDITIONS:

The following conditions remain extant:

3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved. Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
13. No part of the development hereby approved shall be occupied until the Residential Travel Plan prepared by RGP dated November 2016, reference PKLG/16/3286/TP02, submitted with the application, has been brought into

effect and retained thereafter together with a scheme for providing the Travel Plan Coordinator with funding in accordance with paragraph 5.1.3 of the Residential Travel Plan.

Reason: To encourage and promote sustainable transport.

4. The access to the development hereby permitted shall be carried out in accordance with the following approved plans: Location plan 4377/LP dated November 2016 and Extent of Proposed Access plan 2016/3286/010 dated October 2018.

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.

6. No other development shall take place until the highway improvements comprising the site access, visibility splays and right turn lane as shown in approved RGP Drawing No. 2016/3286/010 dated October 2018 have first been provided for construction traffic use and no part of the development shall be occupied for its permitted use until all other highway improvements shown on the approved drawing including the footway extension and uncontrolled pedestrian crossing have been completed and made available for public use. The access shall be retained available for use thereafter.

Reason: To ensure the free flow and safety of traffic.

The details submitted in respect of Conditions, 9, (submitted under the associated Reserved Matter application RR/2020/1410/P) has been partially approved with the exception of the management and maintenance section. Therefore, Condition 9 is varied as follows:

9. No dwelling shall be occupied until the drainage works approved under reference RR/2020/14/10/P have been completed and made operational and details of the maintenance of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The drainage works shall be retained operational thereafter.

Reason: These details are integral to the whole development to ensure the satisfactory drainage of the site and to prevent pollution in accordance with Policies OSS4 (iii) and EN7 of the Rother Local Plan Core Strategy.

Condition 10 (varied under RR/2022/2837/P) is partially discharged (under RR/2021/1523/DC) and therefore, also remains extant. The (varied) Condition 10 is as follows:

10. No development, other than the formation of the approved access, shall take place until the implementation of a programme of archaeological works has been secured in accordance with the Written Scheme of Investigation for an Archaeological Strip Map and Sample Excavation by Chris Butler Archaeological Services Ltd dated August 2021. Prior to beginning any works associated with creating the access, the temporary fencing indicated on the submitted plan (ref: PLG/ARCH/01, received 02/02/2023) shall be erected and retained in place until the completion of the archaeological works.

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

The details submitted in respect of Conditions 7, 8, 11, 12 & 14 (below) (submitted and approved under the associated Reserved Matter application-RR/2020/1410/P) has been approved. It remains for the Applicant/developers to implement the development in accordance with the approved details, then the full terms of these conditions can be discharged:

1. Details of the access within the site, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours; and
 - ix) the mitigation measures to protect the integrity of the Pevensey Levels SAC during construction specified in paragraph 5.2.1 of the Report to Inform a Habitats Regulations Assessment (including Appropriate Assessment) by Aspect Ecology reference 5524 HRA vf/DM/LB dated 29 October 2018.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

8. No site clearance, preparatory work or development shall take place until a scheme for the protection of trees to be retained on or overhanging the site (the tree protection plan) and the appropriate working methods in relation to those trees (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved before any equipment, machinery or materials are brought onto 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 within any protected area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.
11. No development shall take place (including any ground works and site clearance) until the translocation of protected reptiles to a receptor area identified in the layout to be submitted and approved as a reserved matter has

taken place in accordance with the measures set out in section 3 of the Ecological Mitigation Statement by Camber Ecology dated April 2018 submitted with the appeal.

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. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until its boundary treatment has been completed.
14. No dwelling shall be occupied until details of a scheme of electric vehicle charging infrastructure has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details

NOTES

1. The Applicants' attention is drawn to the associated reserved matter consent RR/2020/14/10/P and the attached conditions.
2. General nature conservation note: The Applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation. You are advised that it may be necessary, as per submitted reports, to continue to engage a suitably qualified and experienced professional to remain compliant with existing detailed biodiversity method statements, strategies, plans and schemes and remain compliant with protected species legislation. If protected Species are present, work should cease, and a suitably qualified and experienced professional and/or Natural England be consulted.
3. NatureSpace note: 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.
4. This permission may include condition(s) requiring the submission of details prior to the commencement of development. Following close consideration in the courts, it is now well established that if the permission contains conditions requiring further details to be submitted to the Council or other matters to take place prior to development commencing and these conditions have not been complied with, the development may be unlawful and not have planning permission. You are therefore strongly advised to ensure that all such conditions have been complied with before the development is commenced. A fee is payable for written requests for compliance with conditions; the current fee is £34.00 for each request for householder developments and £116.00 for each request for all other categories of development. The appropriate 1APP

form can be downloaded from the Council's Planning website
www.rother.gov.uk/planning.