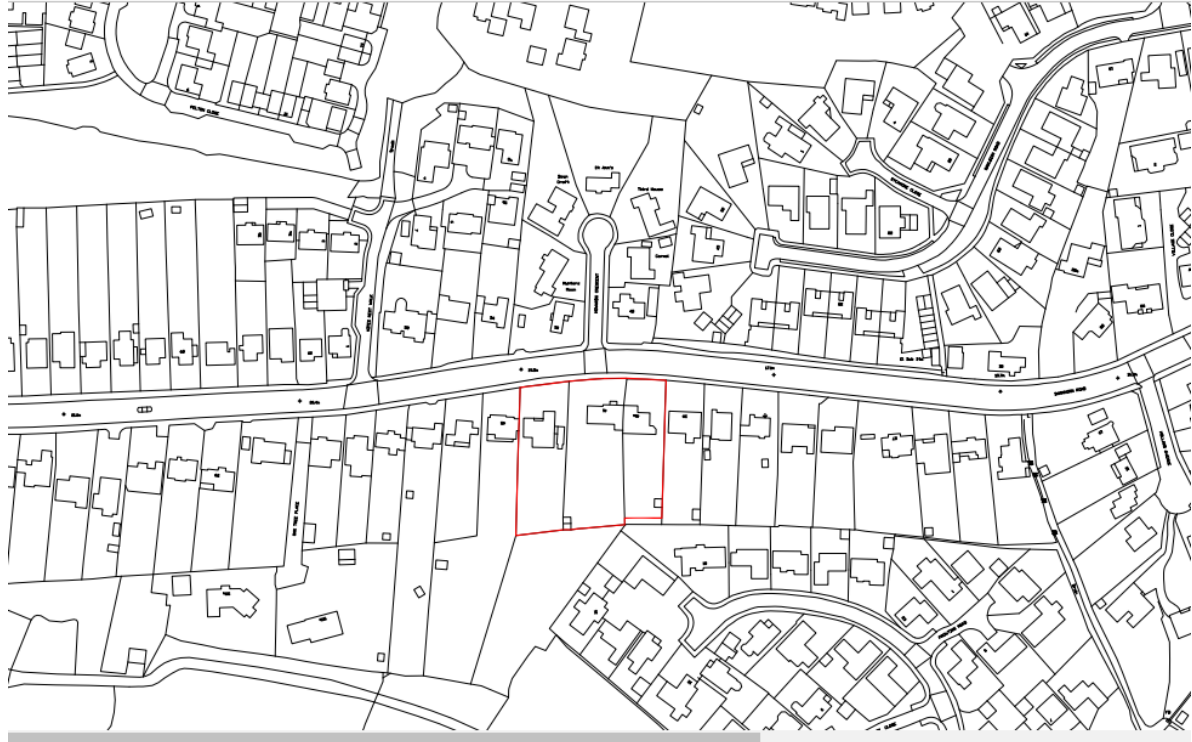


SITE PLAN

BEXHILL

RR/2022/2570/P

41A, 41 & 43 Barnhorn Road
Bexhill



Rother District Council

Report to - Planning Committee
Date - 20 July 2023
Report of the - Director – Place and Climate Change
Subject - Application RR/2022/2570/P
Address - 41A, 41 & 43 Barnhorn Road, Bexhill, TN39 4QB
Proposal - Demolition of existing buildings and redevelopment of the site for retirement living including communal facilities, car parking and landscaping.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT FULL PLANNING PERMISSION** subject to conditions and subject to the consultation response from National Highways and their requirements.

Director: Ben Hook

Applicant: Churchill Retirement Living
Agent: Planning Issues
Case Officer: Asma Choudhury (asma.choudhury@rother.gov.uk)

Parish: BEXHILL ST MARKS

Ward Members: Councillors J. Stanger and C.J. Winter

Reason for Committee consideration: This application was called-in by former Councillor Errington if officers were minded to recommend approval. Issues concerning lack of parking and access; combined with recent development in the wider area, the proposal would impact on the adjacent Barnhorn Road, affect highway safety and result in overspill parking on nearby roads.

Statutory 13 week date: 8 March 2023
Extension of time agreed to: 1 June 2023

This application is included in the Committee site inspection list.

1.0 SUMMARY

- 1.1 This application seeks to demolish three adjoining residential properties and to redevelop the site to provide a 2/3-storey building comprising 35x retirement-living apartments. No affordable housing is proposed.
- 1.2 The Council has undertaken a review of the Applicant's viability appraisal. Whilst it is accepted that the development cannot viably provide affordable

housing, the Council review disputes the Applicant's assertion that they cannot offer an off-site affordable housing contribution.

1.3 However, the Council cannot demonstrate a 5-year housing land supply, (5YHLS) being only able to deliver 2.79 years and hence the weight afforded to housing supply is significant.

1.4 On balance, subject to conditions, the scale, design and layout of the development is considered to be acceptable. Whilst the contribution would be beneficial to the Council, refusing this application on this basis alone, would not improve the Council's housing land supply situation, i.e. the Council's 5YHLS supply, and it is also acknowledged that housing for older people remains significantly low.

1.5 The recommendation is therefore APPROVAL.

1.6 PROPOSAL DETAILS

PROVISION	
No of houses/units	35
No of affordable houses	0
Developer contributions (potentially identified for affordable housing but not proposed)	£63,367
CIL (approx.)	£190,977
New Homes Bonus (approx.)	£233,940

2.0 SITE

2.1 The application site pertains to 3x adjacent residential properties (1 detached and a pair) with similar alignment and frontage onto Barnhorn Road. The wider street scene, primarily residential in character has a mix of bungalows and houses similar in this linear arrangement.

2.2 To the rear is a small area of woodland which separates the site from the rear residential development of Spindlewood Drive.

2.3 The site lies within the development boundary for Bexhill and outside the Area of Outstanding Natural Beauty (AONB).

2.4 The site lies within the high impact red zone for great crested newts.

2.5 The site lies within a Site of Special Scientific Interest (SSSI) Impact Risk Zone – Pevensey Levels – also a SAC and Ramsar site.

3.0 PROPOSAL

3.1 This application seeks to demolish three adjoining residential properties and to redevelop the site to provide a 2/3-storey building comprising 35x retirement-living apartments (henceforth known as the apartment).

- 3.2 The apartment would have a T-shaped footprint with its frontage similarly aligned with the wider residential development along the Barnhorn Road street-scene. It would have a 2-storey form along the road-frontage, but to the rear, it would comprise 3-storeys (utilising the roof form) with some cut-and-fill to accommodate the lower ground level.
- 3.3 The apartment and wider site comprise the following:
- a) 24x 1-bedroom flats.
 - b) 11x 2-bedroom flats.
 - c) 14x parking spaces.
 - d) Owners lounge for *use by all residents and visitors* which includes a coffee bar.
 - e) A lodge managers office and reception. *A lodge manager is employed by the Management Company to provide assistance and security for the owners of the apartments....They would also be in charge of the day to day maintenance of the development and oversee the maintenance of the gardens etc.*
 - f) A guest suite for *use by friends and family* of the residents who wish to stay overnight. *The room is fitted with twin beds and has a shower room and tea/coffee making facilities.*
 - g) Mobility scooter store.
 - h) Bin store.
 - i) Substation.
 - j) Communal landscape garden, maintained by the management company.
- 3.4 No affordable housing is proposed. A report is submitted, undertaken by **Planning Issues** titled: REPORT ON AFFORDABLE HOUSING & VIABILITY, in order to address the policy requirement for affordable housing.

4.0 HISTORY

Reference	Description	Decision
RR/2007/185/P 41, 41A, 43, 45, 47 Barnhorn Road	Redevelopment to form 60 extra care apartments for the frail elderly plus communal facilities and staff flat including first and second floor balconies with provision of new vehicular and pedestrian accesses, access road and 23 parking spaces.	Refused 15/03/07
RR/2007/3123/P 41, 41A, 43, 45 & 47 Barnhorn Road	Tailored care living scheme for the frail elderly including provision of 22 parking spaces, formation of new vehicular access & construction of new road.	Refused 18/01/08
RR/2012/2115/P 45-47 Barnhorn Road	Proposed demolition of two existing large dwellinghouses and construction of eight 2-bedroom apartments & two 3-bedroom apartments across two blocks with associated parking and landscaping.	Approved 05/11/13

RR/2016/2430/P 45-47 Barnhorn Road	Proposed demolition of two existing large dwelling houses and construction of eight 2-bedroom apartments and two 3-bedroom apartments across two blocks with associated parking and landscaping.	Approved 20/09/17
RR/2016/2430/P 45-47 Barnhorn Road	Proposed demolition of two existing large dwelling houses and construction of eight 2-bedroom apartments and two 3-bedroom apartments across two blocks with associated parking and landscaping.	Approved 20/09/2017

5.0 RELEVANT POLICIES

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

Rother Local Plan Core Strategy 2014:

- OSS2 Use of Development Boundaries
- OSS3 Location of Development
- OSS4: General Development Considerations
- CO5: Supporting Older People
- CO6: Community Safety
- SRM2: Water Supply and Wastewater Management
- EN3: Design Quality
- EN4: Management of the Public Realm
- EN5: Biodiversity and Green Space
- TR3: Access and New Development
- TR4: Car Parking

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

- DHG1: Affordable Housing
- DHG3: Residential Internal Space Standards
- DHG4: Accessible and Adaptable Homes
- DHG5: Specialist Housing for Older People
- DHG7: External Residential Areas
- DHG11: Boundary Treatments
- DHG12: Accesses and Drives
- DEN4: Biodiversity and Green Space
- DEN5: Sustainable Drainage
- DIM2: Development Boundaries
- DRM1: Water Efficiency

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

5.4 National Planning Policy Framework 2021.

5.5 National Planning Policy Guidance: VIABILITY (NPPG: Viability)

6.0 CONSULTATIONS (Full response on Council's website)

6.1 ESCC Highways – **NO OBJECTION** subject to the imposition of conditions Summary of comments (full comments available on Council's website):

- Accessibility to service is good with amenities 7 mins walk away.
- Frequent bus service close by Hastings and Eastbourne, as well as stopping at Collington railway station.
- 14x car parking spaces proposed – this is an under-provision. East Sussex Parking Calculator requires 21x spaces. However, regard is had to the supporting transport statement which suggests the demographic of future residents anticipates a lower parking demand. Albeit the surveys were undertaken in 2016 and more recently in 2020 (over a 2-day period) with limited details regarding comparisons, it is considered that 14x spaces are adequate.
- Buggy store acceptable.
- Separate cycle storage should be provided.
- Internal layout for vehicle turning/manoeuvring is acceptable.
- Refuse collection will take place on the street as per existing arrangement.
- Construction Traffic Management Plan required prior to commencing works on site.
- Comments re trip generation and access would be provided by National Highways.

6.2 National Highways England – **OBJECTION**

1st consultation response 09/02/23 - summary:

- *recommend that planning permission not be granted for a specified period.*
- Concerns regarding the site access onto SRN.
- Proposal is to utilise existing access serving No.41, without improvement.
- *...transport Statement proposes a net increase in daily two-way trips by 64 vehicles per day. Therefore, the daily trip generation would exceed the DMRB limitation of 50 vehicle movements per week.*
- *...the swept path analysis of the existing access has identified that, while the right in/left out manoeuvres can be performed, the left in/right out manoeuvres would not be achievable simultaneously.*
- *Drawing 536.0056.001 rev B also shows the junction visibility of the existing access based on Manual for Street Standards. However, this should have been undertaken in accordance with DMRB CD 123 requirements and based on the Stop Sight Distance given in DMRB CD 109.*
- *Therefore, after having reviewed the information provided by the Applicant, we cannot conclude that they have demonstrated that the existing access complies with DMRB CD 123 requirements. Thus, **the Applicant is required to provide details of an improved access arrangement in accordance with the requirements of DMRB CD123 or seek to demonstrate required relaxations/departure. Therefore, in this case section 175B is relevant. The Applicant must also provide for the full visibility requirements for the sight stopping distance equivalent to the design speed or provide a departure.***

- Conditions recommended concerning boundary treatment, drainage, and a Construction Environmental Management Plan (CEMP).

2nd consultation response 04/04/2023 – summary:

- *recommend that planning permission not be granted for a specified period.*
- *We note that the Applicant has now provided further information in relation to accident analysis and the proposed access arrangement.*
- *However, it remains that we require further information to be provided by the Applicant on this application in order that an informed decision can be made in relation to the potential impacts of the development on the strategic road network. In particular, the following comments should be passed onto the Applicant:*
- *The Applicant has stated that they are seeking for a relaxation regarding the access proposal of keeping No. 41 as the site access of the new development.*
- *However, relaxations shall only be applied where they are explicitly permitted in a Design Manual for Roads and Bridges (DMRB), National Application Annexes or Manual of Contract Documents for Highway Works document. However, no evidence has been provided to this effect. No improvements on the access serving 41 Barnhorn Road have been proposed. Thus, our concerns regarding vehicle left in/right out manoeuvres have not been resolved.*
- *The swept path analysis provided shows that when a vehicle exits the site, a vehicle entering would need to stop in the main road before turning in or otherwise a lateral collision would occur.*
- *A vehicle waiting on Barnhorn Road may lead to rear-end collisions or cause vehicles running westbound to undertake an overtaking manoeuvre using the road hatching and right turning lane to access Howards Crescent. The visibility of the refuge island opposite plot 43 may be also obstructed by the car waiting to turn left-in and thus, vehicles overtaking a waiting car may not be able to return to the southbound lane safely. Therefore, the Applicant should provide an improved access that demonstrates that two vehicles can enter/egress the site safely.*
- *The Applicant's justification of the access strategy from parcel 41 is that existing substandard accesses are to be closed. The Applicant also states that 'the proposed development is only proposing a negligible increase in trips in the peak period and would be facilitating these through an improved, single point of access'.*
- *However, the existing accesses are serving one single property each, whereas the proposed development will serve a complex comprising 35 residential units with 14 parking spaces and therefore, as the nature of the access will change the proposal needs to comply with DMRB requirements.*
- *Paragraph 4.1 of DMRB CD123 states that 'Direct accesses shall only be used where access is to only one of the following and that access will be subject to less than 50 vehicle movements per week: 1) a single dwelling 2) a single field; 3) a single-use public utilities site (such as an electric substation) where access is needed for maintenance of that specific site only; or, 4) a single-use highway maintenance site (such as an attenuation pond) where access is needed for maintenance of that specific site only.'*

- Therefore, our assessment of the latest information provided concludes that the access strategy is not DMRB compliant. The current proposal presents two departures from standard relating to junction visibility and direct access.
- **The Applicant is required to:**
 - **provide details of an improved access arrangement in accordance with the requirements of DMRB CD123 or,**
 - **submit departure applications in accordance with the procedures required by the relevant Overseeing Organisation or,**
 - **Explicitly refer to the permitted relaxation in DMRB that could be applied.**
 - same conditions recommended as per the initial consultation response.

3rd consultation response is awaited.

6.3 ESCC-Flood Risk Management/SUDs (on behalf of Pevensey and Cuckmere Water Level Management Board and Lead Local Flood Authority)
 – **OBJECTION**

1st consultation response 05/01/23 - summary:

- *The Applicant has failed to meet the requirements to assess its acceptability in flood risk terms.*
- *The Applicant has submitted an infiltration-based drainage strategy, using assumed infiltration rates.*
- *An alternative strategy is also proposed, to connect to a nearby surface water sewer in Barnhorn Road if infiltration is not feasible on site which we expect will be the case.*
- *Request a pre-development capacity check carried out by Southern Water to ensure there is sufficient capacity within their system to receive run-off from the development.*
- *If the developer proceeds with an infiltration-based strategy, infiltration testing will be required. Groundwater monitoring would also be required between November and April to determine whether high ground water levels will preclude the use of infiltration on site.*
- *The alternative drainage strategy relies on pumping to the surface water sewer due to the gradient of the development site – details of the pumps required.*
- *The surface water from the site presently drains to the PCWLMB drainage district – the Applicant should agree discharge rates with PCWLM.*

2nd consultation response 04/04/23:

- *The Applicant has stated in the response that they have not undertaken a pre-development capacity check with Southern Water as Southern Water have a legal duty to provide capacity within their network. Whilst this may be the case, it may take Southern Water some time to carry out improvements to the network, if they are required, and connecting to the system before the improvements are carried out may lead to an unacceptable increase in flood risk elsewhere as a result of the development. Given that there is no existing connection to the surface*

water sewer we require that the Applicant obtains agreement in principle from Southern Water to discharge to the sewer.

- *As such, we are not able to remove our objection until the Applicant has confirmed agreement in principle with Southern Water to direct runoff to the surface water sewer.*

6.4 Southern Water

Our investigations indicate that Southern Water can facilitate surface water runoff disposal (flow rate 2.8 l/s at manhole reference TQ71070852) to service the proposed development. Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the Applicant or developer.

6.5 Pevensey and Cuckmere Water Level Management Board and Lead Local Flood Authority – OBJECTION

1st consultation response 08/12/2022- summary:

Objection due to Insufficient Information

The site drains surface water runoff to the Pevensey and Cuckmere Water Level Management Board Drainage District which is approximately 450m downstream of the application site. Therefore, the Applicant should agree discharge rates with the Water Levels Management Board's area.

The application has submitted an infiltration-based drainage strategy as well as an alternative strategy to connect to a nearby surface water sewer in Barnhorn Road if infiltration is not feasible at the site – which PCWLM & LLFA expect to be the case. Request that a pre-development capacity check is carried out with Southern Water to ensure there is sufficient capacity within their system to receive run-off from the development.

2nd consultation response 17/03/23 - summary:

Objection due to Insufficient Information

...The Applicant has failed to meet the requirements to assess its acceptability in flood risk terms. The PCWLMB and LLFA will respond in 21 days of receipt of the requested information.

...Given that there is no existing connection to the surface water sewer we require that the Applicant obtains agreement in principle from Southern Water to discharge to the sewer. As such, we are not able to remove our objection until the Applicant has confirmed agreement in principle with Southern Water to direct runoff to the surface water sewer.

6.6 County Ecologist – NO OBJECTION, recommend for approval in principle subject to the imposition of conditions.

6.7 Natural England – unable to provide specific advice and to refer to Standing Advice.

6.8 NatureSpace – NO OBJECTION. We are satisfied with the ecological report and agree that a Precautionary Working Methods Statement (PWMS) is considered appropriate, this should either be submitted prior to determination or secured with the use of a condition.

- 6.9 Environment Agency - *We have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee.*
- 6.10 County Landscape Architect – **NO OBJECTION**. *It is recommended that the proposed development can be supported as, subject to the conditions suggested below (for tree protection and landscaping), it could have a beneficial effect on local townscape character and visual amenity. (Full comments available on website).*
- 6.11 East Sussex Fire & Rescue Service – none received.
- 6.12 Sussex Police – **NO OBJECTION** but express observations and some concerns: A couple of recommendations to enhance security for the building, the mobility scooter store and the grounds. Concerns that the 14 car parking spaces would not be sufficient for all of the residents and staff and the potential impact upon the immediate and surrounding area given the limited parking availability. Recommend a condition that the owners have to accept the scheme is for non-vehicle residency. (Full comments available on website).
- 6.13 Clinical Commissioning Group – none received.
- 6.14 Housing Commissioning Team (Adult Social Care) – none received.
- 6.15 County Archaeologist – **NO OBJECTION**
The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions which are outlined in this response. (Full comments available on website).
- 6.16 Waste & Recycling – **NO OBJECTION**. *There do not appear to be any issues here. There appears to be a gap in the boundary to allow the bins to be wheeled from the bin area thus allowing the crew to wheel the bins to the RCV. A dropped kerb along here would allow the bins to be manoeuvred easily rather than being bumped down the kerb.*

Further comments – This would be on a fortnightly collection and it looks like the bin store can house 4 x 1,100 litre bins. Based on 24 single bed flats and 11 two bed flats we can say a max of 46 residents so 2x 1,100 refuse and 2x 1,100 recycling should be sufficient.
- 6.17 Community & Economy - Private Rented Housing – none received.
- 6.18 Planning Notice
32 objections from local residents summarised as follows:
- Noise and pollution from demolition and building works. Demolition would have massive carbon footprint.
 - Impact to local air quality.
 - Existing properties do not require demolition.

- Concerns regarding traffic management and safety during the construction process.
- Proposal would increase traffic (residents and visitors) onto Barnhorn Road which is already a busy road. This is on top of the increased traffic associated with from recent development (Rosewood Park and the pending development adjacent to Ashridge Court).
- Significant under-provision of parking, resulting in parking on Barnhorn Road and creating hazardous conditions to the free flow of traffic and other road users: cyclists and pedestrians.
- Pavement parking on Barnhorn Road would reduce visibility.
- Parking would also be pushed to neighbouring side roads; particularly Howards Crescent and Kites Nest Walk. Increased difficulties in exiting the side road onto Barnhorn road owing to increased traffic.
- Unsuitable entrance on to A259 which can't cope with increased traffic.
- Poor visibility to the right for vehicles leaving the property due to a right-hand bend.
- Traffic is queuing for longer periods leading to Little Common roundabout.
- Too far to walk to local shops for elderly residents to carry back shopping.
- Doctors surgery is quite a walk.
- Services and amenities are limited so residents would unlikely give up their car and independence.
- Bus service is limited in the evening with less frequent services.
- Reference to use of a footpath as a shortcut is not accurate, it is a narrow-unmade path which is muddy in winter and overgrown in summer.
- The transport statement does not reflect recent development in the area.
- Impact to the local infrastructure: doctors, dentists, health services etc.
- Currently no parking restrictions on Barnhorn Road and with the traffic islands and additional on-road parking it will make it dangerous for emergency vehicles trying to get through.
- Already a number of retirement flats in Little Common that are vacant and for sale so no requirement for new.
- An area can become saturated with retirement homes, should encourage younger families and workers.
- Loss of garden/environment for wildlife. Established trees to be cut down.
- Footpaths are uneven and narrow.
- Height of proposed flats and their proximity to boundaries of existing properties will lead to loss of light and privacy. Style of proposed building uninspiring.
- Overdevelopment. Would dominate the area. Out of character and scale with its surroundings. Visually harmful.
- Overlooking towards the properties opposite and to the rear. Loss of light and privacy.
- More light disturbance.
- Precedent for new development.
- Existing sewage problems.

6.19 Bexhill-on-Sea Town Council – none received.

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 £190,977.
- 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 £233,940 over four years.
-

8.0 APPRAISAL

- 8.1 The main issues concerning this application include:
- Affordable housing provision / viability / planning balance.
 - Scale of development, detailed design, visual impact.
 - Impact to neighbours' amenity.
 - Access/Parking.
 - Impact to the Pevensy Levels SSSI, particularly given the significant amount of built form proposed and the alterations to the land levels.
 - Drainage (additionally linked with Point 4 above).
 - Ecology, particularly concerning bats, birds, badgers and trees.

Affordable housing – viability

- 8.2 DaSA Policy DHG1 in Bexhill requires 30% on-site affordable housing on schemes of 15 or more dwellings - for the 35 units proposed here, that would equate to a requirement for 11x affordable housing units.
- 8.3 In this case, the development proposal does not seek to provide affordable housing.
- 8.4 DaSA Policy DHG1 permits exceptions provided it can be demonstrated that the provision of affordable housing would render the development unviable, but the Council will respectively expect the proportion of affordable housing to be the most that does not undermine viability or is needed locally (as per DHG1).
- 8.5 The preamble to this policy at Para 4.13 states *There may be exceptional cases where affordable housing cannot be provided on site, in which event a financial contribution¹¹ equivalent to the increased value of the development without on-site provision will be required.* Footnotes 11 states that Financial contributions in-lieu of on-site provision will be required by Section 106 Agreement.
- 8.6 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.
- 8.7 This application includes a viability appraisal, prepared by Planning Issues, titled: REPORT ON AFFORDABLE HOUSING & VIABILITY. Henceforth

known as the agents VA, having undertaken their own financial appraisal, it is their conclusion that neither affordable housing provision nor contribution can be delivered as part of this development proposal, stating:

Para 1.8: The benchmark land value for the site is therefore relatively high. The residual value generated by the proposed redevelopment once development costs have been taken away from gross sales value is £1.375 million. This appraisal does not include any affordable housing. There is no financial headroom available for affordable housing contributions in this instance.

Para 7.2: This concludes that were the inclusion of affordable housing on site feasible, the subsidy required to provide the required level of affordable housing would be £530.373. This is the sum assessed against the reduction in land value were the units provided on site and is consistent with the approach undertaken as part of the Plan wide viability study.

Para 7.3: However, the site is considered to have a benchmark land value of £1.914m. When assessing the 100% private scheme against this benchmark, there is no financial headroom available to contribute towards affordable housing.

- 8.8 However, the Council's independent review of the agent's VA, undertaken by **ET Planning**, arrives at a different conclusion. Their financial appraisal, utilising inputs which they consider realistic and appropriate - as opposed to the agent's VA, which ET Planning consider the inputs to be over-inflated and the assumptions concerning private sales/developer timings – overestimated. The conclusion is that whilst ET Planning agrees that the application proposal could not deliver affordable housing, it would however, create a surplus of £63,367. It is therefore ET Planning's conclusion that the Applicant can make a contribution for off-site affordable housing provision.
- 8.9 Following several exchanges between ET Planning and Planning Issues, attempting to address the disputed inputs/outputs, ET Planning have provided a final report, maintaining their position regarding the Applicant's ability to make a contribution.
- 8.10 In response, the agent has prepared the following rebuttal:

“You will see below that they emailed their final position on 18 May showing a £60,000 surplus. My comments in response to their appraisal are shown in the email response but for ease of reference are summarised as follows:

- 1. They erroneously state that the BCIS build cost data already allows for contingency. It does not.*
- 2. Abnormal costs outside of BCIS (e.g. demolition, ground conditions etc) are excluded by ET. These are relevant site specific costs which must be included.*
- 3. Sales and Marketing Costs – evidence provided of appeal decisions where 5.3% has been accepted as well as cost outturn on similar sites which has been ignored.*
- 4. They report a negative local market to support their reduced premium to be attached to the existing houses but maintain the premium sales values proposed for the redevelopment proposal.*

Any one of the above 4 points would place their appraisal back into a negative position. In conclusion therefore, for the above reasons (as evidenced throughout), we cannot agree with ET Planning's conclusions."

- 8.11 Overall, the Council's independent review, undertaken by ET Planning, is considered to be a comprehensive and robust appraisal which provides justification for the inputs and assumptions in formulating their figures and conclusion. Comparatively, the Applicant's submission would appear lacking and does not adequately justify the higher inputs and estimates. As such, the Council considers the Applicants can make a contribution of £63,367.

PLANNING BALANCE

- 8.12 Regard is had to whether, in this instance, it would be appropriate to forgo the affordable housing contribution of £63,367.
- 8.13 Para 11 of the National Planning Policy Framework 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.
- 8.14 As the Council does not have a 5-year housing land supply (5YHLS) (currently being 2.79 years), within the context of the National Planning Policy Framework (Footnote 8 to Para 11), Rother's development plan Policies LHN2 and DHG1 must be considered out of date for decision-making purposes and planning permission must be granted unless:
- 11. di: *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed?*; or
 - 11. dii: *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.*
- 8.15 In terms of 11.di, footnote 7 specifies AONBs, SSSI, ancient woodland, listed buildings, et al, 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. In fact, the site is located within the development boundary where the *principle* of a development is generally supported, subject to other material policy considerations - this in turn engages Para 11dii i.e. considering the planning balance: *would the adverse impacts of granting consent significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole?*
- 8.16 Therefore, 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. In this case, National Planning Policy Framework Paras 60, 61, 62, 63, 65, 74, 105, 110-112. This is considered alongside Rother Local Plan Core Strategy Policy BX1(ix) to *Provide for employment*

and housing growth, in accordance with Policy BX3, with particular regard to the needs of families, affordable housing for younger people and a range of supported housing options for older households; and Rother Local Plan Core Strategy Policy BX3(ii & iii) to deliver An overall level of housing growth of 3,100 dwellings between 2011- 2028; and Over and above development opportunities within the existing urban area, new housing and business development will be focussed on a strategic site to the north east of the town (as already planned), together with further sites to the north and west of the town.....

- 8.17 Collectively, these policies require support for Government’s objectives of significantly boosting the supply of homes, requiring strategic policies should be informed by a local housing need assessment, and that *within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people,*
- 8.18 In the context of the National Planning Policy Framework housing policies, Rother’s development plans policies, together with the Council’s supporting evidence base, identifies a need for older persons housing.
- 8.19 Rother Local Plan Core Strategy Policy BX1 sets out the Overall Strategy for Bexhill. This includes (at part ix) the provision of employment and housing growth, with particular regard to (among other things) the need for a range of supported housing options for older households.
- 8.20 Rother Local Plan Core Strategy Policy CO5 (Supporting Older People) supports initiatives and developments which, among other things, (ii) increases the range of available housing options with care and support services in accessible locations; and (iv) increases older people’s engagement in community life.
- 8.21 DaSA Policy DHG5 (Specialist Housing for Older People) confirms that schemes comprising of specialist housing for older people to meet the needs set out in the East Sussex Bedded Care Strategy will be supported on suitable sites in the larger villages and towns. As well as the provision of higher access standards, regard should be had to the “walkability” to services and public transport in the siting of housing schemes for older people. The National Planning Policy Framework (2021) confirms at chapter 5 that the needs of groups with specific housing requirements should be addressed through planning policy, including older people.
- 8.22 A Housing and Economic Development Needs Assessment (HEDNA) has been undertaken jointly for Rother and Hastings Councils to support their new Local Plans. An initial report, dated August 2020, is available on the Council’s [website](#) although it should be noted that an updated HEDNA, to take account of recent economic and social changes, is currently being prepared by consultants.
- 8.23 The HEDNA (2020) considers the need for housing for older people at Chapter 9. It confirms that Rother has a high proportion of older people compared to the national average, and a particularly high proportion of people aged 65-74, and that the older population is set to increase. The

overall levels of disability in the older person population is also slightly higher than the national average.

- 8.24 The HEDNA considers two categories of older people's accommodation (in addition to care bedspaces):
- Housing with Support (which covers retirement/sheltered housing); and
 - Housing with Care (which includes the enhanced sheltered and extra-care housing).
- 8.25 The HEDNA finds that there is a current deficit of all types of older person accommodation in Rother and by 2039 this will only increase. There is a particular need for leaseholder and rental housing with support. Most of the demand for specialist accommodation is for housing with support (around 73%) compared to around 27% for housing with care. The HEDNA notes that East Sussex County Council has confirmed that these numbers are in line with the County Council's understanding of the area's needs.
- 8.26 The submitted Planning Statement confirms that the type of housing proposed is defined as retirement living or sheltered housing, i.e. housing with support (as defined in the HEDNA). All units would be sold to leaseholders and the lease would contain an age restriction.
- 8.27 The site is within the Bexhill development boundary within a sustainable location, in walking distance of local shops and services at Little Common and close to bus stops. In principle, the redevelopment of the site to provide housing for older people, as proposed, is supported by adopted Local Plan policy and more up to date evidence on need contained in the HEDNA (2020). However, the lack of affordable housing is of concern, as detailed in the next section.
- 8.28 Rother Local Plan Core Strategy Policy LHN1 seeks to ensure that, in order to support mixed, balanced and sustainable communities, housing developments should (i) be of a size, type and mix which will reflect both current and projected housing needs within the district and locally. Policy DHG1 of the DaSA Local Plan notes that on housing sites or mixed-use developments in Bexhill, the Council will expect 30% on-site affordable housing on schemes of 15 or more dwellings. 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 this level, the Council will respectively expect the proportion of affordable housing to be the most that does not undermine viability or is needed locally. In normal circumstances, the full affordable housing obligation should be met on-site.
- 8.29 As noted above, the HEDNA (2020) finds there is a significant need for rental housing with support, for older people. At chapter 7, the HEDNA also considers the need for affordable housing generally, finding an annual net need of 295 affordable dwellings to rent across Rother. This is for subsidised housing at a cost below that required to access the private rented sector (i.e. for households unable to access any form of market housing without some form of subsidy). This demonstrates a significant need for affordable homes and confirms the need for the Council to seek to maintain its current affordable housing policy as a minimum, subject to updated viability assessments. Indeed, the HEDNA notes that the Council is

justified in seeking to secure as much additional affordable housing as viability allows. It is of note that these requirements (i.e. 295 affordable dwellings per annum) exceed the total rate of recent housing delivery.

- 8.30 It has already been established that in principle, the proposal to provide 35 retirement living apartments will help meet an identified need for this type of accommodation. However, the proposal includes no affordable housing. The Planning Statement indicates that this is due to viability: it states that there are additional costs associated with delivering retirement housing as around 25% of floor space is for communal facilities and is as such unsaleable floor area; and retirement accommodation has a reduced (slower) sales rate, increasing borrowing and empty property costs. This is further detailed in the submitted Report on Affordable Housing and Viability, which also notes that there would be management difficulties in providing on-site affordable housing because all residents share communal areas and pay comparatively high service charges for them. The Viability Report notes that (if it were viable), off-site provision in the form of a commuted sum would be the most appropriate solution to address the affordable housing requirement, however, it also finds that there is no financial headroom available for affordable housing contributions in this scheme.
- 8.31 Whilst the Council, through independent review of the agent's VA, disagrees with the Applicant's assertion that contributions cannot be provided, on balance, there is an evidence-based demonstrated need for older people housing. It is regrettable but whilst the contribution would be beneficial to the Council, refusing this application on this basis alone, would not improve the Council's housing land supply situation i.e. the Council's 5YHLS supply and housing for older people remains significantly low.

Detailed Design / Visual Impact

- 8.32 Rother Local Plan Core Strategy Policy OSS4 and EN4 collectively requires development that *is of a density appropriate to its context, does not detract from the character and appearance of the locality*, and of an acceptable scale, design having regard to the wider visual context.
- 8.33 The frontage of the apartment building is two-storey, comprising three main forms in the shape of individual dwelling units, connected by recessive elements (set back by approx. 2.6m), which aid in breaking up the mass and bulk. The frontage of the development is acceptable, reflecting the domestic scale and proportions in the wider residential street scene.
- 8.34 The rear part of the apartment, however, is significant, being substantial in its rearward projection and increasing from 2-storey to an appearance of 3-storey created by an additional floor within the roof form i.e. the scale of development does not reflect the pattern of residential development along Barnhorn Road, comprising modest family dwellings (of various sizes), with road-side frontage and large rear gardens. Comparatively, the proposed apartment complex would occupy a much larger area of the rear garden. Although it is noted that the rearward projection is centrally located within the plot and well recessed away from the side boundaries.
- 8.35 When viewed from Barnhorn Road, owing to the narrowing footprint (stepping in from the side boundaries) combined with the reducing height of

the rear-part of the building – behind the building’s frontage, together with the close relationship with the adjoining dwellings, the building’s larger scale to its rear would not be prominent in the street scene.

- 8.36 In terms of the visual impact upon the rear street scene – Spindlewood Drive, this would be more prominent. The AVR report provides an image (labelled Viewpoint D) of how this impact would present – whilst it may be accurate, it does not adequately represent the impact owing to the position and height of the camera. From the approach into the cul-de-sac, the development would be visible above Nos. 15, 16 & 17 Spindlewood Drive. The issue here is: whilst the development would be visible, whether its scale, having regard to the wider pattern of development, would be harmful.
- 8.37 Spindlewood Drive comprises a mix of houses and bungalows of varying heights, shapes and forms along the road, many have garages - the character is principally suburban. No.17 has the closest relationship with the proposed apartment with the nearest wall-to-wall gap being approx.22m. Additionally, in between the application site and Spindlewood Drive is a small, wooded area which would provide a certain amount of screening. Furthermore, the rear part of the apartment would be 2-storey in its relationship when viewed against the Spindlewood Drive dwellings.
- 8.38 On balance, whilst the proposed apartment introduces additional built form into the skyline from Spindlewood (particularly noticeable above Nos. 15-18, being bungalows), the combination of the apartment’s 2-storey form; the separating distances between the Spindlewood dwellings and the apartment; and the intervening (screening) vegetation, would collectively mitigate the impact of the apartment as it would appear recessive in the backdrop (owing to its 2-storey form not dissimilar from the existing houses along Spindlewood), and would not appear out of context in the immediate and wider suburban character of Spindlewood Drive.
- 8.39 The general design and use of materials reflects that of the local area, incorporating gable and bay window detailing with brick and render elevations under a tiled roof. Therefore, having regard to the wider urban context, the visual impact of the development is not considered to be adversely harmful.

Other design considerations

- 8.40 The submission includes details for the refuse store and mobility-scooter storage, although these plans are not clear. A condition is attached to secure appropriate details. Otherwise, their general location is acceptable, being set to the side.
- 8.41 The submitted plans for the substation is not considered to be appropriate, owing to its mass, bulk and height and imposing utilitarian appearance that would be dominant and incongruous in the street scene. It is considered appropriate to require alternative details of a sub-station that would have an acceptable impact in the street scene.

Living conditions of the occupiers of the proposed development

- 8.42 Policy OSS4(i) of the Rother Local Plan Core Strategy expects all development to meet the needs of future occupiers, including providing appropriate amenities and the provision of appropriate means of access for disabled users.
- 8.43 The dwelling units would meet minimum internal space standards, as required by DaSA Policy DHG3.
- 8.44 The submission also confirms the dwelling units would comply with DaSA Policy DHG4 which requires all new dwellings to be adaptable and accessible and meet M4(2) of the Building Regulations.
- 8.45 DaSA Policy DHG4 also requires that 5% of the required affordable housing units meet Part M4(3). As it is not intended to provide affordable housing, it is also not intended to provide some units that meet Part M4(3) (wheelchair accessible dwellings).
- 8.46 Policy DHG7 of the DaSA expects appropriate and proportionate levels of private useable external space and waste and recycling facilities.
- 8.47 24 out of the 35 flats would have balconies. In addition, the site apartment would be served by a commensurate area of landscaped garden to the rear which would be communal. In this case, the garden provision is considered to be adequate.
- 8.48 Waste/recycle facilities would be set to the front of the apartment where it can be easily accessed for collection.

Impact on the residential amenity of neighbouring occupiers

- 8.49 Policy OSS4 (ii) of the Rother Local Plan Core Strategy expects new development not to unreasonably harm the amenities of adjoining properties. Policy DHG9 of the DaSA outlines that extensions can impact on adjoining properties in terms of a loss of sunlight or daylight, overbearing and loss of privacy.
- 8.50 This is considered alongside DaSA Policy DHG7, requiring a rear garden length of 10m. The preamble to this policy in Para 4.69 states the following:
“Gardens should be of an appropriate size to provide sufficient, useable amenity space. This will normally mean a minimum rear garden depth of 10 metres. This requirement has a dual purpose, as it also aids the achievement of appropriate separation distances between dwellings to maintain levels of privacy and to prevent a cramped form of development that could otherwise adversely affect the amenity of existing and future residents. Garden space for apartment complexes may benefit from individual design solutions to the provision of external amenity space, such as courtyards or communal spaces of appropriate and usable size.”
- 8.51 This application considers any amenity issues with the adjoining properties located on either-side and to the rear of the application site, whilst having regard to the 10m garden rule i.e. a back-to-back distance of 20m. The same rule does not apply concerning side-on relationships but is *broadly* used in assessing the depth of outlook:

- 8.52 Overlooking **eastwards**, towards No.39 Barnhorn Road (with Nos. 37 and 35 beyond):
- 8.53 As the footprint of the apartment building along the side-east elevation steps in away from the boundary, it increases the distance from the apartment's east-elevation windows across to the neighbouring properties.
- 8.54 The nearest wall-to-wall distance between the apartment and No.39 is 6.4m with obscure-glazed narrow windows in the flank of the building's frontage – serving Flat -34.
- 8.55 Stepping back further (behind the buildings frontage), there is a distance of 10.2m between the east elevation of the apartment and the boundary, with 2x windows serving a living room serving Flat-11. These ground-floor windows would be higher owing to the sloping ground level incorporating a lower storey, so they would have a greater degree of outlook towards No.39. These windows would be obscure glazed, mitigated by the 10.2m distance and the (limited) screening boundary vegetation.
- 8.56 Given the proximity to No.39 and potential for direct overlooking, whilst the obscure glazing would provide and boundary screening may provide some mitigation, it is considered appropriate that the windows are also non-opening except for a top hung fanlight opening.
- 8.57 In terms of the rear vertical projection, this projects much deeper into the site with a distance of approx. 21.4m-to-18.7m between the east elevation wall of the apartment and the east boundary (this distance is reduced with the balcony access). The distance between the nearest balcony with outlook towards No. 39 is approx. 25.6m. Comparatively, (back-to-back) this is in excess of the minimum 10m-deep garden required for a new dwelling. In addition, the rearmost 2 balconies which would look towards No's 18 & 17 Spindlewood Drive (at the rear) would have a similar separating distance (in excess of 20m). As noted at Para 8.54 above, the impact is mitigated by the distance combined with screening vegetation (which would be enhanced, required by condition).
- 8.58 Overlooking **southwards**, towards Nos.16, 17, 18 Spindlewood Drive):
- 8.59 As with Paragraph 8.54 above, the impact is mitigated by the wall-to-wall distance in excess of 20m and the intervening landscaping along the boundary and the small wooded area. The rear windows would also be obscure-glazed which is considered appropriate owing to the elevated height of the ground-floor level in relation to the bungalows at the rear.
- 8.60 Overlooking **westwards**, towards No.39 Barnhorn Road (with Nos. 45 and 47 beyond):
- 8.61 The west elevation of the proposed frontage apartment sits more closely with No. 45 with a separating distance of approx. 2m – however, this relationship is not dissimilar from the current arrangement.
- 8.62 The horizontal flank of the Apartment would have obscure glazing. Owing to their proximity to the boundary, it is considered appropriate to require fanlight opening only in order to limit direct outlook.

- 8.63 The nearest outlook from the vertical section of the Apartment is approx. 19.6m looking directly west towards the boundary with No.45. More importantly, the outlook distance between the nearest 'vertical' balcony and neighbour's rear elevation is approx. 36m. As with the east side, the outlook distance from all the side windows/balconies towards the rear-end of the vertical projection increases.
- 8.64 Overall, owing to the shape of the Apartment's planform, its reducing height as it projects towards the rear boundary, distances from the adjoining boundaries, subject to condition for obscure-glazing, fanlight openings and landscaping, would not result in adverse harm to such a significant extent as to warrant a recommendation for refusal.

Access

- 8.65 A summary of National Highways (NH) objections has been set out under CONSULTATIONS above.
- 8.66 Presently, the site consists of three residential properties, each with their access point.
- 8.67 This application seeks to utilise the existing access point serving No.41, measuring 4.4m wide with a 7m wide dropped kerb. The other two dropped kerbs would be stopped-up and reinstated.
- 8.68 It was initially proposed to retain the existing width. However, this is deemed unacceptable by NH owing to the significant number of vehicle movements from a single access point.
- 8.69 The existing accesses are serving one single property each, whereas the proposed development will serve a complex comprising 35 residential units with 14 parking spaces and therefore, as the nature of the access will change the proposal needs to comply with DMRB requirements.
- 8.70 Following negotiations, amended plans have been provided increasing the width of the access to 6.5m. NH have been re-consulted on this but no formal response has been provided at the time of writing this report. **As such and noting NH previous direction not to issue a decision for approval, any decision for approval shall not be issued until National Highways have returned with their updated consultation response, within which, they may require additional conditions be attached to any decision notice. If National Highways maintain their objections, the application must be refused for their stated reason(s).**
- 8.71 NH have additionally recommended conditions requiring the closure of the existing accesses, details of boundary treatment, drainage details and a construction and environment management plan (CEMP).

Parking

- 8.72 Only 14x parking spaces are proposed to serve the 35x dwelling units. Whilst this is an under-provision, having regard to ECSS Highways parking calculator (requiring 21 spaces), they have however, not raised objections owing to the accessibility to shops, amenities, and bus services (whilst acknowledging the evidence base in not up-to-date).

- 8.73 The development also includes mobility-scooter storage (for approx. 5/6 scooters), providing options for those residents who do not wish to be car-reliant.
- 8.74 As per ESCC Highways recommendation, a condition is additionally proposed for secure cycle storage.
- 8.75 Given the significant under-provision of car-parking spaces and the limited mobility scooter storage, it is considered appropriate to require charging points for electric bikes. This would provide a range of options to residents, relieving the pressure for car-reliance and off-site parking.
- 8.76 Alongside the National Planning Policy Framework's objective of working towards a low-carbon future, requiring *planning measures address climate change mitigation and adaptation* (Para 20, 152, 153), the transport policies *requires opportunities from... changing transport technology and usage, are realised... ; opportunities to promote walking, cycling and public transport use are identified and pursued*; to consider *the environmental impacts of traffic and transport infrastructure... including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains* (Para 104) and to consider where development *can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health* (Para 105). In addition, Para 92 supports development that promotes healthy communities and *encourage walking and cycling*.
- 8.77 In this case, it is considered that a condition for electrical charging point for electric bikes is reasonable given the limited options for transport modes. Whilst there are some services/amenities available within walking distance – they are limited. It is likely that a significant number of journeys would be taken to Bexhill town centre.
- 8.78 ESCC Highways have recommended additional conditions – these have been refined and included in the recommended list of conditions should approval be granted. In addition, NH has also required a CEMP so this does not need to be duplicated.

Drainage

- 8.79 This submission is supported by a Flood Risk Assessment (FRA) undertaken by CEP, dated October 2022
- 8.80 Surface water discharge must go through a hierarchy of drainage options in the following order before proceeding with the most appropriate option:
1. Infiltration to ground
 2. Discharge to a watercourse
 3. Discharge to a surface water sewer
 4. Discharge to a foul water sewer
- 8.81 In this case, 2x drainage schemes have been considered by the Applicant:
1. Provision of soakaways based on an assumed filtration rate of 1x10⁻⁶ m/s.

2. Restricted discharge to the existing public surface water sewer beneath Barnhorn Road.
- 8.82 It is proposed that, in the event that infiltration is not possible, a surface water pumping station would be required which would pump surface water from the south of the development to the north, comprising a restricted discharge to the existing public surface water sewer beneath Barnhorn Road.
- 8.83 The PC-LLFA have noted that infiltration may not be possible and that if the Applicants decide to proceed with an infiltration-based drainage strategy, further details should be required in advance. This is secured by condition.
- 8.84 In addition, as per PC-LLFA requirement, Southern Water have confirmed that they can facilitate surface water runoff disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul and surface water sewers to be made by the Applicant or developer.
- 8.85 Any discharge to the public sewer as noted in the response above will be subject to a S106 agreement with Southern Water, the Statutory Undertaker, who have a legal duty to accept the discharge from the site. It will be for Southern Water to agree any change to their surface water discharge rates from their public sewer networks to the Pevensey and Cuckmere Water Level Management Board, if an application to connect to the public sewer is required.

Habitat Regulation Assessment (HRA)

- 8.86 The purpose of the HRA is to consider whether the impact of a proposal would significantly harm the designated features of protected European nature conservation sites. This is undertaken in three stages: Screening, Appropriate Assessment and Derogation.
- 8.87 This application is supported by Habitats Regulations Assessment Stages 1 and 2 undertaken by Tetra Tech, dated April 2023 (henceforth known as a shadow HRA) which was provided by the agent following consultation with ESCC-Ecology; required owing to the potential impacts to the Pevensey Levels-SSSI, SAC and Ramsar Site.
- 8.88 Although the site is not located within the defined boundaries of the SAC and Ramsar, it lies within the defined zone-of-influence which triggers the requirement for a HRA - required to be undertaken by the local authority. The provision of a shadow HRA informs RDC's HRA in understanding the impacts of the development and what measures could be secured to avoid/mitigate adverse impacts.
- 8.89 RDC's HRA, has due regard to the shadow HRA, as well as the submitted Ecological Impact Assessment (EIA) and Flood Risk Assessment (FRA). It concludes that impacts could be mitigated through the use of conditions. As such, no further consideration is required in terms of Stage 3-Derogation.

Ecology

- 8.90 This submission includes an Ecological Impact Assessment (EIA), undertaken by Tyler Grange, dated 20/10/22.
- 8.91 A brief summary of the more pertinent items identified in the EIA is set out below:
- 8.92 Bats: Recording of bats emerging No.41, with Both Nos.41 & 43 having confirmed as supporting a day roost. A licence would therefore be required from Natural England prior to the demolition of the buildings. Recommendations for bat boxes to be installed on suitably mature trees or on the side of the apartment building and for a sensitive lighting scheme.
- 8.93 Birds: removal of buildings and vegetation, should be undertaken outside the nesting bird season (March to August inclusive), otherwise, a thorough search of the site needs to be undertaken by a specialist prior to demolition. In the event a nest is found, an appropriate buffer will need to be retained until the young have fledged and the nest is no longer active.
- 8.94 GCN: limited likelihood of great crested newt being present, a precautionary approach would be adopted. No objections from NatureSpace subject to a pre-commencement condition requiring a Precautionary Working Methods.
- 8.95 Reptiles: Impact is considered unlikely, but a precautionary approach should be applied nonetheless controlled by Construction & Environmental Management Plan – CEMP.
- 8.96 Hedgehog: There may be indirect impacts on hedgehog through the loss of sub-optimal habitat. A precautionary approach to construction activities (to be controlled via the CEMP).
- 8.97 Badgers: a single adult and two juvenile badgers were recorded using the gardens. There may be indirect impacts on badgers through the loss of sub-optimal foraging habitat. Mitigation strategy to be controlled by CEMP.
- 8.98 Overall, a Biodiversity Method Statement, CEMP, Ecological Design Strategy and lighting could be secured by condition to ensure that appropriate precautionary measures would be undertaken to avoid harm to protected species, and to provide enhancement measures.

Trees/Landscaping

- 8.99 This application is supported by an Arboricultural impact appraisal and method statement, undertaken by Barrel Tree Consultancy, dated 29 September 2022 and an indicative landscaping plan.
- 8.100 The proposal would require some significant loss of trees and hedgerows, albeit they are categorised as Category-C (being lower value in terms of their age and spread). All other retained trees will be protected during development by using temporary barriers and those requiring special precautions to limit the impact of encroachment.
- 8.101 Given the significant loss of vegetation, together with an increase in built-form, it is considered appropriate to require a comprehensive landscaping

plan comprising a planting plan (noting species, plant size, position, density) together with a long-term maintenance plan.

Archaeology

8.102 The formal consultation response from ESCC Archaeology states the following:

“The proposed development is of archaeological interest due to its location within a landscape with evidence of human activity from the prehistoric period onwards. Recent archaeological investigations to the north of the site has revealed extensive evidence for prehistoric activity in the form of both artefact scatters and features, including possible evidence for prehistoric land division. Evidence for Late Iron Age/Roman activity in the vicinity of the site includes both structural and industrial evidence. Excavated evidence for medieval activity in the vicinity of the site is rather more limited but includes features and finds of 12th – 1th century date, broadly contemporary with the scheduled remains of Cooden medieval moated site to the south of the application site. The application site appears to have lain within an essentially agricultural landscape for much of the post-medieval period prior to the development of the area in the early 20th century.”

8.103 In light of the potential impacts to the on-site archaeology, a condition is recommended for a programme of archaeological works combining a written scheme of investigation and requirement for a post-investigation assessment.

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 – this carries significant weight. 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, granting permission 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 Framework taken as a whole.

9.3 In this instance, whilst significant weight may be attached to affordable housing contributions, refusing this application on this basis alone does not improve but regresses the Council’s 5YHLS shortfall i.e. at this present time, the Council cannot deliver a sufficient supply of sites to address Rother’s housing need. As such, this significantly tips the planning balance towards the presumption in favour of sustainable development.

9.4 Therefore, on balance, taking account of the above assessment, the lack of affordable housing contribution would be significantly and demonstrably outweighed by the benefits of new housing, including that for older persons where we have a recognised need, when assessed against the policies in the Framework taken as a whole and engaging Paragraph 11(d) of the National Planning Policy Framework.

9.5 It is therefore recommended that planning permission is APPROVED.

RECOMMENDATION: GRANT (FULL PLANNING PERMISSION) subject to conditions and subject to the consultation response from National Highways and their requirements.

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:

PLAN TITLE	REFERENCE	DATED
Proposed site distance & levels plan	20086BX_PL_010_P1	July 2022
Proposed elevation CC2, CC3, DD1&DD2	20086BX_PL_009_P1	July 2022
Proposed elevation & street scene	20086BX_PL_007_P1	July 2022
Proposed roof plan	20086BX_PL_006_P1	July 2022
Proposed first floor plan	20086BX_PL_005_P1	July 2022
Proposed ground floor plan	20086BX_PL_004_P1	July 2022
Proposed lower ground floor plan	20086BX_PL_003_P1	July 2022
Proposed site plan	20086BX_PL_002_P2	15 June 2023
Location plan	20086BX_PL_001_P1	July 2022
Proposed elevation BB1, BB2, CC1	20086BX_PL_008_P2	July 2022
Elevation BB, CC, DD (combined)	20086BX_PL_011 Rev.P1	July 2022
Tree protection plan	22071-01	Received 26/10/22
Barrell Tree Consultancy: Manual for managing trees on development sites	-	Received 26/10/22
Landscape Strategy	JBA 22-239 - SK03	September 2022

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

PRE-COMMENCEMENT CONDITIONS

3. No development shall take place until a Precautionary Working Methods Statement (PWMS) detailing reasonable avoidance measures for Great Crested Newts has been submitted to and approved by the Local Planning Authority. Works shall be undertaken in accordance with the approved document.

Reason: "To minimise the impacts of development on biodiversity, in accordance with Policy DEN4 of the Development and Site Allocation Plan, Policy EN5 of the Rother District Core Strategy Local Plan, section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006."

4. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP1) in respect of ecological matters has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) site specific surface water pollution mitigation strategy to demonstrate how potential hydrological impacts to Pevensy Levels will be mitigated;
- b) risk assessment of potentially damaging construction activities, including to Pevensy Levels;
- c) identification of "biodiversity protection zones";
- d) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) the location and timing of sensitive works to avoid harm to biodiversity features;
- f) the times during construction when specialist ecologists need to be present on site to oversee works;
- g) responsible persons and lines of communication;
- h) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- i) use of protective fences, exclusion barriers and warning signs.

Reason: To ensure that any adverse environmental impacts to the Pevensy Levels-SSSI SAC and Ramsar site, as a result of development activities are mitigated, in accordance with Policy DEN4 and DEN7 of the Development and Site Allocation Plan, Policy EN5 of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and Site Allocation Plan, coupled with the requirements of paragraphs 174, 179 and 180 of the National Planning Policy Framework 2021.

5. No development shall take place (including any demolition, ground works, site clearance) until a Biodiversity Method Statement (BMS) for the protection of a) badgers b) reptiles c) amphibians d) hedgehogs and e) invasive plants, 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 habitats and species identified in the PEA 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, Policy DEN4 of the Development and Site Allocation Plan, Policy EN5 of the Rother District Core Strategy Local Plan, section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.”

6. No development shall take place until an ecological design strategy (EDS) addressing compensation for the loss of habitat, protection of retained habitat (boundary/buffer planting), bird and bat box specifications and enhancement of the site to provide measurable biodiversity net gain, in line with the recommendations in the Landscape Strategy (James Blake Associates, September 2022, Ref: JBA 22-239 - SK03 Rev.A) and EclA (Tyler Grange, October 2022, Ref: 14961_R01a_CS_CW) 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 ensure that any adverse environmental impacts of development activities can be mitigated, compensated, and restored and that the proposed design, specification and implementation can demonstrate this, and 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 Rother Local Plan Core Strategy 2014, and Policy DEN4 of the Development and Site Allocation Plan.

7. No works shall commence on the site hereby permitted (including site clearance or preparation) until the details of a Construction Environmental Management Plan (CEMP2) in respect of highway matters, has been submitted to and approved in writing by the Local Planning Authority (who

shall consult with National Highways). Thereafter the construction of the development shall proceed in strict accordance with the approved Construction Environmental Management Plan unless otherwise agreed in writing by the Local Planning Authority (who shall consult National Highways). Informative: The CEMP shall include details (text, maps, and drawings as appropriate) of the scale, timing and mitigation of all construction related aspects of the development. It will include but is not limited to: site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit delivery journeys on the SRN during highway peak hours such as the use vehicle booking systems etc); measures to ensure that HGV loads are adequately secured, travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries; plus sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway (and means to remove if it occurs).

Reason: To ensure that the A259 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

8. No part of the development hereby permitted shall commence until drainage details have been submitted to and approved in writing by the Local Planning Authority, to ensure that drainage does not flow to or from the highway. The approved drainage details shall thereafter be constructed in accordance with the approved plans and maintained in perpetuity.

Reason: To ensure that the A259 trunk road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and paragraph 59 of DfT Circular 01/22, to satisfy the reasonable requirements of road safety.

9. No part of the development hereby permitted shall commence until details of the boundary treatment adjacent to the A259 boundary have been submitted to and approved in writing by the Local Planning Authority (who shall consult National Highways). The approved boundary treatment shall thereafter be constructed in accordance with the approved plans and maintained in perpetuity.

Reason: To ensure that the A259 trunk road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

Informative: For reasons of safety, liability and maintenance, all fences, barriers, screening and other structures must be erected on the developer's land, and far enough within the developer's land to enable maintenance to take place without encroachment onto highway land.

10. 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 below ground is safeguarded and recorded to comply with the National Planning Policy Framework and Policy EN2 (vi) of the Rother Local Plan Core Strategy.

OTHER CONDITIONS

11. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under condition 10.

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.

12. Demolition of the dwellings (Nos. 41, 41a and 43 Barnhorn Road) shall not be carried out until confirmation has been submitted to the Local Planning Authority of either of the following options:

a) a licence issued by Natural England, pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017, as amended, authorizing the specified activity/development (the subject of this application) to go ahead;

or;

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development (the subject of this application) will require a licence.

Reason: To ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to DEN4 of the Development and Site Allocation Plan, Policy EN5 of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and Site Allocation Plan, coupled with the requirements of paragraphs 174, 179 and 180 of the National Planning Policy Framework 2021.

13. No works/construction above ground-level shall be undertaken until an appropriate drainage strategy is submitted to and approved in writing by Local Planning Authority which shall comprise one (or both) of the following options:

a) If it is proposed to proceed with an infiltration-based drainage strategy, details shall be submitted of the infiltration testing which shall be carried out to BRE365 standard in the location and at the depth of the proposed soakaways. This shall include groundwater monitoring which would be required to be undertaken between November and April, using dataloggers, to determine whether high groundwater levels will preclude the use infiltration at the site.

b) If it is proposed to rely on pumping to the surface water sewer, details shall be submitted of the pumps with one to act as a back-up in the event of pump failure.

Reason: The details required are integral to the whole development to ensure the satisfactory drainage of the site, to prevent water pollution and to protect the Pevensey Levels SSSI SAC and Ramsar site, in accordance with Policies OSS4 (iii & viii) and EN1, EN5 and EN7 of the Rother Local Plan Core Strategy, and Policy DEN1, DEN4 and DEN5 of the Development and Site Allocation Plan.

14. Prior to the installation of any external lighting or first occupation/use of the development hereby approved, a “lighting design strategy for biodiversity” shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and/or technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. This will include no direct lighting of boundary/buffer planting with light spill onto other habitats reduced to acceptable levels.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the planning authority. Reason: Many species active at night (e.g. bats and badgers) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. The details are therefore required having regard to Policies OSS4 (iv) and EN1 and EN5 of the Rother Local Plan Core Strategy, and Policy DEN1, DEN4 and DEN5 of the Development and Site Allocation Plan.

15. No development above ground level shall take place on any part of the site until the hard and soft landscaping details have been submitted to and approved by the Local Planning Authority, which shall include:
- a) indications of all existing trees and hedgerows to be retained;
 - b) planting plans;
 - c) written specifications (including cultivation and other operations associated with plant and grass establishment);
 - d) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
 - e) implementation and maintenance programme;
 - f) proposed finished levels or contours;
 - g) means of enclosure (fences and walls);
 - h) hard surfacing materials (road surface, cycleways, footpaths, parking spaces including curbs and tactile paving);
 - i) lighting strategy, including proposed locations and product specifications (having regard to Condition13); and
 - j) minor structures (e.g. pumping station etc).

Prior to the first occupation/use of the development hereby approved, both the soft landscaping plan and hard landscaping plan shall be implemented and completed in their entirety in accordance with the approved plans and thereafter shall be retained.

If within a period of five years from the date of the planting, any tree or plant is removed, uprooted, destroyed or dies, [or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective] another tree or plant of the same species and size as that originally planted shall be planted

at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the creation of a high-quality landscape setting; to ensure the ongoing enhancement of the development which collectively, would additionally mitigate and enhance biodiversity net-gain provisions; and in accordance with Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy.

16. 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 tree(s) 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.

17. Prior to the first occupation/use of the development hereby approved, the parking areas (which shall measure at least 2.5m by 5m (plus extra 50cm where the spaces abut a wall) shall be provided in accordance with the approved plans/details, and thereafter retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To provide adequate space for the parking of vehicles in order to provide a satisfactory standard of development, having regard to Policy TR4 and OSS4 (i & iv) of the Rother Local Plan Core Strategy.

18. Prior to the first occupation/use of the development hereby approved, details/plans for secure and covered cycle parkin/storage shall be submitted to and approved in writing by the Planning Authority in consultation with the Highway 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 having regards to Paragraphs 20, 104, 105 152, 153 of the National Planning Policy Framework and Policy TR2, TR3 of the Rother Local Plan Core Strategy.
19. Prior to the first occupation/use of the development hereby approved, details/plans for the installation of electric vehicle and electric bike charging infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, made operational, and retained thereafter.
Reason: To ensure sustainable development in order to mitigate the impacts climate change, and to provide a range of options for sustainable modes of travel, having regards to Paragraphs 20, 104, 105 152, 153 of the National Planning Policy Framework and Policy TR2, TR3, SRM1 of the Rother Local Plan Core Strategy.
20. Prior to any above-ground construction/works, details of the siting and form of the refuse/recycling store, mobility scooter storage and sub-station shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall be implemented and thereafter retained.
Reason: To ensure the provision of adequate amenities for the residents and to safeguard the visual amenities of the locality in accordance with Policy OSS4 (i & iv) of the Rother Local Plan Core Strategy.
21. 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 fences, gates, walls, or any other means of enclosure, shall be erected along the front (north) boundary of the application site.
Reason: To safeguard the character and appearance of the development having regard to the street scene, in accordance with Policy OSS4 (iii) of the Rother Local Plan Core Strategy.
22. Prior to the first occupation of the development hereby approved, the ground-floor and first-floor windows in the east and west elevation (serving Flats 11, 20, 19, 30 and 34) shall be incapable of being opened except for a top-hung opening and shall be retained as such thereafter.
Reason: To avoid harmful overlooking and safeguard the privacy of the occupiers of the adjoining properties at 39 and 45 Barnhorn Road having regard to Policy OSS4 (ii) of the Rother Local Plan Core Strategy and Policy DHG9(i) of the Rother Development and Site Allocations Plan, coupled with the requirements of paragraph 130 of the National Planning Policy Framework 2021.
23. At the time of construction and prior to the first occupation or use of the development hereby approved, obscure glazing (equivalent to scale 5 on the Pilkington Glass Scale) shall be installed where detailed in the approved plans and shall be retained as such thereafter.

Reason: To safeguard the privacy of the occupiers of the adjoining property having regard to Policy OSS4 (ii) of the Rother Local Plan Core Strategy and Policy DHG9(i) of the Rother Development and Site Allocations Plan, coupled with the requirements of paragraph 130 of the National Planning Policy Framework 2021.

NOTES

1. The development is subject to the Community Infrastructure Levy (CIL). Full details will be set out in the CIL Liability Notice which will be issued in conjunction with this decision. All interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.
2. The Applicant will be required to enter into a Section 184 and 171 Licence with East Sussex Highways, for the provision of the widened vehicular access, closure of the existing accesses, and any other works related to the highway. 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.
3. Roadworks Permit: 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.
4. 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.
5. 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.
6. Breeding birds note: 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 adjacent to the works 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.

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.