



## Rother District Council

Report to	-	Planning Committee
Date	-	15 February 2024
Report of the	-	Director – Place and Climate Change
Subject	-	Application RR/2023/1487/P
Address	-	Blackfriars – Land at, Battle
Proposal	-	Variation of Condition 1 imposed on planning permission RR/2022/1330/P to allow further design improvements including changes to unit types, plot layouts, parking, materials, and landscaping and proposal for the whole site to be market housing.

[View application/correspondence](#)

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**RECOMMENDATION:** It be **RESOLVED** to **GRANT PLANNING WITH VARIATION OF AND ADDITION TO THE CONDITIONS WHERE REQUIRED AND MODIFICATION OF THE SECTION 106 PLANNING OBLIGATION WITH REGARD TO AFFORDABLE HOUSING AND INTRODUCTION OF A REVIEW MECHANISM.**

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**Director: Ben Hook**

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<b>Applicant:</b>	<b>Rother DC Housing Company Ltd</b>
<b>Agent:</b>	<b>Robinson Escott Planning</b>
<b>Case Officer:</b>	<b>Mrs Sarah Shepherd</b> (Email: <a href="mailto:sarah.shepherd@rother.gov.uk">sarah.shepherd@rother.gov.uk</a> )

<b>Parish:</b>	<b>BATTLE</b>
<b>Ward Members:</b>	<b>Councillor Mrs V. Cook</b>

**Reason for Committee consideration: Council owned land**

**Statutory 13 week date: 14 July 2023**  
**Extension of time agreed to: 30 March 2024**

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### 1.0 SUMMARY

- 1.1 This application seeks variations to the approved plans and includes the submission of a Financial Viability (FV) Report with regard to the development now only being able to support market housing at this time. The Applicant has consequently requested an amendment to the Section 106 for the site to include a 'review mechanism' with regard to affordable housing and thus provide a mechanism going forward for inclusion of affordable housing should the situation change. Nothing in the application results in significant material changes to the scheme. The numbers of units remain unaltered and the layout has minor variations resulting from a reduction in the number of apartments and maisonettes; removal of the Passive Haus and earth sheltered properties

but overall improvement to energy efficiency to all properties; enhanced spacing between properties; variations to materials following use of more traditional design/construction away from the modular approach previously proposed; increased on plot parking and fewer parking courts; variations to secondary roads responding to levels and dustcart turning, revised housing design, spacing and landscaping improvements. The phasing remains construction of the spine road first (already under construction), then followed by the individual plots (fields) afterwards, starting with the northern most field (Plot 1) off Harrier Lane first, followed by the central field (Plot 2) and then Plot 3 the top field to the south and adjacent The Spinney last.

1.2 The proposed revisions to details have been subject to further refinement during the course of the application and the amendments to design are considered acceptable and to accord with policy and are recommended for approval.

1.3 The FV Report concludes that the proposals cannot support the provision of affordable housing on site or a contribution for offsite. The Council as Local Planning Authority has sought an independent Viability Assessment and this suggest, even with some adjustment of some figures, that the scheme could not viably provide any affordable housing or off-site contribution. The recommendation, and as suggested by the Applicant, is for modification of the Section 106 for the site to include a 'review mechanism' with regard to affordable housing and thus provide a mechanism going forward for inclusion of affordable housing should the situation change.

1.4 **PROPOSAL DETAILS**

<b>PROVISION</b>	
No of houses	200
No of affordable houses	0
Other developer contributions 1	Landscape management
Other developer contributions 2	Ecological mitigation and enhancement
Other developer contributions 3	Local Employment and Skills plan
Other developer contributions 4	Off-site highway works
CIL (approx.)	£4,268,433 (17,678sqm)
New Homes Bonus (approx.)	£1,336,800

**2.0 SITE**

2.1 The site the subject of this application is sloping rough grassland on the east side of Battle between Harrier Lane and Knights Meadow to the north, Starrs Mead/Hastings Road to the south/east and Harold Terrace, Kingsdale Close and the railway to the west. Collectively the area has been known for many years as Blackfriars.

2.2 The land lies within the High Weald National Landscape (Area of Outstanding Natural Beauty) and is in parts steeply sloping from the high part at Highlands Farm/Starrs Mead northwards down to Harrier Lane. The field boundaries have become very overgrown and contain many trees of mostly deciduous species. There is an area of woodland to the southeast corner spreading northwards around a more centralised wetland valley. All contribute to the

character and environmental value of the site. Ancient woodland lies outside the site to the northeast.

2.3 Two public footpaths cross the land which in total extends to about 15 hectares. The Emmanuel Centre and Church is located centrally on the northern edge of the site accessed off Harrier Lane.

2.4 It will be noted that the developable part of the site subject of this application relates to the three field parcels down the western side. The parcel of identified developable area to the northeast corner, also subject of the outline permission, is excluded from this application and lies in separate ownership. A separate application for reserved matters has recently been received under planning reference RR/2023/2581/P.

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### **3.0 PROPOSAL**

3.1 This application proposes the following amendments:

- Reduction in apartments and maisonettes, replaced with more houses (proposal still for 200 units).
- Removal of Passive Haus and Earth Sheltered properties but overall improvement to energy efficiency to all properties across the site.
- General layout improvements to Plots 1, 2 and 3 including enhanced distances to neighbouring properties.
- Distinctive materials palette across each plot – reflecting use of more traditional design/construction away from the modular approach previously proposed.
- All units now two storeys in scale.
- Greater levels of on plot parking with reduction in parking courts.
- Altered and slightly increased secondary road locations off main spine road in Plots 1, 2 and 3.
- Improved landscaping across the development and altered pedestrian routes away from spine road, including trees and large shrubs to the spine road.
- Submission of FV Appraisal proposing full market housing at this stage as provision of affordable housing is not currently viable.

3.2 The submitted Planning Addendum to the Design and Access Statement details the proposed changes, along with the submitted plans and other addendums and details with regard to drainage, landscaping, roads and pathways and the submitted FV Appraisal.

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### **4.0 HISTORY**

4.1 RR/1999/71/P Outline for Residential Development (Highlands Farm only) – called in by the Secretary of State – Outline Planning Permission Refused 4 October 2000, noting that the grant of planning permission would undermine a comprehensive consideration of all sites according to their merits through the Local Plan process and that development of the site would be premature given the then early stage of the Rother District Local Plan.

- 4.2 RR/2007/1896/P Outline: Erection of up to 250 dwellings; construction of new spine road from The Spinney (Hastings Road) to Harrier Lane; construction of access roads, footpaths, services, foul and surface water drainage infrastructure including two drainage basins; provision of public open space/wildlife eco-park; provision of land for a primary school; children's play area and all ancillary works. Planning Committee resolved to grant planning permission subject to completion of a Section 106. This was never completed.
- 4.3 RR/2019/604/P Outline: Detailed proposals for a spine road to serve residential development, with vehicular access off Harrier Lane and The Spinney, with Master Plan for up to 220 dwellings and associated works. APPROVED CONDITIONAL SUBJECT TO SECTION 106.
- 4.4 RR/2020/2307/P Reserved Matters relating to residential development for 200 No. dwellings (outline permission RR/2019/604/P) to include 1, 2, 3 and 4 bedroom units with associated works including parking, access roads, drainage proposals and hard and soft landscaping. APPROVED CONDITIONAL.
- 4.5 RR/2022/1330/P Variation of Condition 1 imposed on planning permission RR/2020/2307/P to allow alterations to the elevations and floor plans of the dwellings, alterations to the access and parking for the development and materials. Variation of outline permission RR/2019/604/P to phase construction of the development. APPROVED CONDITIONAL.
- 4.6 RR/2023/2581/P Reserved matters for details of (layout, appearance, landscaping and scale) for plots 1-7 to include 1- and 3-bedroom affordable homes with associated parking, access roads, drainage proposals pursuant to outline planning permission RR/2019/604/P with design guide for 13 conceptual 5 bedroom self-build units.

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## 5.0 POLICIES

- 5.1 The following 'saved' policies of the adopted [Rother District Local Plan 2006](#) are relevant to the proposal:

- BT2: Land at Blackfriars, which states:

*"Land at Blackfriars, Battle, as defined on the Proposals Map, is allocated for housing, education and open space purposes, to be brought forward through a comprehensive scheme.*

*Two areas, totalling approximately 7.3 hectares, would be allocated for residential use, providing at least 220 dwellings (40% of which would be affordable1). Other land between the two areas for residential development is allocated for a single form entry primary school and to provide a large area of open space. The development will be accessed by a new spine road, from*

*the south from Hastings Road, off The Spinney, and from the north via Harrier Lane off Marley Lane. A Transport Assessment will be required.*

*Developer contributions will be required towards both primary and secondary school provision and to provide for a children's play area on land adjacent to the housing allocation. In addition, developer contributions will be required to secure the provision of the spine road and other accessibility improvements. The pedestrian link across the railway is subject to further detailed examination of its viability and, if necessary, developer contributions for its provision will be required."*

- 5.2 It should be noted that the amount of affordable housing now being sought is 35%. This part of the policy has been superseded by the strategic policy revision through the Rother Local Plan Core Strategy and Development and Site Allocations (DaSA).
- 5.3 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:
- OSS1: Overall spatial development strategy (additional dwellings required)
  - OSS2: Use of development boundaries
  - OSS3: Location of development
  - OSS4: General development considerations
  - BA1: Sets out the policy framework for Battle
  - SRM2: Water supply and wastewater management
  - CO1: Community facilities and services
  - CO3: Improving sports and recreation provision
  - LHN1: Achieving mixed and balanced communities
  - LHN2: Affordable housing
  - EN1: Landscape stewardship
  - EN3: Design quality
  - EN5: Biodiversity and green space
  - EN7: Flood risk and development
  - TR2: Integrated transport
  - TR3: Access and new development
  - TR4: Car parking
- 5.4 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:
- DHG1: Affordable housing, 35% in Battle
  - DHG3: Residential internal space standards
  - DHG4: Accessible and adaptable homes
  - DHG7: External residential areas
  - DHG11: Boundary treatments
  - DHG12: Accesses and drives
  - DEN1: Maintaining landscape character
  - DEN2: The High Weald AONB
  - DEN4: Biodiversity and green space
  - DEN5: Sustainable drainage
- 5.5 The [Battle Neighbourhood Plan](#) includes design guidelines and the following relevant policies:
- HD1: Development Boundaries

- HD2: Site Allocations (includes Blackfriars)
  - HD3: Housing mix
  - HD4: Quality of design
  - HD5: Protection of landscape character
  - HD7: Integration of new housing
  - IN3: Parking and new development
  - IN4: Pedestrian provision and safety
  - EN2: Conservation of the natural environment, ecosystems and biodiversity
  - EN3: The High Weald AONB and countryside protection
- 5.6 The following Council documents are considered relevant to the proposal: Corporate Plan and Housing and Homelessness and Rough Sleeping Strategy.
- 5.7 The National Planning Policy Framework and Planning Practice Guidance are also material considerations, with particular reference to:
- Paragraphs 8, 11, 14 core planning principles for sustainable development
  - Paragraphs 104, 109 and 111 transport and parking
  - Paragraphs 64 and 66, affordable housing
  - Paragraphs 74, 77, 78 and 79, five-year supply of deliverable housing sites
  - Paragraph 180 and 182, protection of the AONB
  - Paragraphs 186, conservation and enhancement of biodiversity
- 5.8 The High Weald Management Plan and Housing Design Guide are also material considerations. Relevant objectives of the Management Plan include:
- S2: To protect the historic pattern and character of settlement
  - S3: To enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design
  - G1: To restore the natural function of rivers, water courses and water bodies
  - G2: To protect and enhance soils, sandstone outcrops, and other important landform and geological features
  - G3: To help secure climatic conditions and rates of change which support continued conservation and enhancement of the High Weald's valued landscape and habitats
  - R1: To maintain the historic pattern and features of routeways
  - W1: To maintain the existing extent of woodland and particularly ancient woodland
  - W2: To enhance the ecological quality and functioning of woodland at a landscape scale
  - FH2: To maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands
  - FH3: To enhance the ecological function of field and heath as part of the complex mosaic of High Weald habitats
  - OQ3: To develop and manage access to maximise opportunities for everyone to enjoy, appreciate and understand the character of the AONB while conserving its natural beauty
  - OQ4: To protect and promote the perceptual qualities that people value

- 5.9 For information, on 22 November 2023 all designated Areas of Outstanding Beauty (AONBs) in England and Wales became 'National Landscapes' (NLs). Thus, the High Weald AONB is now the High Weald National Landscape (HWNL). Its legal designation and policy status remain the same.
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## **6.0 CONSULTATIONS**

### **6.1 Highway Authority – NO OBJECTION**

- 6.1.1 Comments that: This application seeks consent for the variation of Condition 1 imposed on planning application reference RR/2022/1330/P for 200 dwellings to allow for layout amendments. A number of revised plans have been submitted with the matter of interest to the Highway Authority, the amendments to the internal road layout, footways and parking areas.
- 6.1.2 Footways have now been provided on main spine roads throughout the site to improve pedestrian accessibility to the site. The secondary road locations from the main spine road have been amended for plots 1, 2 and 3 in order to aid turning and allow for refuse vehicles to reach within 25m of the bin storage point.
- 6.1.3 Parking is noted from the previous layout the amount of court parking has been reduced with more on plot parking. However, this has resulted in increased tandem parking on main spine roads which will be offered for adoption and is far from ideal.
- 6.1.4 Turning heads have now been provided with tracking drawings of a refuse vehicle and fire appliance entering, manoeuvring and egressing the site within the roads that will be offered for adoption. However, refuse vehicles are required to reverse back onto the main spine road from the southwest secondary road on plot 1, northeast secondary road on plot 2 and southwest secondary road on plot 2 which is not ideal. However, these movements will only occur weekly on an unclassified road meaning an objection would be difficult to justify. The tracking drawings now demonstrate the vehicles can enter/egress both from Harrier Lane and The Spinney. The size of the refuse vehicle used for tracking has not been specified, however, this should be specified with Rother District Council's waste team to ensure they are content with the size vehicle used and the tracking movements of the refuse vehicle.

### **6.2 Highways England – NO OBJECTION**

- 6.2.1 We are satisfied that the proposal would not materially affect the safety, reliability and/or operation of the strategic road network (SRN) (the tests set out in DfT C2/13 paragraph 10 and MHCLG National Planning Policy Framework paragraph 111).

### **6.3 County Ecologist – NO COMMENT RECEIVED**

- 6.3.1 Initially requested additional information. Noted that the changes to layout have moved the built form in general away from wooded boundaries, which is supported. Specifically queried dormouse mitigation/licencing, Knights Meadow Wood buffer, removal of Category A trees, including a veteran tree, and tree bat roosting potential, and the need for suitable updated mitigation,



compensation and enhancement as may be necessary. Most points to be addressed by the conditions.

- 6.3.2 At the time of writing, the County Ecologist has not provided further comment on the submission of requested information. However, any comment received will be reported as an update to the report.

6.4 County Landscape Architect – **NO OBJECTION**

- 6.4.1 An addendum to the original Landscape and Visual Impact Assessment (LVIA) which accompanied the previous application has been provided to assess the landscape and visual effects of the changes to the scheme. The LVIA concludes that the changes would be positive in terms of the effects on landscape character. The LVIA suggests that reduced building heights to maximum of 2-storeys would reduce the overall visual effects on surrounding areas. These findings are not disputed.

- 6.4.2 The revised layout would provide improved garden spaces with less need for retaining walls within gardens and this is welcomed.

- 6.4.3 The landscape masterplan is generally acceptable. It is noted that there is a lack of street tree planting along the access roads. It is recommended that the developer is required to consider street trees along the main spine access road as a minimum as this is a requirement of the National Planning Policy Framework paragraph 131.

- 6.4.4 The proposed detailed specifications for hard and soft landscape are acceptable.

- 6.4.5 The lighting design needs to have regard to the High Weald AONB dark night skies project. Lighting of public areas needs to be kept to a minimum. Where street light columns are required for safety purposes these should be full cut off lamps and of a brightness that would minimise potential impacts on the dark night skies of the area.

6.5 Lead Local Flood Authority (LLFA) (ESCC) – **NO OBJECTION**

- 6.5.1 The information provided is satisfactory and enables the LLFA to determine that the proposed development is capable of managing flood risk effectively. It is noted that *The Applicant has provided a technical design similar to the level of detail which was provided for the previous approval of details application. This is acceptable in confirming the revised layout is achievable, but we would still wish to apply a detailed design condition.*

6.6 Southern Water – **NO OBJECTION**

- 6.6.1 No comments.

6.7 Environment Agency – **NO OBJECTION**

- 6.7.1 No comments.

6.8 Housing Enabling and Development Officer – **NO OBJECTION**

- 6.8.1 The Housing Enabling Officer has considered the FV Appraisal compiled by Section 106 Management dated 15 November and the FV Assessment Review undertaken by the independent assessor dated 19 January 2024. The Section 106 Management report shows a Residual Land Value of -£15,947,663 for the currently consented mix of housing with 70 affordable units. This scheme is shown to be loss making with a loss being made of 6.01%.

There is then some small improvement in viability for a wholly Open Market Sale scheme showing a Residual Land Value -£12,672,470 and a very small level of profit of 4.09%

The level of profit shown is far smaller than that stated in Planning Practice Guidance of 15-20%. The Housing and Enabling Officer would not normally expect a market development to proceed that was demonstrating only very marginal viability such as is the case here.

It is noted that the per square metre (PSM) sales valuers of some property types, particularly maisonettes are disputed in the independent assessor's appraisal. Despite uprating this value by around 10% (£3,651 to £4,000psm) the scheme still falls well short of accepted criteria for viability.

The comments from the independent assessor regarding the very high build costs on the site are noted. These costs do indeed stand far higher than BCIS data and average costs for other developments in Rother though. Given the history of site and very significant costs relating to topography and ecology that independent assessor acknowledges these high build costs are understood and accepted.

Therefore, the Housing and Enabling Officer agrees with the findings of both the Applicant's original FV Appraisal and the independent assessor's review that regrettably the delivery of affordable housing as ordinarily required by policy is not viable in this instance.

## 6.9 Sussex Police – **NO OBJECTION**

- 6.9.1 Comments that the Secure By Design (SBD) Homes document has been updated and is now 2023 version. Notes that in general there is good active frontage but some unobserved rear parking courts. New footpaths should be carefully designed and advise is provided on this to avoid crime. Comments that planting should not impede natural surveillance and wayfinding and frontages should be open to view. Recommends dusk to dawn external lighting to homes but note care required for dark sky areas. Construction site security guidance also offered.

## 6.10 County Archaeologist – **NO OBJECTION**

- 6.10.1 No comments. Previous conditions still apply.

## 6.11 High Weald Unit – No comment received.

## 6.12 Ramblers – **OBJECT** to lack of footpath detail

6.12.1 While not objecting in principle, they initially objected to potential rerouting of public footpath 76 such as to utilise a section of new road. It is proposed to amend this as noted on the amended plan. No further comment received to amendment.

### 6.13 Planning Notice

6.13.1 Three letters of objection summarised as follows:

- No improvement to local infrastructure.
- Who will be responsible for flooding in winter and drought in summer?
- Overdevelopment of unstable land.
- Impacts on dormice particularly from pets, namely cats.
- Lack of information regarding loss of affordable housing.
- Too many full height brick elevations.
- Parking court not overlooked.
- Lack of tree-lined streets.

6.13.2 One letter of support summarised as follows:

- Support much needed development and design in general but disappointed with roofscape.

### 6.14 Battle Town Council – **OBJECTION**

6.14.1 The TC maintains their objection and particularly notes:

- The application description refers to the whole site to be market housing. This is contrary to all guidelines for affordable housing and strongly oppose this.
- Elements are contrary to their design policy and the High Weald Design Guide with partial clad ground floors and too many full height brick elevations.
- Poor roofscape with proliferation of standard boxy roofs.
- Proposed meandering footpath diversion to west will not be followed should be more direct.
- Should reduce hard surfacing by relocating parking in field 2 and reducing hammerhead in field 3.
- Rear parking courts poorly overlooked and relied upon too heavily.
- Cycle stores should be sited to encourage active travel, towards or adjacent to access point.
- Lack of street planting.
- Lighting needs to be a minimum and minimise impacts to dark skies.
- Planting to be native and drought-resistant.
- Details indicate five litres per day per person for external use – this can be omitted/minimised by inclusion of rainwater harvesting.
- Swales would assist flood prevention.

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## 7.0 **LOCAL FINANCE CONSIDERATIONS**

7.1 The proposal is for a type of development that is Community Infrastructure Levy (CIL) liable. The total amount of CIL money to be received is subject to change. As a full market housing scheme, the development could generate around £4,268,433.45 of CIL. Up from the previous calculation of

approximately £2,835,706 for a policy compliant scheme that included affordable housing.

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 £1,336,800 over four years.

7.3 Construction of the spine road is the subject of a grant offer via the Housing Infrastructure Fund (HIF) from Homes England.

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## 8.0 APPRAISAL

### Principle of development

8.1 The principle of development here in respect of constructing a spine road to serve 200 dwellings has already been established and approved via outline permission and approval of reserved matters. The matters for consideration in respect of this application are those set out in the variations proposed above and stem from design objectives that sought to address the following matters:

- Provide a range of NSS compliant family homes across the site.
- Incorporate 5% M4(3) accessible units (& parking) in line with planning policy.
- Optimise unit mix by reducing the number of maisonettes and replacing them with an increased number of family houses.
- Improve the fabric of the building envelopes and provide lower energy homes site wide.
- Introduce a tenure blind materials palette which is reflective of the local vernacular.
- Improve site permeability and connect to existing Public Right of Way.
- Introduce clear street hierarchy comprising of the spine road (consented design), secondary access roads and shared surface private drives/ mews streets.
- Introduce adequate turning heads to all secondary roads to provide improved access for emergency vehicles and refuse lorries.
- Provide on plot parking where possible.
- Provide rear garden access to majority of units via on plot parking, or through the introduction of designated access paths.
- Integrate refuse and cycle storage in rear gardens or through the introduction of designated storage areas within front porches.
- Introduce communal refuse and cycle stores where required.
- Reduce extent of retaining walls and improve gardens to dwellings.
- Reduce the overall hard standing across the site.
- Reduce the amount of cut and fill.
- Minimise overlooking to neighbouring properties.

8.2 Part of that work has also resulted in a review of finances and costs for the development. This has resulted in the submission of a FV Appraisal proposing full market housing at this stage as provision of affordable housing is not currently a viable option.

- 8.3 Along with the assessment of viability in relation to the provision of affordable housing, the pertinent considerations are whether the proposed variations would have any impacts on the previous considerations in respect of: character and appearance of the area and wider National Landscape (AONB); highways; landscaping; neighbours.

Removal of Affordable Housing and Inclusion of a review mechanism in relation to viability

- 8.4 The Applicant has submitted a FV Report based on current predicted costings and sales values. The Council has also undertaken, at the Applicant's cost, an independent FV Assessment which has also reviewed the Applicant's submitted report. The independent assessment concludes in the summary:

The independent FV Assessment based on the assumptions that the 'assessor' considers acceptable for appraising the site, considered three tests as summarised below:

**Test 1:** The proposed scheme is tested with the policy compliant 35% affordable housing mix, which is identified to not be viable, with a negative financial headroom of some -£6m.

**Test 2:** The proposed scheme is tested with the Applicant's proposal for no affordable units but with the same mix of unit types (instead of just the semi-detached and detached units tested in the Applicant's FV Assessment), which is still identified to be unviable by around £1.7m.

**Test 3:** Through iterative testing, the proposed scheme was retested at different profit levels, and again with no affordable units but with the same mix of units and with 14.5% profit, the scheme is viable leaving a very small headroom of £7,000.

<b>FVA Viability Summary Residual Value Results and Headroom Proposed scheme</b>	<b>Residual Site Value</b>	<b>Benchmark Site Value</b>	<b>Headroom</b>
Test 1 – 35% affordable units	-£4,828,483	£1,260,000	-£6,088,483
Test 2 – 0% affordable units	-£402,241	£1,260,000	-£1,662,241
Test 3 – 0% affordable units and 14.5% profit	£1,266,940	£1,260,000	£6,940

On the basis of the above, the report concludes that based on this FV review, the FV Assessment identifies that any affordable housing within the proposed scheme mix would make the scheme unviable. With no affordable housing, and a maximum profit rate of 14.5%, which would be close to the level required for a developer to bring the scheme forward, the site would be considered viable with the current mix of proposed dwellings.

The independent 'Assessor' accepts the Applicant's FV Appraisal conclusion and state 'in response to our consideration and assessment of the evidence, we conclude that we do agree with some of the Applicant's FV Appraisal tested development assumptions and we do agree with their conclusion that the proposed scheme of 200 dwellings would not be viable with any affordable units included within the mix. Nor would there be any headroom for providing a financial contribution from the scheme towards the off-site delivery of

affordable units. We do consider that the proposed site with the proposed mix of different housing types, including maisonettes, terraced, semi-detached and detached houses, are deliverable in the proposed form, with a lean profit of 14.5% of gross development value'.

- 8.5 At the time of writing, the Council's Housing and Enabling Officer has not provided additional comment to report. However, any comment received will be reported by an update to the report.
- 8.6 While the local policy does not currently include reference to a review mechanism, (being incorporated by the Local Plan review as per updated national guidance), the Applicant has offered inclusion of the review mechanism in modification of the Section 106.
- 8.7 Due to the extremely high abnormal costs for the development of this particular site, the provision of affordable housing on site or a contribution for offsite is not currently viable and hence the inclusion of a review mechanism to allow this situation to be monitored and to allow the possibility for a contribution to be sought in the future, should finances allow, should thus be included as a modification of the Section 106.

#### Design, Character and appearance of the area

- 8.8 The overall design ethos for a modular construction with the same size and type of property across the whole site has been changed and it is now proposed to use a more standard construction method resulting in a higher variation of finishes across the site. No second-floor accommodation is now proposed and the changes have provided a reduction in the use of retaining walls. Comments in respect of design are noted. The roof scape is no less varied now than under the previous schemes. General materials remain the same with a mix of brick, tile hanging and cladding to the walls and a mix of slate and clay tile to the roofs. The materials reflecting those found within the surrounding town of Battle. While some full height brick elevations have been introduced, examples of those found within the historic town of Battle have been used to justify this mix. Brick detailing including headers and cills are proposed as part of the details. A variation in colour is also proposed for the bricks and cladding to differentiate between the different development plots and give each area its own identity. Overall, the proposed changes are not considered to represent a fundamental change to the site and are considered acceptable.
- 8.9 The scheme continues to be promoted by the Applicant as having high sustainable objectives, which is to be applauded, seeking to meet the Home Quality Mark (HQM) standards through measures including sustainable construction, energy efficiency and water saving measures. A mix of sustainable energy technologies are now proposed (not just solar panels) and to include air source heat pumps. Electric vehicle charging points are also proposed throughout the site with the aim to be provided for all residents.
- 8.10 The layout remains broadly the same, with the same numbers of units proposed and the spine road remains as approved. The minor internal changes to side roads do not have any wider implications in terms of character or appearance. Noting comments received, the extent of hard surfaced areas has been reduced within Plot 3 (removal of the lower-level road to the

northwest boundary with Kingsdale Close) but remains broadly the same in Plots 1 and 2 although in varied locations. The changes to levels have been further minimised where possible. The removal of the modular construction has resulted in narrower footprints allowing improved spacing and a heavy reliance on on-plot parking. The use of parking courts has been drastically reduced. An increase in street trees and shrubs has been provided although is acknowledged to still fall below the ideal, due to the site constraints and lack of space to accommodate street trees at regular intervals. The boundary hedges are to be enhanced with planting to the open spaces at the site entrances and around the attenuation ponds within each Plot.

- 8.11 As such, while the changes have potential impacts within the development itself, the proposed changes would not change impacts on the character and appearance of the wider area or the High Weald National Landscape (AONB).

### Highways

- 8.12 The spine road is already under construction in accordance with the approved details and those also submitted to the Local Highway Authority (HA), at East Sussex County Council (ESCC) in respect of their highway agreement under S278. The spine road is to be constructed to ESCC required standards and ready for adoption. Lighting is required along the spine road and this has been developed and designed with the County Ecologist to ensure that ecology is protected. Those details are among conditions already discharged.
- 8.13 The HA do not raise objections to the proposals but have made some comment with regard to the move to on-plot parking in the form of tandem parking. While tandem parking can be acceptable, they are concerned where this is proposed off the spine road, as it could lead to pressures for on-street parking if not fully utilised by the occupiers. This is, however, not a justification for refusal.
- 8.14 Permeability and connectivity through the site is required and hence footpaths are proposed to connect through the site and with the surrounding area. The comments of Sussex Police are noted along with those regarding the public footpath. While a suggested diversion for footpath 76 has been made, this is still under discussion with both the ESCC rights of way officer and the Ramblers and will be subject to a separate footpath diversion order. Potential for a footpath link to the train station remains a matter for further investigation and remains the subject of a condition of the permission.
- 8.15 With regard to parking, the correct quantum of parking is provided. While noting the comments with regard to parking forecourts, these have been drastically reduced. There are now only three particular parking courts to the rear/side of properties with more limited overlooking, being located on the northern boundary of Plot 1 and those to the east of dwellings on Plot 2. Noting ground levels and location, these do however still have some form of natural surveillance from surrounding dwellings.
- 8.16 Given that the HA do not raise objections to the variations, and footpaths remain mostly as previously approved, there are no justifiable reasons to refuse the variations on highway grounds.

## Landscaping

- 8.17 The variations do not change the overarching landscape strategy for the development but have allowed for some increase in planting. Specific landscaping details are the subject of specific conditions, but it is noted that the County Landscape officer considers those details, which include use of native species, to be acceptable.
- 8.18 The comments of the County Landscape officer and others with regard to a lack of street trees are noted. Some additional street trees have been incorporated within the revised scheme and while a greater number would be preferred, there is no additional space to accommodate them. The proposals are an improvement on the existing approved scheme.

## Neighbours

- 8.19 The proposed variations do not result in harmful external impacts to neighbouring properties around the site. Site boundary levels are to remain as existing. There are however two areas of improvement for neighbours within Plot 3. The entrance area off The Spinney adjacent No.5 is varied to remove any dwelling along the shared boundary and provide planting. The proposed mews road adjacent the northwest boundary with Kingsdale Close has been removed. The boundary planting/trees will remain with a wide landscape strip containing an embankment and planting separating the gardens of new dwellings from the boundary. This buffer is also required for maintenance of services.

## Other Matters

- 8.20 Other consultees with regards to drainage and flood risk have advised that the variations do not alter their previous comments and the conditions of the previous permissions remain applicable.
- 8.21 With regard to Ecology, previous conditions and details within the Section 106 remain pertinent, as does the licence agreement with Natural England regarding protected species on the site. Some additional discussion has been held with the County Ecologist regarding dormice, loss of a veteran tree(s) and roosting bats. The County Ecologist comment on this further discussion is expected and this will be reported as an update.

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## **9.0 PLANNING BALANCE AND CONCLUSION**

- 9.1 This application for variation of conditions with regard to the approved plans and details does not change the principle or nature of development for this site. The development remains as previously approved in terms of the spine road, numbers of units and general layout principles. The variations impact the internal details of the site but do not result in external changes for the wider area.
- 9.2 The development has been found by an independent assessor to be unviable in terms of the provisions for affordable housing on or off site. However, to enable this situation to be monitored the inclusion of a review mechanism should be incorporated into the Section 106 instead. If costs or income from



sales subsequently changes during development, then this would allow the possibility for affordable contributions to be sought.

- 9.3 All previous conditions remaining pertinent are reapplied. While some conditions have been discharged with regard to this part of the application site, they may require reconsideration where revised details require approval. In addition, those discharges do not apply to the other development parcel of land in the far northeast corner of the larger Blackfriars site, to be accessed from Harrier Lane, which is the subject of a separate reserved matters application. Conditions are varied to reflect the amended drawing numbers and other details where necessary.

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**RECOMMENDATION: GRANT PLANNING WITH VARIATION OF AND ADDITION TO THE CONDITIONS WHERE REQUIRED AND MODIFICATION OF THE SECTION 106 PLANNING OBLIGATION WITH REGARD TO AFFORDABLE HOUSING AND INTRODUCTION OF A REVIEW MECHANISM.**

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**CONDITIONS:**

**The following conditions of outline permission RR/2019/604/P are varied as required and remain extant:**

1. Approval of the details of layout, appearance, landscaping and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development commences.  
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.
2. Plans and particulars of the reserved matters shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.  
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.
3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of the original outline permission granted on 18 December 2020.  
Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
4. The development hereby permitted shall be begun either before the expiration of three years from the date of the original outline permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.  
Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
5. Subject to the details required by Condition 1, the development hereby permitted shall be carried out in accordance with the following approved drawings and documents:  
Phasing Plan, uploaded 13/09/22

23817A/01, dated March 2019

23817A/02 rev. B, dated March 2019

7500-304 rev. C, dated 15/08/2019

Ecological Impact Assessment by The Ecology Consultancy, dated 16/06/2019

Arboricultural Impact Assessment, by The Ecology Consultancy, dated 03/06/2019

Transport Assessment by GTA Civils dated March 2019 and Addendum dated 15 April 2019

6004/500, dated January 2019

6004/501 rev. B, dated 02/04/2019

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

6. The number of dwellings permitted within the site as defined by the original outline planning permission shall not exceed 220.  
Reason: To ensure a properly planned development in accordance with the application and Policy BT2 of the Rother District Local Plan.
7. The new spine road and site access points from The Spinney in the south and Harrier Lane in the north, shall be in the position shown on Drawing No. 7500-304 rev. C, dated 15/08/2019 and Drawing Nos. 6004/500, dated January 2019 and 6004/501 rev. B, dated 02.04.2019. The spine road shall be designed and constructed in accordance with details to be agreed under Conditions 8 and 10 of this permission, to a standard approved by the Local Planning Authority in accordance with Highway Authority's standards with a view to its subsequent adoption as publicly maintained highway.  
Reason: To ensure the safety of persons and vehicles entering and leaving the access points and proceeding along the highway in accordance with Policy TR3 and CO6 of the Rother Local Plan Core Strategy.
8. Prior to the commencement of development on site in respect of the spine road, detailed drawings, including levels, sections and constructional details of the proposed road and internal connections to it, surface water drainage, outfall disposal and street lighting to be provided, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The detailed road designs shall include details of 'events' along and within the road such as informal squares that the road passes through to be created at key junctions/intersections, such that the street is designed as a social space, incorporating Manual for Streets placemaking. The road shall be constructed in accordance with the approved details.  
Reason: A pre-commencement condition is required to ensure that it meets highway standards and in the interests of highway safety and for the benefit and convenience of the public and to present a quality design and place in accordance with Policy BT2 of the Rother District Local Plan 2006 and Policies EN3, TR3 and CO6 of the Rother Local Plan Core Strategy.
9. The street lighting proposed pursuant to Condition 8 shall follow a "lighting design strategy for biodiversity" that itself 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 dormice, bats and badgers and 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 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.

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: A pre-commencement condition is required as 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 and would conflict with Policies EN5 of the Rother Local Plan Core Strategy and DEN4 of the Development and Sites Allocations Local Plan.

10. Prior to commencement of development of the spine road, and notwithstanding the footway location details on approved Drawing No. 7500-304 rev.C, dated 15/08/2019, details of pedestrian facilities (footways and crossings) supported by a Road Safety Audit and other documentation as necessary shall be submitted to and agreed by the Local Planning Authority, in consultation with the Highway Authority and shall include facilities along the new road and the connections to it and shall be built and maintained to current standards, unless otherwise agreed. The footways are to be designed into the landscape and layout of the development and not simply form part of the road itself, i.e. the majority are not to be located immediately adjacent to the roadway itself, but instead be separated from the vehicular route by grass verges.

Reason: A pre-commencement condition is required to ensure that highway standards are maintained, that the public footpath is incorporated and is to remain accessible and in the interests of highway safety and for the benefit and convenience of the public and to present a quality design and place in accordance with Policy BT2 of the Rother District Local Plan 2006 and Policies EN3, TR3 and CO6 of the Rother Local Plan Core Strategy.

11. No development shall commence on any part of the site until details of the proposed means of foul disposal and a sustainable surface water system relating to that part of the site, including its future maintenance and management, have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water, the Lead Local Flood Authority and the Local Highway Authority. Surface water must not discharge onto the highway and vice versa. The development shall only be carried out in accordance with the approved details.

Reason: A pre-commencement condition is required to ensure that the drainage infrastructure carried out in the initial stages of the development will not increase the risk of flooding, will improve and protect water quality, and ensure future maintenance of the sustainable surface water drainage system in accordance with Policy SRM2 of the Rother Local Plan Core Strategy and Policy DEN5 of the Development and Site Allocations Local Plan.

12. No development shall take place on any part of the site, including any ground works, vegetation clearance or works of demolition, until a Construction & Environmental Management Plan (CEMP: Biodiversity) for that part of the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full

throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:

- a) the anticipated number, frequency and types of vehicles used during construction;
- b) the method of access and egress and routing of vehicles during construction;
- c) the parking of vehicles by site operatives and visitors (including location and capacity);
- d) the loading and unloading of plant, materials and waste;
- e) the storage of plant and materials used in construction of the development;
- f) the erection and maintenance of security hoarding;
- g) the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
- h) details of public engagement both prior to and during construction works;
- i) unless alternative times are specifically agreed in writing construction activities associated with the development hereby permitted shall not be carried out other than between the hours of 08:00 and 18:00 hours on Mondays to Fridays inclusive and 08:00 and 13:00 on Saturdays and not at any time on Sundays, Bank and Public Holidays;
- j) measures to manage flood risk, both on and off the site, during the construction phase;
- k) risk assessment of potentially environmental damaging construction activities and 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);
- l) identification of "biodiversity protection zones";
- m) the location and timing of sensitive works to avoid harm to biodiversity features and the times during construction when specialist ecologists need to be present on site to oversee works;
- n) responsible persons and lines of communication and the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- o) use of protective fences, exclusion barriers and warning signs.

Reason: A pre commencement condition is required from the outset because the works need to be managed in all stages of construction to maintain the safety of all road users and so as not to unreasonably harm the amenities of adjoining properties and in the interests of highway safety, and to enable the Local Planning Authority to properly ensure the protection of rare and protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan having regard to Policies OSS4, EN1, EN5, TR3 and CO6 of the Rother Local Plan Core Strategy, and Policies DEN1, 2 and 4 of the Development and Sites Allocations Local Plan.

13. Prior to the commencement of development, an ecological design strategy (EDS) addressing mitigation and compensation for habitats and species, restoration of degraded habitats and enhancements to increase the biodiversity value of the site 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 the disposal if any wastes arising from the works.

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

Reason: A pre-commencement condition is required to enable the Local Planning Authority to properly ensure the protection of rare and protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan and 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, in accordance with the requirements of the National Planning Policy Framework and Policies EN1 and EN5 of the Rother Local Plan Core Strategy and Policies DEN1, DEN2 and DEN4 of the Development and Sites Allocations Local Plan.

14. No development shall take place (including any demolition, ground works, site clearance) until a method statement for the protection, rescue and translocation of protected species has been submitted to and approved in writing by the Local Planning Authority for each phase of development. 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 for each phase of the development and shall be retained in that manner thereafter.

Reason: a pre-commencement condition is required to protect habitats and species identified in the ecological surveys from adverse impacts during construction Policies EN1 and EN5 of the Rother Local Plan Core Strategy and Policies DEN1, DEN2 and DEN4 of the Development and Sites Allocations Local Plan.

15. No development shall commence until details for the protection of existing trees and hedgerows on the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include indications of all existing trees and hedgerows on the land including details of those to be retained, together with a scheme for protection, which shall include protective fencing. The approved scheme shall be put in place prior to the commencement of any development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground

levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: The site contains trees and hedgerows which contribute to the character of the area and should be conserved to ensure that the development is integrated within the landscape of the High Weald National Landscape. The commencement of any groundworks could potentially impact on trees and hedgerows and pre-commencement measures therefore need to be put in place to ensure that protected trees/hedgerows remain in situ as agreed and with measures in accordance with the British Standard and to accord with Policies OSS4 (iii) and EN1 of the Rother Local Plan Core Strategy and Policies DEN1 and DEN2 of Development and Sites Allocations Local Plan.

16. No development shall commence on any part of the site until the Applicant has secured the implementation of a programme of archaeological works for that part of the site, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.  
Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site 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.
17. Prior to the commencement of development and subsequent to an approved archaeological site investigation a construction method statement to show the preservation in-situ of significant archaeological remains shall be submitted to and approved in writing by the Local Planning Authority and works shall be completed in accordance with the approved details.  
Reason: A pre-commencement condition is required 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.

### **Reserved Matters Submissions**

18. Prior to commencement of development of Parcel 1, the details of a new access on to Harrier Lane to serve Parcel 1 shall be submitted and agreed with the Highway Authority. The new access shall be subject to a full Road Safety Audit procedures and detailed design, and the submitted details will include but not be limited to adequate visibility splays, pedestrian and cycle facilities, suitable gradient, drainage and construction. The new access will be implemented prior to the first occupation of the any dwelling in Parcel 1.  
Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway, in accordance with Policies CO6, TR2 and TR3 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.
19. Pursuant to Condition 1, no above ground works shall commence until details of the following have been submitted and approved by the Local Planning Authority, and the development shall thereafter be completed in accordance with the approved details:
  - a) 1:200 scale street scene drawings, accurately reflecting site topography, showing proposed buildings in context;
  - b) 1:50 drawings of all proposed buildings including details of all fenestration, eaves details, porches, dormers, rooflights, chimneystacks, pipes, vents and utility meters and boxes;

- c) samples of the materials to be used in the construction of all external faces of the buildings;
- d) the proposed site levels and finished floor levels of all buildings in relation to existing site levels, and to adjacent highways and properties (including levels of paths, drives, steps and ramps); and
- e) details of pedestrian and cycle links to the surrounding area including Battle Station, and proposed measures to seek to deliver such links.

Reason: To ensure a high building appearance and architectural quality, which reflects the character of the town, in accordance with Policy EN3 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.

20. Pursuant to Condition 1, no above ground works shall commence until a walking and cycling audit of the routes to key destinations in Battle from the site, including Battle Station, has been completed and agreed with the Highway Authority and the audit shall include the identification of mitigation measures and improvement schemes needed to increase walking and cycling as a mode of travel, and prior to first occupation of the development the agreed measures/schemes shall be implemented in accordance with the agreed details.

Reason: To achieve a well-connected, accessible development by non-car modes and to meet the objectives of sustainable development, in accordance with Policies BT2, EN3, TR2 and TR3 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.

21. Pursuant to Condition 1, no above ground works shall commence until an assessment of the impacts of development traffic in Battle High Street and at London Road/North Trade Road/High Street junction shall be completed and agreed with the Highway Authority and the assessment shall identify and include design of mitigation measures, and prior to first occupation of the development the agreed measures shall be implemented.

Reason: To ensure the traffic impacts of the development are mitigated and the safety of persons and vehicles proceeding along the highway, in accordance with Policies CO6, TR2 and TR3 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.

22. Pursuant to Condition 1, no above ground works shall commence until the following public realm and hard landscaping details have been submitted and approved by the Local Planning Authority, and the development shall thereafter be carried out as approved and in accordance with an agreed implementation programme.

- a) proposed finished levels or contours;
- b) boundary treatments (plot and other) and any other means of enclosure (fences, railings and walls) indicating the locations, type, design, height, and materials of such;
- c) vehicle and cycle parking layouts;
- d) design of other vehicle and pedestrian access and circulation areas, (including street widths, pavements and cycleways where relevant, and other strategic public realm);
- e) hard surfacing materials (including road surfaces, cycleways, footpaths, parking spaces and other areas of hard standing, kerbs and tactile paving);
- f) a coordinated street furniture strategy (including benches, bollards, bins, planters, and signage) including proposed locations;
- g) an external lighting strategy, (including type and design of lighting equipment, and non-lighting zones) that accords with the lighting

biodiversity strategy and that responds to, and reinforces, the street hierarchies;

- h) minor artefacts and structures;
- i) play areas (Local Areas of Equipped Play or Landscape Areas of Play) including full specification and details of play equipment proposed; and
- l) proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports).

Reason: To ensure the creation of a high quality public realm, design quality, and landscape setting, in accordance with Policies EN3, EN1, TR2 and TR4 of the Rother Local Plan Core Strategy.

23. No above ground works shall commence until the following soft landscaping details have been submitted and approved by the Local Planning Authority, and the development shall thereafter be carried out as approved and in accordance with an agreed implementation programme.

- a) indications of all existing trees and hedgerows on the land including details of those to be retained, together with measures for their protection in the course of development;
- b) design, layout and appearance of structural and amenity green space, including verges;
- c) planting plans, including landscape and ecological mitigation (buffer planting and green buffers);
- d) written specifications (including cultivation and other operations associated with plant and grass establishment);
- e) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- f) details for implementation.

Reason: To ensure the creation of a high quality public realm and landscape setting that enhances the landscape and scenic quality of the High Weald National Landscape, in accordance with Policies EN1 and EN3 of the Rother Local Plan Core Strategy and DEN1 and DEN2 of the Development and Sites Allocations Local Plan.

24. If within a period of 10 years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, [or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective] another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To enhance the appearance of the development and the landscape of the High Weald National Landscape, in accordance with Policies EN1 and EN3 of the Rother Local Plan Core Strategy and DEN1 and DEN2 of the Development and Sites Allocations Local Plan.

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

Reason: To ensure a high quality public realm taking account of the characteristics of the locality and enhancing the landscape character and quality of the High Weald National Landscape, in accordance with Policies



OSS4 (iii), EN1 and EN3 (ii) (e) of the Rother Local Plan Core Strategy and Policies DEN1 and DEN2 of the Development and Sites Allocations Local Plan.

26. Prior to the occupation of any dwelling, a landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:
- a) description and evaluation of features to be managed;
  - b) a SuDs and wetland habitat strategy;
  - c) a woodland management plan;
  - d) ecological trends and constraints on site that might influence management;
  - e) aims and objectives of management;
  - f) appropriate management options for achieving aims and objectives;
  - g) prescriptions for management actions, together with a plan of management compartments;
  - h) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - i) details of the body or organisation responsible for implementation of the plan; and
  - j) on-going monitoring and remedial measures.

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

Reason: require in order to positively management constantly changing biological communities and to maintain their conservation value, to ensure the long term management of habitats, species and other biodiversity features, in accordance with the requirements of the National Planning Policy Framework and Policies EN1 and EN5 of the Rother Local Plan Core Strategy and Policies DEN1, DEN2 and DEN4 of the Development and Sites Allocations Local Plan.

27. Prior to the occupation of any dwelling evidence (including photographs) shall be submitted to the Local Planning Authority showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

Reason: To ensure that the drainage infrastructure for the development will not increase the risk of flooding, will improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policy SRM2 of the Rother Local Plan Core Strategy.

28. No dwelling or other building shall be occupied until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 16 and that provision for analysis, publication and dissemination of results and archive deposition has been secured.

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

29. The details of layout pursuant to Condition 1 above shall include details of the siting and form of bins for the storage and recycling of refuse within the site (internally or externally), and collection points and the approved details shall be implemented before the occupation of each relevant dwelling(s) and thereafter continued, with all bins and containers available for use, maintained and replaced as need be.  
Reason: To safeguard the visual amenities of the locality and in the interests of providing a sustainable development in accordance with Policy OSS4 (iii) of the Rother Local Plan Core Strategy.
30. The details of layout pursuant to Condition 1 above shall include details for the parking and turning of vehicles (including turning of refuse vehicles) in accordance with the East Sussex Residential Parking Demand Calculator and the provision of cycle parking areas, and all those approved areas shall be provided before the occupation of the any dwelling or in accordance with a programme to be agreed in writing by the Local Planning Authority and thereafter retained for those uses only.  
Reason: To ensure the provision of adequate on-site parking and turning facilities that do not prejudice the free flow of traffic or conditions of general safety along the highway and in order that the development site is accessible by non-car modes and to meet the objectives of sustainable development, in accordance with Policies CO6, TR4 and TR3 of the Rother Local Plan Core Strategy.
31. During any forms of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided within the site, to the approval of the Planning Authority in consultation with the Highway Authority, to prevent contamination and damage to the adjacent roads.  
Reason: In the interests of highway safety and for the benefit and convenience of the public at large, in accordance with Policies CO6 and OSS4 of the Rother Local Plan Core Strategy.
32. Prior to the occupation of any dwelling, a Travel Plan Statement in association with this development shall be submitted to the Local Planning Authority to ensure that private car trips to and from the site are reduced. The travel plan should include targets for reduced car use and a monitoring programme to ensure these targets are met.  
Reason: In order that the development site is accessible by non- car modes and to meet the objectives of sustainable development and in accordance with Policies TR2 and TR3 of the Rother Local Plan Core Strategy.
33. Each dwelling shall not be occupied until the boundary treatments that relate to it as approved under Condition 22 have been completed in accordance with the approved details.  
Reason: To ensure a high quality public realm taking account of the characteristics of the locality in accordance with Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy.
34. If any part of the development hereby approved, or subsequently approved under the reserved matters, does not commence (or, having commenced, is suspended for more than 12 months) within one year from the date of the planning permission, the approved ecological measures relating to that part of the development secured though the permission shall be reviewed and, where

necessary, amended and updated. The review shall be informed by further ecological surveys for notable habitats and species including badgers, bats, reptiles and breeding birds, commissioned to:

- a) establish if there have been any changes in the presence and/or abundance of protected species; and
- b) identify any likely ecological impacts that might arise from the changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that phase. Works must then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure the protection and enhancement of wildlife and supporting habitats of nature conservation value in accordance with Policy EN5 of the Rother Local Plan Core Strategy, the NE Bexhill SPD and the National Planning Policy Framework.

35. The development hereby approved shall be carried out in accordance with the approved phasing contained within the Phasing Plan identifying four phases for this element of the outline site, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To clarify how the site is to be phased and to assist with the determination of subsequent reserved matters applications and other condition details in regard to provision of infrastructure provisions and environmental mitigation and to cater for the needs and impacts arising from the development in accordance with Policy BA1, EN1 and EN3 Of the Rother Local Plan Core Strategy and Policy DEN4 of the Development and Site Allocations Local Plan.

**Conditions 1, 3, 4, 8, 9, 11, 12, 13, 14, 15, 16, 17 & 26 (in relation to this particular part of the site) of outline permission RR/2019/604/P, have had details approved. Works to be completed in accordance with the approved details.**

**No conditions have been discharged as may apply to the land parcel in the far north and east corner, unrelated to RDC/Alliance Homes land.**

**The following conditions of Reserved Matters permission RR/2022/1330/P are varied as required and remain extant:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans and details:
  - 23009-05100 Site location Plan
  - 23009-PDA-XX-ZZ-DR-A-05101 rev.J, illustrative site plan, dated 6.11.23
  - Design && Access Statement Addendum Document rev. D, dated 7/12/23
  - 23009-PDA-XX-ZZ-DR-A-05105 rev.C, External materials layout, dated 6/12/23
  - 23009-PDA-XX-ZZ-DR-A-05106 rev.E, adoptable roads and pathways, dated 6/12/23
  - Schedule of Accommodation rev.D, noting that all are now market housing, dated 15/05/23
  - Landscape and Ecology Management Plan, Issue 2, dated December 2020
  - 10704-GTA-MP-XX-GA-C-1143 rev.P10, external works layout, dated 12/09/22
  - 10704-GTA-MP-XX-GA-C-1149 rev.P2, external works layout, dated 12/09/22
  - D3276-FAB-ZZ-ZZ-DR-L-02001-8 rev.PO2, landscape hardworks sheet 1 – 8 inclusive, dated 03/08/23

D3276-FAB-ZZ-ZZ-DR-L-01001 PO1, landscape legend  
 D3276-FAB-ZZ-ZZ-SP-L-00001 rev.PL01, Outline landscape specification  
 23009(05)301 rev.B – HT 3D elevations, dated 4/12/23  
 23009(05)301 rev.B – HT 4A elevations, dated 4/12/23  
 23009(05)241 rev.D – HT 2D elevations, dated 21/04/23  
 23009(05)289 rev.B – HT 3C elevations, dated 4/12/23  
 23009(05)305 rev.C – HT 3D elevations, dated 1/8/23  
 23009(05)251 rev.B – HT 3A elevations, dated 18/7/23  
 23009(05)261 rev.B – HT 3D elevations, dated 18/7/23  
 23009(05)250 rev.B – HT 3A floor plans, dated 18/7/23  
 23009(05)200 rev.A – HT 1A elevations, dated 14/7/23  
 23009(05)201 rev.B – HT 1A elevations, dated 14/7/23  
 23009(05)210 rev.A – HT 2A floor plans, dated 14/7/23  
 23009(05)211 rev.A – HT 2A elevations, dated 14/7/23  
 23009(05)220 rev.A – HT 2B floor plans, dated 14/7/23  
 23009(05)221 rev.B – HT 2B elevations, dated 14/7/23  
 23009(05)230 rev.A – HT 2C floor plans, dated 14/7/23  
 23009(05)231 rev.A – HT 2C elevations, dated 14/7/23  
 23009(05)240 rev.A – HT 2D floor plans, dated 14/7/23  
 23009(05)221 rev.B – HT 2B elevations, dated 14/7/23  
 23009(05)270 rev.A – HT 3B floor plans, dated 14/7/23  
 23009(05)271 rev.A – HT 3B elevations, dated 14/7/23  
 23009(05)276 rev.A – HT 3B elevations, dated 14/7/23  
 23009(05)285 rev.A – HT 3C elevations, dated 14/7/23  
 23009(05)288 rev.A – HT 3C floor plans, dated 14/7/23  
 23009(05)300 rev.A – HT 3D floor plans, dated 14/7/23  
 23009(05)320 rev.A – HT 4A floor plans, dated 14/7/23  
 23009(05)321 rev.B – HT 4A elevations, dated 14/7/23  
 23009(05)330 rev.B – HT 4B floor plans, dated 14/7/23  
 23009(05)331 rev.A – HT 4B elevations, dated 14/7/23  
 BZ508.PDA.xxX.XXA.DTAA.A (05)1121, 113 & 114, site sections, dated 23/6/23  
 Stage 3 Landscape Strategy, by Fabrik, dated 14/07/2023  
 Energy and Sustainability Statement, dated July 2023  
 23009-PDA-XX-ZZ-DR-A-05104 rev. C, Refuse strategy, dated 6/12/23  
 Arboricultural Impact Assessment and Method Statement by Temple, dated 22/08/23  
 Reason: For the avoidance of doubt and in the interests of proper planning.

2. No development shall take place, including demolition, on the site until an agreed pre-commencement condition survey of the surrounding highway network has been submitted to and approved in writing by the Local Planning Authority. Any damage caused to the highway as a direct consequence of the construction traffic shall be rectified at the Applicant's expense.  
Reason: In order to ascertain the condition of approach roads prior to any HGV movements and thereby provide a base point to identify any damage resulting from development and requirements subsequent to maintenance works following completion of the development, in the interests of highway safety and the amenities of the area, having regard to Policies CO6, TR3 and OSS4 of the Rother Local Plan Core Strategy.
3. Prior to the commencement of development above ground a 1:50 scale layout drawing of the square along the spine road in Plot 3 is to be submitted to and approved in writing by the Local Planning Authority, and the development

thereafter shall be carried out in accordance with the approved details. The layout drawing shall refine the precise dimensions and design of the square, the hard-surfacing materials proposed within and around it, including kerbing details, any soft landscaping within or around it, and any other artefacts associated with it, e.g. lighting.

Reason: To ensure the creation of a high quality public realm and high design quality and having regard to the requirements of the outline permission, in accordance with Policy EN3 of the Rother District Local Plan Core Strategy and the National Planning Policy Framework.

4. Pursuant to Condition 22 (b) of the outline permission RR/2019/604/P, detailed boundary treatment information remains to be submitted and approved. This information shall include detailed annotated layouts of each of the three plots at scale 1:200, indicating the locations of boundary enclosures to delineate and enclose front and side private curtilages, to provide meaningful enclosure from the adjacent public realm and from each other, including between driveways. The drawings shall be annotated to show each boundary treatment type, and the number and type of boundary treatments shall be rationalised to fully reflect and represent local character and contribute positively to street character in the development.

Reason: To ensure a development of high design quality, in accordance with Policy EN3 of the Rother Local Plan Core Strategy, the High Weald Housing Design Guide and the National Planning Policy Framework.

5. Pursuant to Condition 19 of outline planning permission RR/2019/604/P a detailed schedule of materials, by annotated plan and full streetscenes of all areas of the site at scale 1:200, indicating the combinations of materials to be used on elevations sufficient to be assessed in the streetscene context, along with details of the materials themselves, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a development of high design quality, in accordance with Policy EN3 of the Rother Local Plan Core Strategy, the High Weald Housing Design Guide and the National Planning Policy Framework.

6. Prior to commencement of development above ground on any phase of the development, a layout plan indicating all sources of renewable energy to be utilised across that phase of the site shall be submitted for approval. Details shall including siting and type, with the roof slope locations of solar panels, along with detailed information regarding the size, profile and appearance of the panels. All details are to be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.

Reason: To ensure a development of high design quality which improves the sustainability and carbon neutral details of the proposals, in accordance with Policy EN3 of the Rother Local Plan Core Strategy, Policy DRM3 of the Development and Site Allocations Local Plan, the High Weald Housing Design Guide and the National Planning Policy Framework.

7. The Landscape Strategy document is largely illustrative and whilst the broad approach is supported, it is not sufficiently refined and resolved at a detailed level. Therefore, details regarding hard and soft landscaping, pursuant to Conditions 22 (d) and (e), 23 and 24 of the outline planning permission RR/2019/604/P, remain to be submitted to and approved by the Local Planning Authority. These details shall include detailed annotated landscape and

planting layouts at scale 1:200, also indicating the delivery of the tree-lined avenue to the main spine street, verge treatments, and planting and other materials specifications.

Reason: To ensure the creation of a high-quality public realm and landscape setting that enhances the landscape and scenic quality of the High Weald Area of Outstanding Natural Beauty in accordance with Policies EN1 and EN3 of the Rother District Local Plan Core Strategy, Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan and the National Planning Policy Framework.

8. Prior to the construction of any of the pedestrian footways and cycle links, detailed drawings, including levels, sections and constructional details of the proposed footways, surface water drainage, outfall disposal, planting and street lighting to be provided, shall be submitted to the Local Planning Authority and be subject to its approval, in consultation with the Highway Authority. Works shall be completed in accordance with the approved details.

Reason: To provide alternative modes of transport and improve permeability of the site, in the interests of pedestrian and highway safety and for the benefit and convenience of the public at large, in accordance with Policies EN3, TR3 and CO6 of the Rother Local Plan Core Strategy.

9. No above ground works shall commence in respect of any dwelling unit until full details of the construction and materials for any related retaining walls has been submitted to and approved in writing by the Local Planning Authority. All works shall be completed and thereafter maintained in accordance with the approved details.

Reason: To ensure a development of high design quality, in accordance with Policy EN3 of the Rother Local Plan Core Strategy, the High Weald Housing Design Guide and the National Planning Policy Framework.

#### **NOTES:**

1. This permission is the subject of an obligation under Section 106 of the Town and Country Planning Act 1990.pl191010 – RR/2019/604/P.
2. 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.
3. This permission includes conditions requiring the submission of details prior to the commencement of development. Following close consideration in the courts, it is now well established that if the permission contains conditions requiring further details to be submitted to the Council or other matters to take place prior to development commencing and these conditions have not been complied with, the development is unlawful and does not have planning permission. You are therefore strongly advised to ensure that all such conditions have been complied with before the development is commenced.
4. For the avoidance of doubt the Applicant is reminded that:
  - Parking spaces shall measure at least 2.5m by 5m with an extra 50cm on each dimension where spaces abut walls or fences).
  - Any garages shall measure at least 3m by 6m (internally) and will count as 1/3 of a space of the total parking provision and requirement.

- Cycle parking shall be covered and secure and in a convenient location for each dwelling.
5. For the avoidance of doubt, the access junctions shall have maximum gradients of 2.5% (1 in 40) from the channel line and 11% (1 in 9) thereafter.
  6. The Highway Authority's requirements associated with this development proposal will need to be secured through a Section 278 Legal Agreement between the Applicant and East Sussex County Council.
  7. The following public rights of way across the site should be retained and remain accessible at all times: Public Footpaths 76 and 77b. It is noted that a footpath diversion via s257 of the Town and Country Planning Act may be applicable.
  8. The Applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning permission for a development does not provide a defence against prosecution under European and UK wildlife protection legislation. Separate licences and consents may be required to undertake work on the site where protected species are found, and these should be sought before development commences.
  9. This planning permission does not authorise any interference with animals, birds, marine life, plants, fauna and habitats in contravention of the requirements of the Wildlife and Countryside Act 1981, the Countryside and Rights of Way Act 2000 (CROW) and other legislation. Further advice on the requirements of these Acts is available from Natural England, Sussex and Surrey Team, Phoenix House, 33 North Street, Lewes, East Sussex BN7 2PH.
  10. Any works affecting watercourses require Ordinary Watercourse Consent and the Applicant should contact East Sussex County Council land drainage section at [watercourse.consenting@eastsussex.gov.uk](mailto:watercourse.consenting@eastsussex.gov.uk).
  11. Non-compliance with Japanese Knotweed management and control could render the Applicant liable to criminal prosecution under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000). pl191010 – RR/2019/604/P.
  12. The archaeological written scheme of investigation, ensuing works and production of reports should accord with the relevant portions of the East Sussex County Council (ESCC) document "Recommended Standard Conditions for Archaeological Fieldwork, Recording and Post-Excavation in East Sussex" (2008), including Annex B, and should be undertaken only by a suitably qualified archaeologist. For assistance and advice in seeking compliance with the requirements of the condition, please contact the County Archaeologist at ESCC, Transport & Environment, County Hall, Lewes, BN7 1UE or telephone 01273 481608.
  13. The Applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

**NATIONAL PLANNING POLICY FRAMEWORK:** In accordance with the requirements of the National Planning Policy Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.