The Planning Inspectorate

Appeal Decision

Inquiry held on 6-8 September 2022
Site visit made on 8 September 2022

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2022

Appeal Ref: APP/C1435/W/22/3297419
Mornings Mill Farm, Eastbourne Road, Lower Willingdon, BN20 9NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Peter & Robert Vine against the decision of Wealden District Council.
- The application Ref. WD/2021/0174/MEA, dated 20 January 2021, was refused by notice dated 10 December 2021.
- The development proposed is comprehensive development of a mixed-use urban extension comprising up to 700 dwellings including affordable housing, 8,600 square metres of employment floorspace, medical centre, school, community centre, retail, playing fields, children's play space, allotments, amenity open space, internal access roads, cycle and footpath routes and associated landscaping and infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for comprehensive development of a mixed-use urban extension comprising up to 700 dwellings including affordable housing, 8,600 square metres of employment floorspace, medical centre, school, community centre, retail, playing fields, children's play space, allotments, amenity open space, internal access roads, cycle and footpath routes and associated landscaping and infrastructure at Mornings Mill Farm, Eastbourne Road, Lower Willingdon, BN20 9NY in accordance with the terms of the application, Ref WD/2021/0174/MEA, dated 20 January 2021, subject to the conditions contained in the attached Schedule.

Application for costs

2. Before the Inquiry a written application for costs was made by Peter & Robert Vine against Wealden District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline with all matters (appearance, landscaping, layout and scale) reserved for subsequent consideration except for the means of access to Eastbourne Road. This is the basis on which I have considered the appeal.

4. The application is accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), including technical appendices and a non-technical summary. It covers a range of relevant topics,

informed by a Scoping Opinion from the Council. This information was supplemented during the course of the appeal, following a Regulation 25 request on behalf of the Secretary of State. I am satisfied that the totality of the information provided is sufficient to meet the requirements of Schedule 4 of the EIA Regulations and this information has been taken into account in reaching a decision.

5. A signed and executed Unilateral Undertaking securing planning obligations pursuant to S106 of the Town and Country Planning Act 1990 was received after the Inquiry, in accordance with an agreed timetable. I deal with this later in my decision.

6. On 11 August, the Council confirmed that it had reviewed its position and would no longer defend the appeal. Consequently, no evidence was submitted to support any of its reasons for refusal. Many matters are positively agreed between the Council and the appellant and these are set out in the various statements of common ground.

7. On 18 August, the Willingdon and Jevington Parish Council, having been granted Rule 6 status in the appeal, withdrew from the proceedings and opted to take no further part.

8. In light of the above, there was no main party present at the Inquiry who opposed the development. Nevertheless, I heard extensively from interested parties and the appellant called witnesses to introduce their evidence and to allow the opportunity for questions.

Main Issues

9. The main issues are:
   (a) Whether the site is a suitable location for the proposed development, having regard to planning policy;
   (b) The effect on local highways, with particular regard to whether safe and suitable access arrangements would be achieved;
   (c) Flood risk and drainage;
   (d) The effect on European Protected Habitats;
   (e) The effect on the character and appearance of the area, including landscape and visual impacts.

Reasons

Planning policy

10. The development plan, so far as it is relevant to the appeal, comprises the saved policies of the Wealden Local Plan (1998) (LP), the Core Strategy Local Plan (2013) (CS) and the Affordable Housing Delivery Local Plan (2016) (AHDLP).

11. Policy WCS4 of the CS refers to Strategic Development Areas, which are said to be locations critical to the delivery of the overall strategy. The general location of the appeal site is specifically identified (SD4) for provision of around 700 dwellings, 8,600sqm net employment floorspace, leisure, recreation and community facilities.

12. The CS Key Diagram identifies the Strategic Development Areas. It was expected that the Strategic Sites Development Plan Document would subsequently provide a more detailed site allocation, specific policies and phasing requirements but this document has not been forthcoming and is no longer being actively pursued by the Council.

13. Although the development extends beyond the indicative Strategic Development Area, this is not intended to be a detailed site boundary, rather a broad indication of the expected location for development. In the absence of a detailed site boundary or any prospect of one being identified through the plan making process within a reasonable timeframe, it is important that this development, critical to the delivery of the CS strategy, is not delayed. The proposed development is clearly in accordance with Policy WCS4.

14. Saved policies GD2 and DC17 of the LP seek to restrict development to within defined development boundaries. The proposed development is outside of the development boundaries, but these were drawn to accommodate the level of housing required at the time the LP was adopted, which is far below the level now required. If these policies continue to be strictly applied, they will inevitably prevent the delivery of much needed housing in the district, in conflict with the objectives of the National Planning Policy Framework (the Framework). This would be particularly troubling given the Council's poor record of housing delivery and current housing land supply of just 3.66 years at best. For all of these reasons, policies GD2 and DC17 are out of date. Whilst the proposal is in conflict with them, I attach the conflict only very limited weight.

15. Having regard to planning policy, the appeal site is a suitable location for the proposed development in principle.

Highways

16. The appeal proposal has been subject to extensive transport assessment using a variety of industry standard tools and modelling. The A2270 is a key route through Wealden into Eastbourne and I heard that it is a very busy road. This was evident during my various site visits and is confirmed by evidence before the Inquiry, including the submitted Transport Assessment. There is little doubt in my mind that residents regularly encounter congestion on local roads in the vicinity of the site, particularly at peak times, although reports that the A2270 is the most congested road in the UK are likely to have been influenced by recent and extensive road works.

17. The proposed development would inevitably introduce a great deal more traffic onto the local and strategic road network, but this is growth that has long been anticipated through identification of the site in the CS, as a Strategic Development Area. Indeed, the CS anticipates a great deal more growth and planning permission has already been granted for several other schemes in the vicinity of the appeal site. All relevant schemes have been taken into account in the appellant's modelling, which uses data agreed by National Highways and/or the Local Highway Authority. The submitted evidence demonstrates that the additional traffic anticipated can be accommodated by the surrounding road network, albeit that junction improvements will need to be delivered to accommodate the scheme.

18. The proposed development would deliver highway improvements to the Cophall Roundabout, the A27/A22 Golden Jubilee Roundabout, the A22 Golden Jubilee Way and Dittons Road Roundabout and works to Polegate High Street Signals. Subject to these works, the additional traffic generated by the scheme could be satisfactorily accommodated without any unacceptable impact on highway safety or severe residual cumulative impact on the road network, which is the test in national policy.

19. A similar scheme to the current proposal has been considered at a previous appeal, which identified a specific concern that the development would compromise planned bus priority measures forming part of the Hailsham, Polegate and Eastbourne Movement and Access Corridor (HPEMAC) and pedestrian safety issues surrounding the proposed access arrangements. The current proposal has been amended to address these concerns after extensive consultation and engagement with the highway authorities. It allows for a northbound and southbound bus lane, along with priority measures at the southern signal-controlled site access. An additional signal-controlled pedestrian crossing is likely to improve opportunities to safely cross Eastbourne Road, including for local school children. As such, this appeal proposal would not compromise delivery of the HPEMAC, delay buses or result in a pedestrian safety issue.

20. The site is located close to Polegate town centre with its various shops and facilities within a short walk using a variety of available routes, a railway station and various bus services serving a range of larger settlements. It is unquestionably a highly sustainable location where opportunities for sustainable modes of travel will be available, and which will be maximised through various measures to encourage uptake contained within the planning obligations. Once the HPEMAC scheme has been implemented, this is likely to further improve opportunities for sustainable travel to and from the site.

21. Given the ease of accessibility by sustainable means, it is not likely that the development would generate significant parking issues in Polegate and the presence of a level crossing in the town would deter 'rat-running', given the availability of alternative routes. A planning obligation could also secure funding towards highway improvements on Polegate High Street, aimed in part, at deterring 'rat running', a significant concern of local residents.

22. Reference was made to a highways report produced by Aecom, commissioned by Eastbourne Borough Council. This was not a document before the Inquiry but I have no reason to expect that this should alter the conclusions contained in the transport assessment work undertaken for this appeal, all of which uses data and assumptions agreed by the relevant highway authorities, as well as appropriate industry standard modelling tools.

23. Issues were raised about access for properties on Foulride Green but the scheme makes provisions to ensure continued and appropriate access for these properties. I heard that common land would be affected by the development and the appellant explained that compensatory land was likely to be offered. This is a matter for a separate regulatory regime and there is no reason to expect it should have any significant bearing on implementation of any planning permission granted as a result of this appeal.

24. National Highways and East Sussex County Council, as Local Highway Authority raised no objection to the development, subject to appropriate conditions and

planning obligations. I have no reason to disagree with the highway authorities. It is clear that the development is acceptable in highway terms. As such, I find no conflict with saved policies EN1, EN2, TR3 and TR13 of the LP or spatial planning objectives SPO7 and SPO15 and policies WCS7 and WSC14 of the CS.

Flood risk and drainage

25. The proposed built development can be accommodated within flood zone 1, the lowest category of flood risk identified by the Environment Agency. As such, it is not at inherent risk from flooding.

26. The scheme is designed to manage its own flood risk, including an allowance for climate change, using sustainable drainage principles so that run-off is directed to attenuation basins and subsequently released at a steady and controlled rate which will not exceed existing flow rates. Therefore, the site will not be at risk of flooding and will not cause flooding elsewhere. In fact, it is expected that the development would reduce the likelihood of flooding given the improved management of water within the site.

27. In addition, permeable paving and gully features will be used to provide multiple stages of run-off treatment prior to water reaching the drainage system and avoiding detriment to receiving water bodies. Concerns were raised about the impact of the development on the Wannock Mill Stream, which does not in fact cross the site but is likely to benefit from the reduced peak flows created by the development.

28. It is likely that foul drainage capacity will need to be increased to accommodate the development and Southern Water has confirmed that it will undertake any necessary upgrades to the network, should planning permission be granted. A condition could be used to prevent occupation of properties until such time as capacity is available in the network to ensure that the development is phased with this in mind.

29. No statutory consultees have raised an objection to the scheme on flooding or drainage grounds and the evidence before the Inquiry indicates that the development is acceptable. The Pevensey and Cuckmere Water Level Management Board, whilst raising no objection, noted that surface water currently drains to the Eastbourne Lakes. No indication was given that the development would affect this arrangement, given the measures to control surface water run-off within the site set out above, but the detailed design of the drainage scheme is a matter for subsequent consideration in any case.

30. So far as they are relevant to the appeal proposal, I find no conflict with saved policies EN1, EN8, EN15 and CS1 of the LP, or policies WCS12 and WCS14 of the CS.

Protected habitats

31. There are a number of European Protected Habitats in the area surrounding the site, including the Ashdown Forest Special Area of Conservation (SAC), Ashdown Forest Special Protection Area (SPA), Lewes Downs SAC, and Pevensey Levels SAC/Ramsar/SSSI. As such, a Habitat Regulations Assessment (HRA) is needed to consider whether the development would be likely to adversely affect the integrity of these sites, either alone or in combination.

32. A HRA was first carried out by the Council in contemplating the grant of planning permission and a shadow HRA was subsequently undertaken by the appellant in support of this appeal. I have considered this information in reaching my own conclusions, as the Competent Authority in this case. Natural England (NE) has also considered these documents and raised no objection to the appeal proposal. I attach great weight to this expert view.

Ashdown Forest SAC

33. Large parts of Ashdown Forest (2,729 hectares) are designated as a Special Area of Conservation (SAC). The qualifying features underpinning the SAC designation are the presence of European dry heath, North Atlantic wet heath and great crested newts. The conservation objectives for the SAC can be summarised as ensuring the favourable conservation status of its qualifying features by, amongst other things, maintaining or restoring qualifying habitats. The main threat to the SAC relates to air pollution and the effect of new development with regards to an increase in additional traffic movements resulting from development.

34. The site is located around 25km from this designation at its nearest point and no functional habitat will be lost as a result of the proposal. No habitat loss or fragmentation will be caused by the proposal. Given the distance involved, no impacts are anticipated from urbanisation and recreational disturbance, or in relation to hydrology and water quality.

35. NE's supplementary advice on conserving and restoring the SAC explains that the heathland habitat of the Ashdown Forest is sensitive to changes in air quality. Exceedance of 'critical values' for air pollutants may modify its chemical substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of typical heathland species. Accordingly, the appeal proposal could result in an impact pathway to the SAC if it contributes to an exceedance in critical values.

36. The heathland habitat in the Ashdown Forest SAC is vulnerable to atmospheric pollution from several sources including vehicle emissions from motor vehicles. There is a potential impact pathway from increased traffic flows associated with new development on the roads which go through, or run adjacent to, the SAC. Many of the characteristic plants, mosses and lichens of heathland habitats are adapted to nutrient poor conditions and extra input of nitrogen can disadvantage these characteristic species in favour of others with a greater tolerance of higher nitrogen levels. Consequently, likely significant effects cannot be ruled out and an Appropriate Assessment is required.

Ashdown Forest SAC - Appropriate Assessment

37. In 2019, the Council proposed a significant amount of development as part of its emerging Local Plan. Whilst it has since been withdrawn, the consideration of air quality and nitrogen deposition affecting the SAC remain relevant, albeit that the appeal scheme is on a much smaller scale than the amount of development anticipated as part of the formerly emerging Local Plan.

38. In March 2019, NE published its European Site Conservation Objectives: Supplementary Advice on Conserving and restoring site features, following consultation and based on extensive scientific work. It concluded on air quality and nitrogen deposition that even without improvements in car emissions over

time that "nitrogen levels from additional transport [as a result of the expected housing development in the surrounding areas] would fall below the level that would reduce species richness on the site, even if the expected declining trend in Nitrogen failed to materialise".

39. NE, the Government's statutory advisor on such matters therefore concluded that the housing development in the wider area in combination would not adversely impact integrity because it would not infringe the relevant conservation objectives. NE also referred to improvements in air quality and nitrogen deposition as a result of existing rules under which all new vehicles were being manufactured. Clearly, as older vehicles are replaced by newer and more efficient vehicles, the situation will improve.

40. Even in the context of the significant amount of growth anticipated in the then emerging Local Plan, NE was content, considering the effects of that quantum of growth, that air quality impacts would not adversely affect the integrity of Ashdown Forest SAC. NE's advice regarding air quality was that this conclusion can be reached without mitigation measures being needed under the specific requirements of the Habitat Regulations.

41. The appeal proposal represents a very small fraction of the level of growth then being contemplated. Therefore, for the same reasons, it can be concluded that when considered on its own or in combination, the proposed development would not adversely impact on the integrity of the protected Ashdown Forest SAC. NE has specifically considered the evidence submitted for this appeal and raised no objection.

42. An interested party raised concerns at the Inquiry about the approach adopted by the Council, the appellant and NE, making reference to the 2019 Local Plan examination and the previous appeal at Mornings Mill Farm. References were made to the evidence submitted by the Council at that time, when it took a different view in relation to air quality and nitrogen deposition matters, but that evidence is not before me in this case. Regardless, the Council explained that its position on the matter has changed because its previous approach has been shown to be incorrect. Reference was made to physical monitoring data collected within the SAC between 2014-2018. Again, this data was not put before the Inquiry but it is difficult to see how any such data could be relied upon in the present appeal, many years later. None of the submissions made by interested parties on this topic lead me to doubt my conclusions above, which are consistent with the Council's present-day conclusions and that of NE.

Ashdown Forest SPA

43. Large parts of the Ashdown Forest (3,205 hectares) are designated as a SPA. The SPA status was awarded for a number of qualifying individual species that includes the Dartford Warbler and European Nightjar that the SPA supports during their breeding season. The conservation objectives for Ashdown Forest SPA are to ensure that the integrity of the site is maintained or restored as appropriate, so that it continues to support the population and distribution of its qualifying features. The main threats to those qualifying features includes the disturbance by humans and recreational activities, development pressure and the loss of nesting/feeding habitats.

44. The site is located around 25km from this designation at its nearest point and no functional habitat will be lost as a result of the proposals. No habitat loss or fragmentation will be caused by the proposals.

45. NE's supplementary advice on conserving and restoring site features for the Ashdown Forest SPA identifies recreational disturbance as one of the principle threats to ground nesting birds. Research and assessment undertaken by the Council supports this by demonstrating that increased recreation can result in damage to the bird's habitat through trampling and erosion. Moreover, the presence of people can disturb ground nesting birds during their breeding season (Feb - Aug). Dog walking can be particularly problematic in this regard, especially if dogs are let off their lead.

46. However, evidence in the form of visitor surveys carried out for the Council demonstrates that it is residents living within 7km of the Ashdown Forest that are likely to visit it. The appeal site is well beyond the 7km distance and as such, the evidence does not provide a pathway of effect for recreational disturbance. No impacts are anticipated with regards to hydrology and water quality, or in relation to air quality.

47. The appeal site is located a significant distance away from Ashdown Forest and therefore would not result in additional recreational impacts on the Ashdown Forest SPA. As such, an Appropriate Assessment, in accordance with Regulation 63 of the Habitats and Species Regulations, is not required to consider the implications of the proposals for the integrity of the SPA in view of the conservation objectives.

Pevensey Levels SAC/Ramsar/SSSI

48. The Pevensey Levels, between Eastbourne and Bexhill, is one of the largest and least fragmented lowland wet grassland systems in the southeast of England. The Pevensey Levels site is designated as a Ramsar site for the outstanding assemblage of ditch flora and fauna supporting wetland plants, invertebrates including the rare Fen Raft spider, aquatic beetles and dragonflies amongst others species. The Pevensey Levels is also designated as a SAC. The SAC status was awarded for the presence of the Ramshorn snail which can be found in both a wide spatial distribution and in good population densities.

49. The conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the habitats of the qualifying features.

50. The Pevensey Levels are required to be protected from any detrimental development impacts that may affect its environmental designations which include inappropriate water levels; invasive species (notably existing presence of Floating Pennywort and New Zealand Pigmyweed); and water pollution (principally discharged from sewage treatment plants).

51. The site is located around 2.35km from the designation at its nearest point. No functional habitat will be lost as a result of the proposals. No habitat loss or fragmentation will be caused by the development. The site is separated from the SAC/Ramsar/SSSI such that no urbanisation effects are anticipated. Recreational pressure was not identified as a threat to the SAC/Ramsar/SSSI

under the Wealden Local Plan HRA and it is not anticipated to be a threat now. Therefore, it is considered that a likely significant effect can be screened out.

52. The site is located within the catchment of the SAC/Ramsar with ditches in the wider locality forming part of the drainage network associated with the Pevensey Levels. Water quality and water resource issues, specifically foul and surface water drainage solutions represent the potential impact pathways which require specific consideration with regard to the Pevensey Levels SAC and Ramsar site, which are designated for plants and invertebrates dependent on appropriate water levels and sensitive to changes in water quality.

53. In the absence of a suitable drainage solution to convey foul water from the site for treatment, it is possible that foul water could be discharged to local watercourses and thereby potentially conveyed to Pevensey Levels, if connections exist. Should this occur, the nutrient enriched water would have a direct and adverse impact upon the aquatic ecosystem within the SAC and result in harm to flora and fauna.

54. The potential for surface water run-off and discharge into the local watercourses gives rise to the risk of soil/silt and other suspended matter impacting aquatic and emergent plants directly through deposition and smothering as well as by increasing the turbidity of the water. This can affect the ability of plants to photosynthesise, impact upon the assemblages of aquatic invertebrates and potentially affect flow rates. Untreated and unattenuated surface water flows from the operation of the development can have similar impacts with increased hard standing potentially increasing water discharge rates causing localised erosion and flushing sediment/silt further downstream.

55. Furthermore, there is the potential for pollutants such as hydrocarbons to be present within surface water run-off. There has potential for significant adverse impacts to the Pevensey Levels and associated flora and fauna given the sensitivity to water quality from the development.

56. The Pevensey Levels has a complex hydrology which is subject to a water level management plan. The development has the potential to result in rapid changes in water levels which would impact on the Pevensey Levels. As such, there is potential for a likely significant effect as a result of changes to hydrology or run-off of pollutants that cannot be screened out. As such, an Appropriate Assessment is required.

57. The proposed development is considered to result in a negligible increase in traffic flows along roads running through the SAC/Ramsar. Accordingly, potential for likely significant effects as a result of air quality from this development alone can be screened out. However, whilst predicted traffic flows from the proposed development alone are negligible, in combination increases in traffic flows have the potential to result in changes to air quality. As such, an Appropriate Assessment is required.

Pevensey Levels SAC/Ramsar/SSSI – Appropriate Assessment

58. Having regard to the consultation response from Southern Water, sufficient capacity can be created for foul water drainage where insufficient capacity currently exists. Conditions can be used to prevent occupation of the development until such time as appropriate capacity is available. Therefore,

there will be no negative impact on the Pevensey Levels as a result of the proposed development with regard to waste water disposal.

59. Whilst an increase in traffic flows could result in an increase in NOx and associated nitrogen deposition, atmospheric pollution is not identified as a particular sensitivity in relation to the Pevensey Levels SAC/Ramsar. NE's advice (set out in the consultation on the now withdrawn submission Local Plan), sets out that phosphates rather than nitrogen are a much more important factor in terms of water quality. As such, nitrogen deposition is not considered to be a threat to site condition in this case, particularly in the context of the formerly emerging Local Plan (and the associated assumptions about development expectations) having been withdrawn. Any new Local Plan contemplated will require a new Habitats Regulations Assessment based on its growth expectations and potential in combination effects.

60. Increased development causes two main indirect impacts with regard to hydrological issues – increased surface run off from an increase in areas of built development, hardstanding and infrastructure creating impermeable surfaces and increase in pollutants. If unmitigated this has the potential to change the hydrology of the Pevensey Levels and convey pollutants to its watercourse and drainage network and would have a likely significant effect on the designated site. However, there are many safeguards that can be put in place to mitigate or avoid such impacts.

61. During construction, the development will be subject to a range of protective measures to ensure that pollutants and silt are not allowed to reach any local watercourses. A detailed Code of Construction Practice will be secured by condition and will be required to follow industry best practice with regard to pollution and sedimentation control measures.

62. With regards to the potential effects via surface water drainage pathways from new development within or in close proximity to the Pevensey Levels, it is established that sites coming forward need to demonstrate that a suitable Surface Water Drainage Strategy can be implemented to control the quality and volume of surface water run-off to a level that avoids an adverse effect on the integrity of the Pevensey Levels SAC/Ramsar/SSSI, alone and in combination.

63. In this case, surface water flows will be limited to the greenfield run-off rates for rainfall events with an annual probability of occurring greater than 1 in 2.33 and mean annual discharge (Qbar) for rainfall events with an annual probability of occurrence less than 1 in 2.33, including those with a 1 in 100 (Plus climate Change) annual probability of occurrence. An allowance for urban creep (10%) will also be allowed for.

64. All surface water (including exceedance flows) will go through a minimum of two stage treatments with surface water drainage being constructed to ensure that all surface water is discharged through at least one swale and a dry detention basin. Permeable paving will be provided to all private parking areas, therefore surface water from these areas will pass through a minimum of three stages of treatment. Adopted highway and road drainage will use trapped gully pots for collection which provide both hydrocarbon and silt removal.

65. Consideration has been given to potential exceedance flows, which indicates that even if below ground drainage suffers a blockage that surface water flows are directed through a swale and a dry basin prior to discharge off-site. The drainage strategy is split into four sub catchments with each catchment area having a natural low point which provides the location for the dry detention basins.

66. With regard to groundwater, the development will be required to undertake ground water monitoring through the winter months (autumn to spring). East Sussex County Council has been monitoring ground water in two boreholes next to the site as part of its groundwater flooding project. The two boreholes recorded groundwater levels on the ground surface on several occasions between April 2018 and March 2020. The scheme will need to take into account the impacts of high groundwater in the detailed design of the proposed surface management system to ensure the hydraulic capacity and structural integrity of SUDS features is retained. The restriction on run-off rates, and detailed design will be controlled through conditions attached to any planning permission.

67. With regard to water quality issues and given the high sensitivity of the receiving water it is important to be certain that the SuDS proposed is capable of treating the surface water run-off to a high standard. Mitigation of the potential resultant pollution from the development has been assessed in line with the CIRIA document C753. Using the site pollution index analyses for water quality assessment the Flood Risk Assessment and Drainage Strategy demonstrates that the SUDS mitigation indices are far higher than the combined pollution hazard indices.

68. In order to be certain that adverse effects on the SAC/Ramsar/SSSI are avoided, the long-term operation and management of SUDs features will be managed in perpetuity in line with the requirements set out within the SUDs Manual (CIRIA C753) and shall be undertaken by the developers appointed contractor/management company. Details of the management and maintenance plan and in perpetuity provision can be secured by way of planning condition.

69. The implementation of mitigation including construction safeguards and provision of SUDS will ensure that water flows will be maintained and that run-off from the site is of an appropriate quality and would not degrade the downstream Pevensey Levels SAC/Ramsar/SSSI.

70. With regards to the potential for in combination effects via surface water drainage pathways, as a result of new development within proximity to/hydrological connectivity to Pevensey Levels, this site and all other sites coming forward will be required to demonstrate that a suitable Surface Water Drainage Strategy and Management Plan will be implemented to prevent potential adverse impacts to the Pevensey Levels. As this site will mitigate its own impacts, and the Council confirms that other developments in the area will similarly be required to do so, no significant in-combination effects are predicted.

71. Subject to appropriate conditions, the proposed development either alone or in-combination with other plans and projects, would not result in an adverse effect on the integrity of the Pevensey Levels SAC/Ramsar/SSSI.

Lewes Downs SAC

72. Lewes Downs has been designated as a SAC, SSSI and a National Nature Reserve (NNR), due to its orchid-rich chalk grassland and scrub vegetation, which contains numerous southern and oceanic-southern species. It also supports rich invertebrate fauna, including moths and a breeding community of downland birds. Its conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the favourable conservation status of its qualifying features. The main air pollutants of concern relate to traffic emissions and the impact of nitrogen deposition.

73. The site is located around 14.3km from the designation at its nearest point. There will be no habitat fragmentation or loss. The distance between the site and Lewes Downs is such that adverse impacts from public access and disturbance are unlikely. No impacts are expected in relation to hydrology and water quality. The development would likely result in a negligible increase in traffic flows along the A26 adjacent to the SAC.

74. Therefore, the potential for a likely significant adverse effect on air quality from the development alone can be screened out however the potential for a likely significant effect as a result of changes to air quality in combination with other plans or projects cannot be screened out and an Appropriate Assessment is required.

Lewes Downs SAC – Appropriate Assessment

75. Air quality impacts are identified as one of the risks on the site improvement plan for Lewes Downs SAC. Grazing is an integral part of the management of Lewes Downs to manage tor grass and scrub cover so that the orchid rich grasslands can flourish. The western edge of Lewes Downs SAC closest to the A26 and the area that could be impacted by air quality impacts has a thick belt of woodland cover. The topography of this area of Lewes Downs rises very steeply from the road. The woodland belt currently functions as a buffer against air quality impacts onto the calcareous grassland and is also an important component of soil stability of the steep gradient. It is therefore not within the conservation objectives to remove this feature with any intention to restore to calcareous grassland.

76. Calcareous grassland as the qualifying feature is not present within the area to be affected by emissions. NE has advised the Council that there is no conservation objective to restore the feature to that area and that air quality impacts will not have a likely significant effect on Lewes Downs SAC alone or in combination with other plans and projects. There is no requirement for mitigation or avoidance measures. This advice is based on NE's knowledge of the topography of Lewes Downs SAC and the interest features for which it is designated. The only habitat likely to be impacted by air quality deterioration is woodland which is not a qualifying feature of the designated site, so the development poses no air quality risk to Lewes Downs SAC.

77. NE has also advised that where an existing national, regional or local initiative can be relied upon to lead to the reduction in background levels of pollution at a site, the competent authority should assess the implications of a plan or project against an improving background trend. Air quality monitoring

indicates improvements in vehicle technology will come forward and this is a further material consideration.

78. Accordingly, the proposed development alone and in-combination with other plans and projects will not result in an adverse effect on the integrity of the Lewes Downs SAC as a result of air quality.

Character and appearance

79. The proposed development would change the landscape and visual character of the appeal site, as is inevitable when a greenfield site is developed. This change is long anticipated, the area having been identified as a Strategic Development Area as far back as 2013, when the council adopted the CS.

80. Whilst this change may not be welcomed by all, the indicative masterplan and parameters plan demonstrate how the detailed design of the development seeks to minimise the impacts on the landscape, retaining existing natural features including mature trees and landscaping. This would ensure that the landscape impacts of the development are minimised, and that new development will integrate and work with the existing landscape, rather than simply imposing itself onto it.

81. Visually, the site is relatively well contained with a narrow frontage to Eastbourne Road where landscaping and tree planting is to be incorporated. Sensitive views will be significantly affected along the route of the two footpaths running across the site, which are used by local people for recreation and to access the wider countryside. Again, however, the proposed development would retain and incorporate these routes, along with the existing trees and landscaping, creating green corridors. This would be particularly effective along the route of the 1066 footpath, where areas of open space would be located alongside, maintaining open views towards the distant South Downs escarpment. The experience for users of the footpath would be somewhat different to at present, given the introduction of a large built development, but pleasant recreational walks would nonetheless be maintained. Furthermore, as new landscaping matures, it would further soften the appearance of the new development.

82. Views of the site would also be clearly visible from high ground within the South Downs National Park, where great weight should be given to conserving and enhancing landscape and scenic beauty. The submitted Landscape and Visual Impact Assessment identifies a range of viewpoints from this location, from which the site is currently seen as undeveloped agricultural land with urban development largely surrounding it. There is little doubt, notwithstanding the sensitive and considered design approach adopted, that the development would be a noticeable change in views from the National Park, but considered in context, this would not be a harmful change.

83. The development would be seen as part of the existing urban settlements, as a small component in wide panoramic and long reaching views as far as the coast. The site is a pleasant part of the existing views but it is nevertheless a component of an urban view, dominated by built development, in stark contrast to the land beyond Polegate and Wannock, and of course the National Park itself. The development would not appear out of context or at odds with its surroundings, urban areas already making up a large part of the spectacular views available. An area of open space would be maintained along the south-

eastern edge of the development, adjoining open space proposed within the Brodericklands and Hamlands Farm development and maintaining visual separation between settlements. Green agricultural land would also remain beyond the railway line, maintaining a degree of rurality.

84. The South Downs National Park is a designated International Dark Sky Reserve (IDSR), but the proposed development will be located in an existing urban context where lighting is already a feature, and some distance from the National Park boundary. The proposed development is unlikely to have any effect on the IDSR, but a condition could be used to ensure that a sensitive lighting scheme is designed, which minimises the potential for light spill and avoids any potential for harmful impacts.

85. In light of my conclusions, it is clear that the development, which is much needed in the area, has been sensitively located and designed to avoid adverse impacts on the National Park and would not harm its setting.

86. More generally, the landscape and visual impacts of the development would be minimised as far as possible through good design so that, whilst the effect of the development could not be described as positive in landscape and visual terms, the harm arising would be limited. These effects would be very localised and so the wider landscape character of the area will not be adversely affected. With this in mind, I find no conflict with Core Objective SPO13 and Policy WCS14 of the CS; saved policies EN1, EN8 and EN27 of the LP; or the Wealden Design Guide (2008), much of which will be for consideration at the detailed design stage.

Other Matters

87. Local people raise a range of issues, many of which have been discussed above. The Council and the appellant have entered into a statement of common ground and there is no dispute surrounding the acceptability of the proposal in terms of land uses, layout and design (so far as it currently known), operation of the road network, flood risk and drainage matters, highway land ownership, loss of agricultural land, cultural heritage, impact on neighbours, ecology, noise, air quality or contaminated land. There is no evidence before me that leads me to consider that any of these matters, or other matters raised should materially indicate against the grant of planning permission.

88. I have had particular regard to concerns about the impact on ecology, including concerns about protected species such as bats. Reference was also made to eels. Protected species are afforded protection under legislation independent of the planning system and so there can be comfort that they will be duly considered as part of any development proposals. Ecological surveys have been undertaken in support of the appeal proposal and mitigation measures proposed where necessary. Subject to suitable planning conditions to secure such measures, there is no reason to expect that the impacts of the development cannot be satisfactorily mitigated.

89. The effect of the development on air quality has been considered in the ES and a Technical Note accompanying the appellant's planning evidence. The site is not located in an Air Quality Management Area and the effects of the development are not expected to be significant. During operation, the impact of the scheme is assessed as negligible at all modelled receptors and air quality objectives are expected to be comfortably achieved.

90. There is an established need for a new medical centre in the locality and the proposed development makes provision. Although reference was made to an adjacent site (Hindsland) also proposing a medical centre, this scheme is also subject of an appeal which is yet to be determined. As such, there is no certainty that alternative provision will be made and it is important that the current scheme provides an opportunity to meet the established need.

91. Specific concerns are raised that the area suffers from a deficit of open space, sports pitches and amenity areas. The proposed development would deliver such spaces in excess of the Council's policy requirements and these facilities would be available to both new residents within the scheme and the wider population.

Planning Obligations

92. The appellant has submitted a Unilateral Undertaking (UU) to secure relevant planning obligations. The obligations have been identified by the Council and are supported by a CIL Compliance Statement which explains how each obligation accords with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

93. There is no dispute between the appellant and the Council that the majority of the obligations contained in the undertaking are necessary and would otherwise meet the tests contained at Regulation 122.

94. There is dispute, however, in relation to the Polegate High Street Contribution which amounts to £1,383,000. The sum is sought as a contribution towards planned traffic calming measures and public realm improvements necessitated by this and other local developments, which are expected to fund it.

95. It is of some concern that little information is before me about how the sum sought has been calculated but it is clear from the CIL Compliance Statement that the works are part of an existing strategy being implemented by East Sussex County Council. The scheme would involve improvements to the usability and safety of the town centre, importantly including highway safety improvements and sustainable transport enhancements.

96. The appeal scheme would undoubtedly lead to an increase in the number of people seeking to utilise the town's facilities and actively seeks to encourage use of the bus stops, cycleways and footpaths which the proposed enhancements would support. In addition, the scheme would further deter the likelihood of 'rat-running' through the High Street, addressing a significant concern of local residents.

97. For all of these reasons, I consider that the sum sought is proportionate and necessary in the context of this appeal, bearing in mind the extent of the works outlined. The obligation accords with the CIL Regulations and I have taken it into account in reaching my decision. If it transpires that the money is not spent by the Council for the intended purpose, then the appellant could expect to have it repaid.

98. The only other area of dispute relates to the definition of affordable housing within the undertaking, specifically, whether there should an absolute requirement for 35% affordance housing, or whether the definition should be expressed as a minimum of 35%, allowing for a greater percentage to ultimately be provided.

99. There is an acute unmet need for affordable housing in Wealden and so allowing the potential for a greater provision seems beneficial on the face of it. However, I have carefully considered the Council's position that the wider funding of local infrastructure relies on contributions from the CIL Levy, payable in relation to market housing. If larger proportions of affordable housing are allowed, that reduces the amount of funding available for important local infrastructure improvements needed to support development in the area, including planned highway works to be funded in this way.

100. There will no doubt be scenarios where a greater proportion of affordable housing could be supported, in order to assist in meet that pressing need. However, on a sizeable scheme like the appeal proposal, it is important that necessary infrastructure funding is available to support new development in the area without resulting in undue strain.

101. In this case, the policy requirement is for 35% affordable housing. There is no policy support or justification for requiring a greater proportion. 35% provision is also the figure contained within the appellant's ES and apparently the basis for assessment of the scheme. With all this in mind, I consider that the definition should, in this case, be an absolute requirement for 35% provision. This is the policy compliant figure and accords with the CIL Regulations. I have considered the appeal on this basis.

102. Amongst the obligations contained in the UU, provision is made for open space and play facilities, a community hall, education provision, a medical centre, self-build and custom-build plots, a bus service contribution and highway improvements. Having regard to the Council's policies and the need to mitigate the impacts of the development, all obligations contained in the UU are considered to accord with CIL Regulation 122 and have been taken into account.

103. Many interested parties have raised concerns that the development cannot be accommodated by local infrastructure, services and facilities. The obligations sought seek to mitigate the impacts of the development and are secured based on evidence provided by the various authorities and service providers. There is no detailed evidence before me to justify further obligations or to suggest that other services and infrastructure could not accommodate the development.

Planning Balance

104. The proposed development is in accordance with Policy WCS4 of the CS, which specifically seeks the type and amount of development proposed. Although there is a conflict with policies GD2 and DC17 of the LP, these policies are out of date for the reasons that I have set out above and so I attach the conflict only very limited weight. I have found no conflict with any other development plan policy.

105. The proposal would deliver a number of benefits, including a significant number of much needed market and affordable houses, economic benefits through job creation during construction and operation of the development, delivery of open space and sports facilities and a biodiversity net gain, amongst other things. Taken together, the benefits of the scheme attract substantial weight.

106. On the other hand, the identified harms are relatively few, including a conflict with two out of date policies from the LP and localised landscape and visual impacts.

107. The proposal is in accordance with the development plan, taken as a whole. The benefits arising from the proposed development would be substantial. I have identified no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Having regard to the provisions of the development plan and all material considerations, planning permission should clearly be granted.

Conditions

108. The Council and the appellant have agreed a range of planning conditions that should be attached to any planning permission granted. I have largely attached these as suggested, the parties having amended the wording to reflect discussions during the Inquiry. I have further amended the wording as necessary to improve their precision and otherwise ensure compliance with the relevant tests contained within the Framework and Planning Practice Guidance. The reasons for each condition are stated along with the relevant condition in the attached Schedule.

109. There is only one condition proposed by the Council which the appellant objects to, that requiring details of the location of market dwellings within each phase of the development. The purpose of the suggested condition, as explained during the Inquiry, is to ensure the provision of 65% market housing. I have not attached this condition because it is not necessary to make the development acceptable, 35% affordable housing having been secured as a planning obligation, with the remainder constituting market housing.

110. I have not attached the suggested condition requiring a survey of the surrounding highway network and rectification of any damage caused by construction traffic because the condition is imprecise and unenforceable. The area subject to the condition is not defined and it would be impossible to attribute damage in the public highway to the development with any certainty.

111. Further conditions were proposed by interested parties but these largely repeated matters that were already dealt with in the conditions agreed between the Council and the appellant, or sought to introduce requirements that would not accord with the relevant tests for conditions.

112. The Council, as the Local Planning Authority, is the only body that can properly approve details required pursuant to a planning condition and so reference to other bodies is both unnecessary and unreasonable.

113. A requirement for a 100m wide landscaped buffer zone on Eastbourne Road would be fundamentally at odds with the submitted parameter plan and indicative masterplan. It would be likely to adversely impact on the deliverability of the scheme and is therefore unreasonable. It is also unnecessary, bearing in mind my conclusions.

114. The appearance of the proposed materials is for consideration at the reserved matters stage. The objectives of a Construction Environmental Management Plan are satisfactorily dealt with through the Code of Construction Practice required. There is no policy basis for seeking a BREEAM Excellent

rating, Green Procurement Plan, rainwater/greywater harvesting, or green/brown roofs and these matters are not necessary to make the development acceptable. SUDS, nesting boxes and archaeology are all subject of conditions agreed between the main parties.

115. A new signal-controlled crossing is to be delivered on Eastbourne Road as part of the proposed highway works. A condition will require safety improvements to the railway pedestrian crossing to mitigate safety concerns arising from any increased usage. I have used the alternative wording agreed between the parties, albeit with some alteration to avoid the suggestion of a required financial contribution, to secure this requirement, given its greater precision and certainty.

116. Any fencing to be installed in the areas of open space in the vicinity of the water attenuation basins is for consideration at the reserved matters stage. Such a requirement is not necessary to grant planning permission.

Conclusion

117. In light of the above, the appeal is allowed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Sam Batchelor	Wealden District Council
Caitlin Boddy	Wealden District Council

FOR THE APPELLANT:

John Litton KC

He called:

Mark Bradbury BSc CEng MICE	Strategic Development Manager, IDOM
Stephen Kirkpatrick BSc BLD CMLI	SCARP
Katy Read CIEEM CEcol	Director, Biodiversity Advanced Ltd
Justin Bass MSc CMILT MCIHT	Director, Intermodal Transportation Ltd
Mark Bewsey BA(Hons) PGDipPlan MRTPI	Director, DHA Planning

INTERESTED PERSONS:

Caroline Ansell	Member of Parliament
Ruth Sheppard	Local resident
Mike Gadd	Local resident
Mary Taylor	Local resident
John Pritchett	Councillor
Ian Nisbet	Local resident
Paul Humphreys	Local resident
Robert Smart	Councillor
Stephen Shing	Councillor
Daniel Shing	Councillor
Kimberlee Cole	Local resident
David White	Councillor
Douglas Murray	Councillor
Nick Daines	Local resident
Kevin Lock	Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

1 Appellant's Opening Statement and attachments
2 Draft site visit itinerary
3 Speaking notes of Ruth Sheppard
4 Speaking notes of Cllr John Pritchett
5 Speaking notes of Ian Nisbet
6 Speaking notes of Nick Daines
7 Speaking notes of Cllr Robert Smart
8 Speaking notes (unnamed)
9 Speaking notes of Kimberlee Cole
10 Suggested conditions from Kevin Lock
11 Planning application consultation response from the Pevensey & Cuckmere Water Level Management Board, dated 18 March 2021
12 Flooding and Drainage Note prepared by Mark Bradbury, dated 7 September 2022
13 Suggested conditions from Willingdon Parish Council
14 Suggested conditions from Cllr Douglas Murray
15 Updated site visit itinerary
16 E-mail from Mark Bewsey suggesting amended wording for condition 30, including reference to biodiversity net gain, dated 8 September 2022
17 Appellant's Closing Submissions and attachments
18 Appellant's final comments on costs

DOCUMENTS SUBMITTED AFTER THE INQUIRY

1 Completed Unilateral Undertaking
2 Amended conditions – final version
3 E-mail from Mark Bewsey (copied to Council) responding to Inspector's query on conditions, dated 21 September 2022

SCHEDULE OF CONDITIONS

1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

   REASON: In accordance with Section 92 of the Town and Country Planning Act 1990.

2) Application for approval of the reserved matters for the first phase of development shall be made to the Local Planning Authority not later than two years from the date of this permission and application for approval of reserved matters for the whole site shall be made within seven years from the date of this permission.

   REASON: In accordance with Section 92 of the Town and Country Planning Act 1990.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

   REASON: In accordance with Section 92 of the Town and Country Planning Act 1990.

4) Prior to commencement of development a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include the phasing for the various elements of the development, including associated infrastructure. Unless otherwise agreed in writing by the Local Planning Authority, the development of the site shall be carried out in accordance with the approved phasing plan.

   REASON: To enable the Local Planning Authority to regulate and control the development of land having regard to SPO15 and Policy WCS7 of the CS and Policy CS1 of the LP.

5) No development shall take place until a scheme for archaeological investigation of the site has been submitted to and approved in writing by the Local Planning Authority, such scheme to include a timetable for investigation. Thereafter, the archaeological works shall be carried out in accordance with the approved scheme unless the Local Planning Authority otherwise agrees in writing.

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and Policy WCS14 to the CS.

6) No phase of the development hereby permitted shall be occupied 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 in accordance with the programme set out in the scheme approved under condition 5.

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and Policy WCS14 to the CS.

7) The reserved matters application(s) for each phase of development shall be accompanied by a scheme identifying the specific measures, along with site locations, to be incorporated for the protection of future occupants of the dwellings from the effects of noise from rail and road traffic. The scheme shall achieve internal noise levels of no more than 30dB LAeq in bedrooms, 35dB LAeq in living rooms and external levels of 55dB LAeq in gardens.

   The design and construction criteria for the residential element shall have regard to BS 8233:2014 – Sound insulation and noise reduction for buildings, or where superseded, the most up-to-date guidance.

   The noise mitigation measures shall be implemented in accordance with the approved scheme before occupation of those dwellings identified as requiring the noise mitigation measures.

   REASON: To protect residential living conditions, having regard to Policy EN27 of the LP.

8) The rating level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300- 0700 (taken as a 15 minute LA90 at the nearest/any sound sensitive premises).

   All measurements shall be made in accordance with the methodology of BS4142 (2014) (Method for rating and assessing industrial and commercial sound) and/or any subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

   Any deviations from the LA90 time interval stipulated above shall be agreed in writing by the Local Planning Authority.

   REASON: To protect residential living conditions, having regard to Policy EN27 of the LP.

9) The development hereby permitted shall not begin until a scheme to deal with contamination of land and/or ground gas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:

   i) A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175:2011, Investigation of Potentially Contaminated Sites - Code of Practice, or where superseded the most up to date standards/guidance.

   ii) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011, Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.

iii) A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

iv) If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme shall be submitted to and approved in writing by the Local Planning Authority.

v) A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development/the development being brought into use. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to Policy EN1 of the LP and Policy WCS14 to the CS.

10) For each phase of development, no enabling work (including vegetation clearance, demolition or below ground level work) shall be carried out on site until full written details of a Code of Construction Practice [Construction Management Plan] has been submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice [Construction Management Plan] shall provide for:

i) An indicative programme for carrying out the works;

ii) Measures for the protection of protected and notable species and retained habitat features and surface water bodies on or adjacent to the site;

iii) A scheme for the control of noise and dust which shall accord with British Standard ` BS5228-1: 2009 +A1:2014- Code of practice for noise and vibration control on construction and open sites;

iv) Management of traffic visiting the site including the anticipated number, frequency and types of vehicles used during construction, the times of delivery and collections which shall avoid peak traffic flow times between the hours of 0800 to 0900 and 1630 to 1800 and measures necessary to ensure highway safety;

v) The method of access, including temporary access points, on-site turning egress and routing of vehicles temporary parking or holding areas;

vi) The parking of vehicles by site operatives and visitors;

vii) The loading, unloading and storage of plant, materials and waste;

viii) 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);

ix) Measures to minimise the potential for pollution of groundwater and surface water;

x) Details of measures to manage flood risk, both on and off the site during construction;

xi) The location and design of security hoardings, site offices and storage compounds;

xii) The arrangements for public consultation and liaison during the construction works.

xiii) Details of control measures to prevent the spread of invasive non-native species (e.g. Japanese knotweed).

The approved Code of Construction Practice [Construction Management Plan] shall be adhered to in full throughout the construction period. No bonfires are permitted during site clearance or construction.

REASON: In the interests of safety for persons and vehicles on the site and/or adjoining road, to minimise loss of amenity to adjoining residents and to minimise potential for environmental impact having regard to Policy WCS14 of the CS and Policies EN27 and TR3 of the LP.

11) During the construction phase, no works shall take place other than within the hours, Monday to Friday 0800 to 1800 hours, Saturday 0800 to 1300 and not at all on Sundays, Public or Bank Holidays.

REASON: To protect residential living conditions, having regard to Policy WCS14 of the CS and Policy EN27 of the LP.

12) The new vehicular accesses shall be in the positions shown on the approved plan, Drawing No. IT432/RTA/03E, and laid out and constructed in accordance with technical details to be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to Policies WCS7 and WCS14 of the CS and Policy TR3 of the LP.

13) No part of the development shall commence until a technically accepted highway scheme including construction details and specifications for the priority junction (northern access); southbound bus lane and footway/cycle lane; bus stop lay-by; and signalised junction (southern access) as shown on the approved plan, Drawing No. IT432/RTA/03E, has been submitted to and approved in writing by the Local Planning Authority. The approved highway scheme/s shall be completed prior to first occupation of the respective development phases using the approved junctions or as otherwise agreed with the Local Planning Authority.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to Policies WCS7 and WCS14 of the CS and Policy TR3 of the LP.

14) For each phase of development, before preparation of ground levels for the development approved, detailed plans, including levels, sections and constructional details of the proposed internal access roads, surface water drainage, foul sewers, outfall disposal and street lighting to be provided (with a view to subsequent adoption as a maintainable

highway), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to Policy TR3 of the LP.

15) The new estate roads shall be constructed in accordance with a specification submitted to and approved in writing by the Local Planning Authority. All roads shall be constructed to an adoptable standard.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the CS and Policy TR3 of the LP.

16) For each phase of development, no part of the development shall commence until such time as a technically accepted highway scheme to support the approved pedestrian/cycle links has been submitted to and approved in writing by the Local Planning Authority. The approved highway scheme shall be completed prior to first occupation of the associated phase of development.

REASON: To encourage and promote sustainable transport and in the interests of highway safety, having regard to Policy WCS14 of the CS and Policy TR3 of the LP.

17) No part of the development shall commence until such time as plans, details and construction specification showing the proposed upgrade works for Right of Way 5 [Willingdon and Jevington], along with a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure that suitable improvements are made and to safeguard users having regard to Policy WCS14 of the CS.

18) None of the dwellings hereby permitted shall be occupied until a scheme for the provision of safety measures at the Vine No.2 footpath level crossing and the stopping up of level crossings where required has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the timing of works relative to the phasing of the housing development and the works shall be carried out in accordance with the approved details.

REASON: To ensure that suitable improvements are made and to safeguard users having regard to Policy WCS14 of the CS.

19) For each phase of development, no part of that phase shall be occupied until a Sustainable Transport Strategy has been submitted to and approved in writing by the Local Planning Authority. The Sustainable Transport Strategy shall set out:

i) The Travel Plan objectives, incentives and measures for all land uses within each phase of development;

ii) A car parking strategy indicating allocated, unallocated and car club spaces for each phase of development;

iii) A cycle parking strategy for each phase and all uses within a phase;

iv) Details of the provision of electric vehicle charging points within each phase.

The Sustainable Transport Strategy shall be delivered in accordance with the approved details.

REASON: To ensure suitable car-parking space for the development and to accord with sustainable transport objectives having regard to Policy WCS14 of the CS and Policies EN1, EN2 and TR16 of the LP.

20) For each phase of development:

No development shall commence until a scheme for the provision and implementation of foul drainage works for that phase has been submitted to and approved in writing by the Local Planning Authority. The foul drainage works shall be implemented in accordance with the approved details.

There shall be no occupation of that phase of development until it has either been confirmed by Southern Water that there is capacity for that phase of the development, or where an upgrade to the infrastructure is required that the necessary upgrades have been implemented and confirmed by Southern Water to the Local Planning Authority.

REASON: To protect water quality and to secure a satisfactory standard of development, having regard to Policy WCS14 to the CS.

21) The development shall be carried out in accordance with the submitted flood risk assessment (dated January 2021). The mitigation measures it details within section 14.1.5 of the submitted FRA shall be included within the detailed design of the site. These mitigation measures shall be fully implemented in accordance with a phasing programme to be submitted to and approved in writing by the Local Planning Authority. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

REASON: To reduce the risk of flooding to the proposed development and future occupants and secure a satisfactory standard of development, having regard to Policy WCS14 to the CS and Policy CS2 of the LP.

22) For each phase of development, no part of the development shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority.

The surface water drainage system shall incorporate the following:

i) Detailed drawings and hydraulic calculations, which shall take into account the connectivity of the different surface water drainage features. The calculations shall demonstrate that surface water flows can be limited to the greenfield runoff rates for rainfall events with an annual probability of occurring greater than 1 in 2.33 and mean annual discharge (Qbar) for rainfall events with an annual probability of occurrence less than 1 in 2.33, including those with a 1 in 100 (plus climate change) annual probability of occurrence. An allowance for urban creep (recommended 10% increase in impermeable area) shall be incorporated within the calculations.

ii) The details of the outfalls of the proposed attenuation ponds and how they connect into the watercourses, including cross sections and invert levels.

iii) The detailed design of the attenuation ponds shall be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the drainage structures and the highest recorded groundwater level. In the event this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system shall be provided.

iv) Details of the measures proposed to manage exceedance flows and measures to prevent surface water run-off onto the A2270 Eastbourne Road. This should also include details of how the existing overland surface water flows have been retained.

v) Evidence that the existing watercourses on site have been retained shall be provided.

The surface water drainage scheme shall be provided in accordance with the approved details before first occupation of the related dwellings. Prior to occupation of each phase, evidence (including as built drawings and photographs) shall be submitted showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

REASON: In order to secure a satisfactory standard of development, having regard to Policy WCS14 of the CS and Saved Policy CS2 of the LP.

23) Prior to the construction of any outfall, a survey of the condition of the watercourses which will take surface water runoff from the development shall be investigated.

Results of the survey shall be submitted to and approved in writing by the Local Planning Authority. Any required improvements to the condition of the watercourse and a programme for implementation shall also be included and, if approved by the Local Planning Authority, implemented in accordance with the approved details and timetable.

REASON: In order to secure a satisfactory standard of development, having regard to Policy WCS14 of the CS and Policy CS2 of the LP.

24) A maintenance and management plan for the entire drainage system shall be submitted to and approved in writing by the Local Planning Authority before any construction commences on site to ensure the designed system takes into account design standards of those responsible for maintenance. The management plan shall cover the following:

i) Who will be responsible for managing all aspects of the surface water drainage system, including piped drains;

ii) Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.

The approved plan shall thereafter remain in place for the lifetime of the development.

REASON: In order to secure a satisfactory standard of development, having regard to Policy WCS14 of the CS and Policy CS2 of the LP.

25) There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from

parking areas and hard standings shall be passed through trapped gullies and silt traps to BS 5911:1982 with an overall capacity compatible with the site being drained and shall be retained thereafter.

REASON: To prevent pollution of the water environment, having regard to Policy WCS14 of the CS and Saved Policy CS2 of the LP.

26) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall provide for lighting that is low level and directional and show the predicted light levels at neighbouring residential properties. The artificial lighting to the development shall conform to requirements for Environmental Zone E2 contained within Table 2 of the Institute of Lighting Professionals Guidance Note 01/21 The Reduction of Obtrusive Light and comply with the Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 Bats and Artificial Lighting in the UK.

The lighting shall be implemented in accordance with the approved scheme and retained thereafter.

REASON: To protect dark night skies and preserve living conditions in the locality having regard to Policies EN27 and EN29 of the LP, and the Wealden Design Guide (Chapter 3, Section 18 and Chapter 8, Section 7).

27) No development shall take place until a plan for the protection of the Mornings Mill Stream, both during construction works and once the development is complete, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include the following elements:

i) timing of the works;
ii) the measures to be used during the development in order to minimise environmental impact of the works (considering both potential disturbance and pollution);
iii) a map or plan showing river habitat to be specifically protected during the works;
iv) any necessary mitigation for protected species using the watercourse or the watercourse corridor;
v) construction methods;
vi) any necessary pollution protection methods;
vii) information on the persons/bodies responsible for particular activities associated with the method statement that demonstrate they are qualified for the activity they are undertaking.

The rivers priority habitat protection plan shall be carried out in accordance with a timetable for implementation which has first been approved by the Local Planning Authority.

REASON: To protect the rivers priority habitat within the development site and avoid damaging the site's nature conservation value, having regard to Policies WCS12 and WCS14 to the CS.

28) No development shall take place until a scheme for the provision and management of an 8 metre wide buffer zone alongside both banks of the Mornings Mill Stream has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority. The buffer zone shall remain free from built development including lighting, domestic gardens and formal landscaping.

The scheme shall include:

i) plans showing the extent and layout of the buffer zone.

ii) details of any proposed planting scheme which should be of native species and, if including riparian tree planting, should take account of access, maintenance and flood risk.

iii) details demonstrating how the buffer zone will be protected during development and managed over the longer term, including adequate financial provision and named body responsible for management plus production of detailed management plan.

iv) details of any proposed footpaths, fencing, lighting, etc. Lighting should be minimal and/or low level to avoid disrupting the natural diurnal rhythms of a range of wildlife using and inhabiting the river and its corridor habitat.

REASON: The Mornings Mill Stream provides a valuable ecological corridor and any enhancements should be in keeping with the existing wetland habitats having regard to Policies WCS12 and WCS14 of the CS.

29) For each phase of development, a landscape and ecological management plan, including details of ecological mitigation, compensation and enhancement proposals, long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the Local Planning Authority. The landscape and ecological management plan shall be carried out as approved over the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

The landscape and ecological management plan shall include the following elements:

i) detailed proposals for the protection of bats, birds, reptiles, great crested newts, hedgehog, black poplar trees and badgers, and measures for the mitigation of any harm to them likely to be caused by the development;

ii) details of Biodiversity Net Gain using an appropriate metric;

iii) details of maintenance regimes and management responsibilities;

iv) details of any proposed planting scheme, which should be of native species of local provenance where reasonably practicable, bearing in mind access for maintenance. These should include: wet woodland habitat as part of the tree planting proposals and floodplain meadows as part of the wildflower grassland proposals;

v) retention of existing watercourses and construction of new swales and ditches (SuDS), ideally with at least one permanently wet pond to operate as a water filtration system to maintain the quality and

quantity of the surface water run-off entering the Mornings Mill Stream; and

vi) provide for connectivity to adjacent watercourses to enhance the potential for breeding and dispersal of reptiles and amphibians on and around this site and to adjacent habitat.

REASON: To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site's nature conservation value (net gain) in line with national planning policy, adopted policies WCS12 and WCS14 of the CS and the South East River Basin Management Plan.

30) Details of landscaping as required by Condition 1 shall include those trees and hedgerows to be retained (including protection zones), those to be removed and new planting. No trees and hedgerows that have been approved as being retained, unless dead or dangerous, shall be felled, topped, lopped or destroyed without the consent in writing of the Local Planning Authority. Furthermore the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the written consent of the Local Planning Authority:

i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

iv) No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.

v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.

vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'.

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to Policies WCS13 and WCS14 of the CS and Policies EN12 and EN14 of the LP.

31) For each phase of development, a full Arboricultural Impact Assessment and Method Statement shall be submitted with the reserved matters application and shall include numbering and detailing of trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details.

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to WCS13 and WCS14 of the CS and Policies EN12 and EN14 of the LP.

32) No development shall take place unless and until:

A detailed assessment of ground conditions of the land proposed for the new/retained/replacement playing field land as shown on the illustrative masterplan has been undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and

Based on the results of this assessment, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

The works shall be carried out in accordance with the approved scheme and a timetable approved in writing by the Local Planning Authority.

REASON: To ensure that site surveys are undertaken for new playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with Policy LR3 of the LP.

33) Prior to the grass playing pitches being brought into use a Management and Maintenance Scheme for the facility, including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority. The measures set out in the approved scheme shall be complied with in full, on completion of the playing pitches.

REASON: To ensure that new facility is capable of being managed and maintained to deliver a facility which is fit for purpose, sustainable and to ensure that the development benefits sports provision in accordance with the Framework and Policy LR3 of the LP.

34) Prior to bringing into use the sports pitches and sports pavilion, a community use scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall apply to the grass pitches and the ancillary facilities comprising the changing/clubroom pavilion and parking and shall include details of pricing policy, hours of use, access by non-educational establishment users/non-members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the start of use of the sports pitches and sports pavilion [or other agreed timescale] and shall be complied with for the duration of the use of the development.

REASON: To secure well managed safe community access to the sports facility, to ensure the development benefits sports provision and to accord with Policy LR3 of the LP.

35) Before preparation of any groundworks or foundations for each phase of the development hereby approved, full details for the incorporation of water and energy efficiency measures, and the promotion of renewable energy and sustainable construction within the development shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation of the associated phase and thereafter so retained.

REASON: To promote sustainable building design, having regard to SPO9 and SPO13 and Policy WCS14 of the CS and Policy EN1 of the LP.

36) The development shall be carried out in accordance with the design principles and development objectives set out in the Design Framework Parameter Plan, Drawing No. 2.106A.

REASON: In the interests of certainty, having regard to the development proposed and assessed within the Environmental Statement.

37) No development shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy has been submitted to and approved in writing by the Local Planning Authority. The purpose of this strategy shall be to ensure that the proposed ecological avoidance, mitigation, compensation and enhancement measures for the site are successfully delivered and managed. The content of the strategy shall include the following:

i) Aims and objectives of monitoring to match the stated purpose.
ii) Identification of adequate baseline conditions prior to the start of development.
iii) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
iv) Methods for data gathering and analysis.
v) Location of monitoring.
vi) Timing and duration of monitoring.
vii) Responsible persons and lines of communication.
viii) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at agreed intervals identified in the strategy. The report shall also set out (where the results of the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy shall be implemented in accordance with the approved details.

REASON: To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site's nature conservation value (net gain) in line with national planning policy, policies WCS12 and WCS14 of the CS and the South East River Basin Management Plan.

38) Where the approved development is to proceed in a series of phases, further surveys for roosting bats shall be undertaken to inform the preparation and implementation of bat roost mitigation strategies for each phase of development. The surveys shall be of an appropriate type for the species and survey methods shall follow national good practice guidelines. The loss of any bat roosts (in buildings or trees) shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

A licence issued by Natural England pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity / development to go ahead; or

A statement in writing from the relevant licencing body to the effect that it does not consider that the specific activity/development will require a licence.

REASON: To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site's nature conservation value (net gain) in line with national planning policy, policies WCS12 and WCS14 of the CS and the South East River Basin Management Plan.

39) The development shall not be occupied until the following highway mitigation works for the East Sussex highway network have been completed:

The A2270, Wannock Road and Polegate High Street signalised junction works (which shall have been opened to all traffic); and Stage 1 of the Hailsham, Polegate & Eastbourne Movement & Access Corridor (HPEMAC).

REASON: To ensure the impact of traffic generated by this development is mitigated, having regard to Policy TR3 of the LP and Policies WCS7 and WCS14 of the CS.

40) Not more than 150 dwellings shall be occupied until:

The highway improvements to the A27 Cophall roundabout have been constructed and opened to traffic in accordance with Intermodal Transportation Ltd's Dwg No. IT432/SK/13 "Possible capacity improvement on Cophall roundabout" or other such scheme of works agreed by the Local Planning Authority to provide substantially similar effect; and the improvement works to the A27 and A22 Golden Jubilee Roundabout and the A22 Golden Jubilee Way and Dittons Road Roundabout have been completed and both roundabouts are open to all traffic.

REASON: To ensure the impact of traffic generated by this development is mitigated, having regard to Policy TR3 of the LP and Policies WCS7 and WCS14 of the CS.