The Planning Inspectorate

Appeal Decision

Hearing held on 16 August 2022

Site visit made on 17 August 2022

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Appeal Ref: APP/C1435/W/22/3296579
Land west of Station Road, Hailsham

- 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 Gleeson Strategic Land Limited & Rydon Homes Limited against the decision of Wealden District Council.
- The application Ref WD/2020/2509/MAO, dated 30 November 2020, was refused by notice dated 28 February 2022.
- The development proposed is outline planning application (with all matters reserved except for access) for the erection of up to 200 residential dwellings including affordable housing with the provision of vehicular, pedestrian and cycle access from Station Road, incorporating open spaces, sustainable urban drainage systems, associated landscaping, infrastructure and earthworks.

Decision

1. The appeal is allowed and planning permission is granted for outline planning application (with all matters reserved except for access) for the erection of up to 200 residential dwellings including affordable housing with the provision of vehicular, pedestrian and cycle access from Station Road, incorporating open spaces, sustainable urban drainage systems, associated landscaping, infrastructure and earthworks at land west of Station Road, Hailsham in accordance with the terms of the application, Ref WD/2020/2509/MAO, dated 30 November 2020, subject to the conditions in the attached Schedule.

Procedural Matters

2. Prior to the hearing the Council confirmed that they would not offer evidence in relation to their single reason for refusal relating to highways matters. Therefore, the hearing proceeded without the Council defending their decision to refuse planning permission.
3. Various iterations of an illustrative masterplan were submitted with the appeal which show how the site might be developed in the event the appeal was allowed. A parameters plan was also submitted for approval which shows the broad locations of proposed housing, open space and the retention of a public footpath. The Council have had the opportunity to comment on these plans as part of the appeal and raise no objections. I am satisfied that these plans do not materially alter the substance of the application the Council originally considered and interested parties would not be unduly prejudiced. Therefore, I have accepted these plans as part of this appeal, but I have treated the masterplan as illustrative only.

4. A range of other technical documents were also submitted with the appeal[1]. Again, they do not alter the nature of the proposal originally considered and I have accepted them.

5. A draft Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted by the appellants prior to the hearing and was subsequently signed shortly after. I deal with this in my reasoning below.

Application for costs

6. An application for a full award of costs was made by Gleeson Strategic Land Limited and Rydon Homes Limited against Wealden District Council. This application is the subject of a separate decision.

Main Issues

7. The main issues in this case are:

- Whether the proposal would promote sustainable transport having regard to a) the effect of traffic on the local highway network with particular regard to the Station Road/South Road junction; b) measures to promote sustainable modes of travel.

- The effect of the proposal on the integrity of Pevensey Levels habitats site, including mitigation.

Reasons

Background

8. The appeal site is located outside the settlement boundary and for the purposes of planning policy lies in the countryside. The scheme is referred to by the appellants and Council as 'phase 3'. Phase 1, known as *Cuckoo Fields and Ersham Park*, relates to planning permission for up to 400 dwellings. Phase 2, known as *land adjacent to Cuckoo Trail*, relates to planning permission for up to 100 dwellings[2]. Therefore, notwithstanding the appeal proposal, up to 500 dwellings have been granted planning permission on land close to the appeal site, which lies generally to the south and east of these two phases. The illustrative masterplan demonstrates that the proposal could be linked to phases 1 and 2 by a series of footpaths.

Highway capacity

9. Station Road is the main road linking the appeal site with the town centre, forming a priority junction with South Road (A295) at its northern extent. The layout of the Station Road/South Road junction (the junction) as it currently exists is deficient in a number of areas. This was apparent on my site visit, and is supported by the evidence and anecdotal accounts I heard during the hearing. Notably, drivers turning right out of Station Road onto South Road are required to cross to the opposing side of the carriageway[3]. The difficulty of this manoeuvre being exacerbated often by the weight of traffic in both directions along South Road, and the proximity of traffic signals which control

[1] Core documents CD2/22 – CD2/36, with CD2/23, CD2/25, CD2/26, CD2/27 relating to illustrative masterplans and parameters plan referred to above.
[2] Phase 1 planning permission ref - WD/2018/0475/MAO. Phase 2 planning permission ref - WD/2019/1864/MAO.
[3] Baseline data included in TA suggests approximately 1/3 of vehicles turn right out of Station Road.

traffic flows from George Street and North Street, often resulting in platoons of vehicles heading west along South Road past the junction. Moreover, drivers wishing to turn right into Station Road from South Road often block part of the carriageway, further restricting the operational efficiency of the junction.

10. As a result of the above, and despite the width of the bellmouth which allows several left and right turners to exit from Station Road onto South Road at the same time, it does not take long for vehicles wishing to turn right to clog the junction. The result is frequent delays in being able to turn out of the junction onto South Road safely, often resulting in queues along Station Road, particularly at peak times.
11. None of this is disputed. In short, the priority junction control currently in place exhibits capacity issues. Indeed, it was recognised in the proposals for phases 1 and 2 that, the ratio of traffic flow in relation to capacity would be high based on modelled future growth, resulting in significant exceedance of the junction's operational capacity during the PM peak[4]. To mitigate the effects of the additional traffic arising from the respective approved developments, phase 1 proposed a right turn filter along South Road to aid vehicles turning right into Station Road, with phase 2 proposing a comprehensive scheme involving the provision of traffic signals as a means of controlling traffic flows.
12. In this regard, a planning condition was imposed on the phase 2 planning permission requiring that the principal traffic signalisation and junction alteration works were implemented in accordance with the approved plan[5]. Therefore, it is clear that the Council have previously accepted that the additional traffic associated with phases 1 and 2 could be accommodated at the junction subject to the approved junction alteration and signalisation scheme (junction signalisation works). The same approved junction signalisation works are proposed as part of this appeal[6].
13. Turning to the effects of the traffic likely to be generated by the proposal. I note that the East Sussex County Council (Highway Authority) were initially concerned with the traffic survey data obtained in 2020 due to COVID-19 restrictions in place at that time. However, further surveys were completed by the appellants during November 2021 and subsequently, the Highway Authority raises no objection to the traffic data underpinning subsequent junction capacity assessments.
14. The appellants have provided an assessment of the likely traffic impacts on the junction. This is based on the proposal in combination with committed developments and anticipated traffic growth in the year 2028, which includes the implementation of the junction signalisation works[7]. The assessment demonstrates that during the AM and PM peak, no arms of the junction would be over capacity[8], with a practical reserve capacity of 6.6% in the AM peak and 8.6% in the PM peak[9]. This demonstrates ample spare capacity within the junction for it to operate effectively.
15. Moreover, I was told during the hearing that drivers would be able to navigate the signals at the junction within one complete traffic signal cycle. This is backed up by the data which also suggests delays of less than 1 minute on all arms of the junction during both the AM and PM peak. Even allowing for the

[4] See table 3.4 of Appeal Rebuttal Statement – ref - ITB15695-013a
[5] Condition no 18 of planning permission WD/2019/1864
[6] See Agreed Statement on Transport Matters drawing ref - ITB15002-GA-001A
[7] Traffic modelling of signalised junction using industry standard LinSig software
[8] An arm is generally considered over capacity when degree of saturation exceeds 90%
[9] Table 3.5 of Appeal Rebuttal Statement by i-Transport – ref ITB15695-013a

limitations associated with junction modelling and forecasting future scenarios with such precision, I am satisfied that the impacts of the proposal, in combination with other committed developments, would fall well short of 'severe', that being the relevant test as set out in paragraph 111 of the National Planning Policy Framework (the Framework). I also note that the Highway Authority raises no objection to the methodology, nor do they question the figures.

16. Furthermore, concerns relating to the effectiveness of the junction signalisation works in improving the junction's capacity and efficiency are not supported by the evidence. Firstly, the works were considered as part of phase 2 and have been approved by the Council demonstrating their acceptance of this form of mitigation. Secondly, the appellants' assessment of the signal controls proposed at the junction and the impacts on traffic flows are comprehensive, and no objections are raised by the Highway Authority, nor do they contest that the works necessary to carry out the junction mitigation are not deliverable.
17. Concerns have also been raised by interested parties regarding the capacity of other junctions in the area to accommodate an increase in vehicular movements associated with this proposal. However, no detailed evidence has been submitted which leads me to conclude that the submitted Transport Assessment (TA) is not robust, and the conclusions drawn, which find the impact on other local roads and junctions in the area would not be significant, do not appear unsound.
18. The Council's reason for refusal raises concerns that the measures set out in the submitted Sustainable Transport Strategy (STS) would not be deliverable. It also states that such measures would be necessary to mitigate the impact on the junction. However, I fundamentally disagree. So too, as part of the agreed Statement of Common Ground, do the Highway Authority.
19. To clarify, it is important to note that the above reasoning does not take into account the effects of the STS in reducing traffic flows at the junction. This is because I find that the approved junction signalisation works alone would provide the mitigation necessary to ensure sufficient capacity and the effective operation of the junction.
20. Nevertheless, given that the Framework also requires that developments promote sustainable modes of travel, I will move on to assess the effectiveness of the proposed STS in achieving this.

Travel Plan

21. The planning application was accompanied by a Framework Travel Plan[10]. An enhanced travel plan was then submitted in the form of the STS[11]. Aside from the concerns over the junction's operation, interested parties raise concerns over the deliverability of the measures proposed in the STS.
22. In this regard, despite the site's countryside location, a wide range of services and facilities exist within a reasonable walking distance of the appeal site[12]. This includes Hailsham town centre. In addition, the Cuckoo Trail[13], which passes through Hailsham, lies adjacent to phases 1 and 2. The submitted

[10] Ref: TW/SJH/PS/ITB15695-003A
[11] Ref: TW/SJH/ITB15695-007a R
[12] Table 6.2 of Transport Assessment. Many services and facilities within 2km. Manual for Streets (referring to the now defunct PPG13) states that walking offers the greatest potential to replace short car trips, particularly those under 2km.
[13] National Cycle Network – route 21

illustrative masterplan demonstrates that connections to the Trail, along with generally improved pedestrian connectivity, could be achieved to be secured as part of subsequent reserved matters. Fundamentally, the site is within proximity of a range of services and facilities and potentially accessible by non-car modes of travel.

23. The STS includes measures to improve pedestrian crossings and the footpath network in the local area. It also commits to providing Personalised Travel Planning (PTP) to all new residents of the proposal, phases 1 and 2, and some existing households in the local area. The PTP would provide details of available travel options which form part of the STS, including detailed walking and cycle maps. It would also include vouchers towards the purchase of cycle equipment or bus tickets, along with information to promote car sharing and details of a car club.

24. On the latter, it is anticipated that a new car club would be created, with residents offered free membership and initial driving credit. Despite concerns over the effectiveness of such a scheme in this location, the appellants confirm that engagement with car club operators has clarified that a scheme in this area would be viable and deliverable. I have no reason to disagree with this statement. To my mind the car club would at the very least offer alternatives for residents, potentially reducing the need for residents to own one or more cars.

25. Finally, the STS proposes bus service enhancements. The Highway Authority's consultation response on the planning application confirms that the existing bus service 'H1' stops approximately 1km away from the furthest part of the appeal site. Therefore, bus service enhancements would likely consist of a new service running along Station Road and other local roads, thus linking the appeal site with Hailsham and Eastbourne, as well as serving existing residents and phases 1 and 2 which lie in proximity of the proposed route.

26. In order to provide the new service, the Highway Authority have confirmed that parking restrictions (including double yellow lines) would be required along a number of local roads and junctions[14] in order to allow access for a 'full size' bus. No parking restrictions would be necessary along Station Road. After walking the suggested bus route on my site visit[15], I did not see any evidence of vehicles being double-parked in a manner which would prevent a bus from safely navigating the route. As such, given that parking restrictions are mostly proposed on only one side of streets along the proposed route, they appear to reinforce the prevailing parking situation, thus significant displacement of vehicles appears unlikely.

27. Even if the parking situation is different during evenings and weekends, when local residents are more likely to be at home, the parking restrictions necessary to secure the new bus route and service would require a Traffic Regulation Order (TRO). I appreciate that, as the TRO process falls under separate non-planning legislation, there is no certainty that the outcome would be successful, and that the TRO could be implemented in accordance with the submitted scheme. However, even if the TRO was not made, the appellants state that alternatives measures would be considered as part of the STS in order to achieve bus service enhancement.

[14] As detailed in the East Sussex County Council (Highway Authority) consultation response on the planning application dated 15th February 2022.
[15] Which took place at approximately 10am

28. In addition to this, the appellants have committed to providing £250,000 to deliver bus service enhancement (see planning obligations) at the request of the Highway Authority. This, when coupled with the aforementioned measures which would promote bus services, means that bus travel would represent a genuine alternative to travel by car.
29. It is put to me by interested parties that the aim of the STS, to facilitate a 5% shift in travel behaviour, would be unachievable, and that residents of the proposal would be largely reliant on the private car. However, I have not been presented with evidence of a planning policy requiring a 5% shift in travel behaviour, thus it does not appear to be necessary to make the development acceptable in planning terms. Rather than requiring a quantitive measure of travel behaviour changes, paragraph 110(a) of the Framework requires that appropriate opportunities to *promote* sustainable transport modes are taken up, having regard to development type and location. I consider that the STS would achieve these requirements.
30. Notwithstanding this, the appellants confirm that travel behaviour measures would be reviewed and monitored over a period of 5 years from occupation, with further measures incorporated as necessary in consultation with the Highway Authority. I also note that the Highway Authority raises no objections to either the 5% target, or the measures contained within the STS.
31. I also note that some of the measures proposed require further detail. Therefore, it would be appropriate in this case to impose a planning condition requiring the submission of a final STS to be agreed with the Council prior to the occupation of the development. Overall, the STS constitutes a comprehensive package of measures, and I am satisfied that the proposal would provide a realistic prospect of delivering a modal shift by promoting sustainable transport modes.

Conclusion on sustainable transport

32. The proposal would have a less than severe impact on the performance of the highway network. This relies on a condition requiring agreed junction signalisation works to be delivered. Therefore, the proposal would not conflict with policy TR3 of the Wealden Local Plan 1998 (Local Plan) and paragraph 111 of the Framework which require, amongst other matters, that development does not create or perpetuate unacceptable traffic conditions or result in severe impacts on the road network.
33. Even though the STS would likely reduce the traffic impact on the junction, it is not necessary for that purpose. However, the STS would offer a genuine choice of transport modes, giving opportunities to reduce reliance on the private car. Therefore, it would comply with policies EN2 of the Local Plan and SP07 of the Wealden District Core Strategy Local Plan 2013 (Core Strategy, and policy HAIL AT1 of the Hailsham Neighbourhood Plan 2021 (Neighbourhood Plan) which promotes active travel and a reduction in the reliance on the car. The proposal would also comply with paragraph 110(a) of the Framework which seeks to promote sustainable travel.

Habitats Site

34. The Pevensey Levels[16] (the Levels) comprises a habitats site, protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Its national and international importance relates mainly to the

[16] Special Area of Conservation, Ramsar Site and Site of Special Scientific Interest

areas of wetland within it. They support an assemblage of wetland plants and invertebrates, and are notable for species including freshwater molluscs, aquatic beetles and dragonflies. A number of bird species are also found on the Levels. The integrity of these wetlands relies on both a high quality of water and stable water levels.

35. The appeal site lies within 500m of the Levels and within their hydrological catchment area. The proposal would involve urbanisation of the appeal site and any surface and ground water discharging from the site has the potential to increase the nutrient levels in watercourses feeding the Levels, increase pollution, and to alter the flow and temperature of those watercourses. These effects have the potential to creating eutrophic conditions and/or introduce silt and sediments. It is also possible that foul water from the proposal could be discharged to watercourses which could affect the Levels through an increase in pollution, if connections exist. Consequently, there would be a potential pathway to the Levels which could be detrimental to the important interest features of the site, and likely significant effects cannot be screened out. As a result of this, I am obliged under the Habitats Regulations as the competent authority to carry out an Appropriate Assessment.

36. As stated above, it is the quality of the water environment within the Levels, affected by water which flows into it from the wider catchment, which is the key consideration. In this case, the primary strategy proposed would be to drain surface water through the site through a series of filtration measures, followed by the restriction of the run-off rate into the off-site local watercourse. As well as a flood risk assessment and surface water drainage strategy, an outline drainage strategy plan has also been submitted. All of which I have used to inform my assessment[17].

37. The proposed surface water drainage strategy would involve a two-stage treatment process. The built development would incorporate permeable paving to allow infiltration of water to take place, along with channels to capture water from permeable surfaces such as roads into swales where pollutants would be filtered. Run-off from the areas of permeable paving and swales would then drain into attenuation basins, allowing remaining sediment to settle, providing additional filtration.

38. Natural England have commented on the proposal as part of this appeal and consider that the two-stage process proposed demonstrates suitable surface water mitigation to address potential contamination and other potential adverse effects. The appellants also propose a third stage as part of their drainage strategy, involving the provision of reedbeds which would provide further filtration of water before off-site discharge. I note that Natural England have raised concerns over the suitability of reedbeds in this location, although they go on to confirm that this third stage would not be necessary in any event, and the two-stage process referred to above would be adequate.

39. It is acknowledged that construction impacts could also affect the Levels indirectly. However, like Natural England, I am satisfied that the imposition of a planning condition, requiring the submission of a construction management plan, based on the appellant's habitats assessment, to address the potential for contaminated surface water to discharge into the catchment, would ensure no adverse effects on the habitats site.

40. In terms of foul water, it has been confirmed that it would not be treated on site, rather it would be connected to the sewage network under the control of

[17] Drawing ref - 17627ag-301-301 Rev P04

Southern Water. A pumping station would be provided on site. The Council confirms that Hailsham Water Water Treatment Works would have the capacity to accept foul drainage, and I have no reason to reach a different conclusion. Southern Water raises no objection to this aspect.

41. I appreciate that ongoing management and maintenance of the drainage scheme and foul water pumping station would be necessary, and the appellants have committed to this. A maintenance schedule for the drainage strategy could be secured by planning condition, and safeguards such as a backup pump could be incorporated into the pumping station to ensure continuous operation in the event of failure. Further details could be secured by planning conditions.
42. In respect of in-combination effects, the Council confirms that any new development within the Levels catchment will be required to demonstrate that a suitable surface water drainage strategy and management arrangements will be implemented to prevent potential adverse impacts on the Levels. In this case, the proposal has been designed to deal with surface water discharging from the site, as well as foul water treatment. I have not been provided with any evidence to suggest that other developments, including phases 1 and 2, would result in adverse effects. For this reason, and given the safeguards detailed above relating to this proposal, I am satisfied that there would be no in combination adverse impacts on the qualifying features of the habitats site.
43. Regulation 70 of the Regulations has the effect of requiring that outline planning permission can only be granted if it can be demonstrated that there would be no adverse effects on the integrity of a habitats site. Conditions and planning obligations can be used to avoid adverse effects, but they must have the effect of preventing development taking place which would otherwise have an adverse effect on the habitat site's integrity.
44. In this regard, I have treated the layout as indicative only at this stage and I am aware that the layout submitted at reserved matters may affect some of the details contained in the outline drainage strategy. To address this, conditions are listed in this decision which reflect the extent of detail which is still required to be considered and would provide further safeguards for the protection of the Levels, bearing in mind the outline nature of the proposal.
45. In making an Appropriate Assessment, overall, I am satisfied that the proposal would not lead to adverse effects on the integrity of the Levels habitats site either alone or in-combination with other plans and projects.

Other Matters

46. In assessing committed developments to forecast traffic growth, the TA does not appear to have included a number of recent housing schemes. However, they were already occupied at the time of the most recent traffic surveys. Therefore, movements associated with these developments have been recorded as part of the traffic survey work and the traffic impacts of those along with the proposal have been considered. Other sites, referred to by interested parties, had in fact already been included in the TA, or were considered by the TA to generate minimal traffic movements through the junction and did not require further analysis. As a result, I am satisfied that the TA is robust in this respect.
47. Concerns have been raised relating to highway safety. However, there is no evidence that the existing junction is unsafe (rather, it is forecast to be over capacity without mitigation). Indeed, the signalisation works proposed would likely improve its safety. In terms of Station Road, whilst I acknowledge it is narrow in places and parked cars often inhibit the free flow of traffic along the

route, there is no evidence before me to suggest that the movements associated with the proposal would significantly exacerbate any issues or lead to unacceptable highway safety effects. The Council raises no objection on these grounds and the Highway Authority do not identify any safety issues in relation to the proposal's effect on the local highway network.

48. Flood risk has been raised as a concern, but the Council and East Sussex County Council are satisfied with the proposal in principle. Planning conditions are recommended requiring full drainage details which would mitigate flood risk.

49. The proposal has been assessed considering the traffic impacts within proximity of Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA)[18]. The SAC is designated on the basis of its heathland and the habitats it supports, with air pollution deemed a significant threat to its integrity. The SPA designation is due to its assembly of birds, including Nightjar. In summary, the TA anticipates a traffic flow substantially less than the threshold where a significant effect would be likely. As such, it is considered that any increase in nitrogen levels and pollution arising from traffic associated with the proposal would be limited. Due to the distance from the SPA, impacts on bird species and associated habitats due to recreational pressures would be limited. As such, likely significant effects can be screened out as there would be no adverse effect on the integrity of Ashdown Forest SAC and SPA either alone, or in combination with other plans or projects.

Planning Balance

50. The Council's housing land supply position stands at not more than 3.66 years[19]. As such, they are unable to demonstrate a five-year supply of deliverable housing sites. Therefore, in accordance with the Framework, the policies which are the most important for determining the application are considered out of date. In such circumstances, paragraph 11d)(ii) of the Framework indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

51. In respect of the main issues, the proposal would promote a choice of sustainable travel modes and would not result in unacceptable traffic conditions on the local road network, in compliance with the identified development plan policies and the Framework. Furthermore, I find no adverse effects on the integrity of the Pevensey Levels.

52. The proposal would be outside an area which is the focus of future housing growth in the Local Plan. However, the effect of related policies GD2 and DC17 of the Local Plan would be to restrict housing development such as this which lies outside the settlement boundary[20]. Given the Council's housing land supply shortfall, the need to remedy this may require the provision of other sites and locations not envisaged by those policies at that time. I therefore give conflict with these policies only limited weight.

53. The proposal would also diminish the openness of, and encroach into, the countryside. However, it would be seen in the context of phases 1 and 2 and opportunities for significant landscaping could be pursued at reserved matters

[18] This is a habitats site – see Framework definition
[19] As per Statement of Common Ground between appellants and Wealden District Council
[20] Referred to as 'development boundary' in the Local Plan

stage. As such, I also attribute limited weight to the harm to the character and appearance of the area.

54. In terms of benefits, the proposal would provide a significant number of market and affordable houses. The scheme would also provide over 4 hectares of public open space and sports pitches. Even though a proportion of the provision would be necessary to make the development acceptable in planning policy terms, the total open space and sports pitch provision would be significantly in excess of planning policy requirements. Moreover, there would be ecological enhancements, including the provision of a non-publicly accessible area of land specifically for biodiversity enhancement. Each of these benefits carries significant weight in favour of the appeal.
55. There would also be moderate benefits to the local economy both during construction and indirectly through a likely increase in local spending by future residents.
56. The proposal would address strategic and local infrastructure requirements as a result of the junction signalisation works and planning obligations proposed, in accordance with WCS7 and SPO15 of the Core Strategy. This mitigation is necessary to make the development acceptable in planning terms and attracts neutral weight.
57. In conclusion, the proposal would result in limited harm and conflict with the development plan. However, these adverse impacts would not significantly and demonstrably outweigh the identified benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development[21] and this is a material consideration of sufficient weight, clearly indicating that planning permission should be granted in this case, notwithstanding identified conflict with the development plan.
58. As a result, the appeal should be allowed.

[21] In accordance with EN1 of the Local Plan and WCS14 of the Core Strategy

Planning Obligation

59. A signed S106 Unilateral Undertaking (UU) is included with this appeal. It includes several obligations including the provision of 35% affordable housing and 5% of plots within the development to be marketed as self-build or custom-build plots. Both these provisions meet the requirements of the development plan.

60. The UU provides for public open space on the areas marked on the parameters plan, with details of play equipment, landscaping, management and maintenance to be subsequently detailed and agreed. The UU also provides for the extension and enhancement of bus services serving the development, costs associated with the Highway Authority pursuing a TRO to restrict parking along the bus route, a TRO in order to extent the speed limit near the site, and costs associated with travel plan monitoring. All of these elements involve the promotion of sustainable travel options.

61. The UU contains provisions to ensure that Highway Agreement(s) are entered into to secure the carrying out of the works to facilitate the accesses. Whilst such agreements typically fall under highway legislation and not planning, the accesses as proposed are needed in the interests of highway safety, and I note that the Council raise no objections to its inclusion.

62. Overall, I find that the planning obligations would be directly related to the development proposed, are fairly and reasonably related in scale and kind, and are necessary to make the development acceptable. The proposal would therefore comply with the requirements of Regulation 122 of the CIL Regulations[22] and the tests set out in paragraph 57 of the Framework.

Conditions

63. I have considered the Council's suggested planning conditions against the relevant guidance contained within Planning Practice Guidance (PPG) and the Framework which requires that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have amended some of them and consolidated several of them in the interests of clarity and in order to meet PPG, and to avoid repetition.

64. I have applied shorter time limit conditions relating to the submission of reserved matters[23]. This is due to the Council's pressing need for housing and would assist with the delivery of development in the area. The appellants raise no objection to this. A condition is also necessary setting out the plans subject to approval as part of this permission, in order to provide certainty. For the avoidance of doubt, this includes a 'parameters plan' which, amongst other things, approves areas of the site for housing and associated infrastructure, formal recreation/sports pitches, green infrastructure and shows the retention of the existing footpath. This is necessary as my decision is based on these parameters.

65. Air quality assessment is necessary in the interests of the health of future occupiers of the development, and such mitigation may affect the layout of the development. Condition no 5 reflects this. An arboricultural impact assessment is also required with the reserved matters 'layout', as the layout

[22] Community Infrastructure Levy Regulations 2010 (as amended)
[23] In comparison with the time limits set out in section 92 of the TCPA 1990.

may impact on the tree protection works required, and the retention of trees is supported by the Framework.

66. The Council suggests a condition in order to ensure that street trees are provided in a suitable manner throughout the development. However, I am satisfied that these elements could form part of layout and/or landscaping reserved matters and a condition is not necessary at outline stage.

67. Several conditions have been recommended by Sport England and the Council in relation to the proposed playing pitches and associated facilities. I have altered the conditions so that they meet the relevant tests set out in the Framework, but they are necessary to ensure the suitable provision of sports facilities in line with the requirements of the development plan and Framework.

68. Conditions relating to archaeology are necessary based on the findings of the submitted archaeology desk-based assessment, which shows low to moderate archaeological potential.

69. A construction management plan condition is required in the interests of the amenity of occupants of properties nearby, and is required pre-commencement as it would cover the construction phase of the development. It also addresses mitigation necessary to prevent harm to the integrity of the habitats site.

70. The Council suggests a condition requiring a 'pre' and 'post' condition survey of the surrounding highway network. However, the Highway Authority have not recommended such a condition. In addition, I note that there is other highway related legislation covering damage to the road network such that I do not think the condition is necessary.

71. Foul water drainage details are required prior to the commencement of development as infrastructure may be required below ground and at an early stage of the development. Management and maintenance of foul drainage is required to protect the integrity of the habitats site.

72. It is not necessary to impose a condition requiring the location of market housing to be provided, as the Council would retain control over this element as part of their consideration of layout at reserved matters. However, I have imposed a condition requiring that 65% of the development constitutes market housing. As the proposal would increase the burden on infrastructure, the market housing would be required to make a contribution via CIL. The proposal has been assessed on this basis and local finance is material to the determination of the proposal. The appellants agree that such a condition is necessary.

73. Drainage details are required pre-commencement as the approval of such details could fundamentally affect the layout of the development. This includes further details of the watercourse which the surface water received on the development site is proposed to drain into. These conditions are necessary in the interests of flood risk management and sustainable drainage, as well as to protect the habitats site. Details of management and maintenance of drainage features is also necessary for the same reasons. The condition recommended by the Council relating to there being no discharge of foul or contaminated drainage is not necessary as it is covered by the foul and surface water drainage conditions imposed, where measures to prevent contamination would be approved.

74. For the reasons set out in my decision, highway improvements to the South Road and Station Road junction are necessary to make the development acceptable. A condition reflecting this is necessary because the implementation of phase 2 where the same junction works are proposed cannot be guaranteed.

75. Further details of the Sustainable Transport Strategy are necessary to ensure sustainable transport modes are promoted in accordance with paragraph 110 of the Framework. Conditions are also necessary relating to the provision of the approved accesses, and full details of the highway works including construction details relating to the proposed internal roads. This is in the interest of highway safety.
76. However, it is not necessary to impose a condition requiring roads to be offered for adoption as this is not reasonable as it would be determined through separate legislation. Details of car parking spaces and cycle stands are not necessary as these elements would be assessed as part of the reserved matters.
77. Conditions are necessary to ensure ecological mitigation is provided, and any further survey work recommended in the submitted reports is carried out. Biodiversity enhancement is necessary in accordance with the Framework. I have altered the wording suggested by the Council so that it is clear what is required both in terms of mitigation and enhancement.
78. A condition recommended relating to landscape management is not necessary as this could be dealt with at reserved matters stage. An additional condition relating to tree protection is not necessary as I have dealt with the requirements in condition no 6. A condition relating to artificial lighting is necessary to ensure biodiversity is not unduly harmed. A condition requiring energy efficiency measures is necessary in accordance with the development plan and Framework.
79. Finally, during the hearing I was presented with a late representation from Southern Water objecting to the development. Their concerns relate to the site's proximity to the Waste Water Treatment Works and the potential for odour. The planning application was accompanied by an odour assessment which neither Southern Water nor the Council's Environmental Health raised any objection to at that time. I note, however, that the previous odour assessment is now of some age and Southern Water considers it out-of-date. Nevertheless, there is no evidence before me to indicate that the site cannot be developed for housing based on the submitted parameters plan and potential odour impacts. As discussed during the hearing, the layout proposed at reserved matters could address any issues relating to odour, and there is the potential for further mitigation as necessary. Consequently, a condition would be appropriate in this case requiring a further odour assessment and any mitigation necessary.

Conclusion

80. For the reasons above, the appeal is allowed, subject to the following conditions.

M Woodward

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

John Litton KC	Landmark Chambers (advocate)
Joshua Mellor BSc (Hons) MSc MRTPI	Barton Willmore, now Stantec
Amy Woodward BA (Hons) MA	Barton Willmore, now Stantec
Tim Wall BA (Hons) MSc MCIHT CMILT	i-Transport

FOR THE LOCAL PLANNING AUTHORITY:

Claire Turner	Wealden Council
Rebecca Blundell	Wealden Council
Matt Taylor	Wealden Council

INTERESTED PARTIES:

Rachel Scott	MJ Gleeson
Kevin Willcox	Rydon Homes
Michael Gadd	Resident
David White	Ward councillor and resident
Cllr Susan Stedman	Ward councillor and resident
Cllr Bob Bowdler	Ward councillor and resident
Neil Cleaver	Ward councillor and resident
David Watts	Ward councillor and resident
Pam Cunningham	Resident
David Dyer	Resident
W Barnes	Resident

Other local residents in attendance did not complete attendance sheet.

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.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1304.01A, 1304.04A, ITB15695-GA-001A, ITB15695-GA-007B.

5) The submission of the reserved matters 'layout' shall include an Air Quality Emissions Mitigation Assessment Report (AQR). The AQR shall follow the Air Quality and Emissions Mitigation Guidance for Sussex, 2013 to determine the appropriate level of mitigation required to help reduce the potential effect on health and the local environment and shall use the most up to date emission factors. The AQR shall include details of the proposed mitigation measures and shall include a timetable for the completion of a subsequent verification report confirming that the air quality mitigation measures have been installed as approved. The approved mitigation measures shall be implemented prior to occupation of the associated dwellings.

6) The submission of reserved matters 'layout' shall include an Arboricultural Impact Assessment and Method Statement which shall include the numbering and detailing of all trees within the appeal site and those outside the appeal site likely to be affected. The submission shall provide 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 soils. The report shall also include a timetable for the implementation of the required works and shall be carried out in accordance with the approved scheme.

7) The submission of the reserved matters 'layout', 'appearance' and 'landscaping' shall include details of the changing facilities and associated car parking for the playing fields, and the means of access thereto. The approved details shall be implemented in accordance with a delivery programme which shall accompany the submission(s).

8) The submission of the reserved matters 'layout' shall include details of the playing pitch sizes, including a justification for the pitch sizes based on an up to date assessment of local need. An assessment of ground conditions of the land proposed for the new playing fields shall also be provided (including drainage and topography) by a RIPTA registered agronomist to identify constraints which could affect playing field quality.

9) No development shall commence until a detailed scheme for the Natural Turf Pitches, designed by a RIPTA registered agronomist to meet the Performance Quality Standard of the Football Association and based on the results of the assessment carried out pursuant to condition 8, has been submitted to and

approved in writing by the local planning authority. The works shall be carried out in accordance with the approved scheme within a timescale to be approved in writing by the local planning authority. The construction of the Natural Turf Pitches shall be project managed or signed off by an RIPTA registered agronomist and evidence shall be submitted that the two sports pitches pass a Performance Quality Standard test, arranged via the FA Pitch Improvement Programme, to a 'good' standard before the pitches are used.

10) Prior to the bringing into use of the grass playing pitches, 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, with effect from commencement of use of the playing pitches and for the lifetime of the development.

11) Prior to the bringing into use of the sports pitches and associated changing facilities and parking provision, 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 facilities 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 associated facilities [or other agreed timescale] and shall be complied with for the duration of the use of the development.

12) No development shall take place until a Written Scheme of Investigation and programme of archaeological works have been submitted to and approved in writing by the local planning authority. This shall include a construction method statement to show how significant archaeological remains will be preserved in-situ.

13) No part of the development shall be brought into use until an archaeological site investigation and a 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 Written Scheme of Investigation approved under condition 12. The post investigation assessment shall be submitted to and approved in writing by the local planning authority.

14) Prior to any construction works being carried out, and subsequent to archaeological site investigation details approved under conditions 12 and 13, a construction method statement to show the preservation in-situ of significant archaeological remains, shall be submitted to and approved in writing by the local planning authority. The construction of the development shall be carried out in accordance with the approved details.

15) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- the relevant mitigation measures contained in the submitted 'Information to inform an Appropriate Assessment under the Habitat Regulations' document ref - 1004079-06-AA HRA.dv2 AH

- the parking of vehicles of site operatives and visitors;
- the management of vehicles carrying abnormal loads;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- measures to control the emission of dust and dirt during construction;
- measures to minimise the potential for pollution of groundwater and surface water;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- noise and vibration attenuation from construction and a scheme to ensure compliance; and
- delivery and construction working hours.

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

16) No development shall take place until details of a scheme for foul water drainage have been submitted to and approved in writing by the local planning authority. Such details shall include arrangements for subsequent ongoing management in accordance with the relevant mitigation measures contained in the submitted 'Information to inform an Appropriate Assessment under the Habitat Regulations' document ref - 1004079-06-AA HRA.dv2 AH, along with a timetable for implementation. The development shall be carried out in accordance with the approved details

17) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

18) The development shall include 65% of dwellings as market dwellings [this figure includes self-build and custom-build housing].

19) Prior to the construction of the superstructure of any buildings, details of water and energy efficiency measures and renewable energy and sustainable construction measures within the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter so retained.

20) Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall incorporate the following:

- Detailed drawings and hydraulic calculations. The hydraulic calculations 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.

- The details of the outfalls of the proposed attenuation ponds and how they connect into the watercourses shall be submitted as part of a detailed design including cross sections and invert levels.

- The detailed design of the surface water features (swales, attenuation ponds and reed beds).

- The detailed design of the surface water features (swales and attenuation ponds) shall be informed by findings of groundwater monitoring between autumn and spring. The design shall 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.

- Details of the measures to manage exceedance flows and measures to prevent surface water run-off onto Station Road.

- Details of the relevant mitigation measures contained in the submitted 'Information to inform an Appropriate Assessment under the Habitat Regulations' document ref - 1004079-06-AA HRA.dv2 AH.

The surface water drainage shall be implemented in accordance with the approved details before first occupation of any dwelling in any phase of development. 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.

21) Prior to the commencement of development, a survey of the condition of the watercourse which the outfall will discharge directly into 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 identified by the survey, along with a programme for implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

22) Prior to the occupation of any dwelling, a maintenance and management plan in relation to the details approved under condition 20 shall be submitted to and approved in writing by the local planning authority. The management plan shall cover the following:

- This plan should clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains.

- Details as to how these responsibility arrangements will remain in place throughout the lifetime of the development.

The approved details shall include a timetable for implementation and shall be retained for the lifetime of the development.

23) The development shall not be occupied until the highway improvements to South Road and Station Road as shown in principle on drawing no ITB15002-GA-001 Rev A have been completed and opened to traffic.

24) Prior to the occupation of any dwelling, a Sustainable Transport Strategy (STS) and Delivery Action Plan shall be submitted to and approved in writing by the local planning authority. The STS shall include the following measures:

- A targeted Personalised Journey Planning Campaign in southern Hailsham;
- Provision of Residents Travel Information Packs and Marketing Measures;
- Details of a Car Club;
- Promotion of Car Sharing measures;
- Provision of travel incentives to residents, including the offer of sustainable travel vouchers for cycle equipment or bus tickets;
- Management and Monitoring of the STS;
- Improvement to the local walking network to improve pedestrian crossings in the local area;
- Measures to improve access by bus in southern Hailsham, which shall include promotion of alterations to parking restrictions on local roads to enable a full-size bus to pass through the area and the alteration of existing traffic calming measures; and
- Delivery of a Travel Plan based on the Framework Travel Plan.
- A timetable and programme for the implementation of all of the above measures.

The STS shall be implemented in accordance with the approved details, programme and timetable.

25) The accesses detailed on approved plans refs: ITB15695-GA-001A and ITB15695-GA-007B shall be laid out and constructed in their entirety prior to the occupation of any dwelling.

26) No works below ground level shall take place until highway works details which shall include levels, sections and constructional details of the proposed road, surface water drainage, foul sewers, outfall disposal and street lighting 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 in accordance with a timetable to be agreed with the local planning authority.

27) No development shall take place until a biodiversity enhancement plan has been submitted to and approved in writing by the local planning authority. The plan shall be based on chapter 6 of the submitted *Ecological Appraisal – Prepared by Aspect Ecology*, dated November 2020, and the conclusions of the submitted *Technical note – Survey results* and *Mitigation Measures in respect of Dormice – Prepared by Aspect Ecology,* dated February 2022. It shall include timescales for implementation and details of future management of the

enhancement features. The development shall be carried out in accordance with the approved timetable and details.

28) No development shall take place until a wildlife management report has been submitted to and approved in writing by the local planning authority. The report shall include:

- Updated ecological surveys carried out by a suitably qualified ecologist, as necessary and in accordance with the recommendations set out in *Ecological Appraisal – Prepared by Aspect Ecology, dated November 2020*, and the *Technical note – Survey results and Mitigation Measures in respect of Dormice – Prepared by Aspect Ecology*, dated February 2022. The updated surveys shall include details of any mitigation necessary including:

- Detailed proposals for the protection of bats, birds, reptiles, great crested newts, dormouse and badgers, and measures for the mitigation of any harm.

The development shall be carried out in accordance with the approved wildlife management report in accordance with an agreed programme of implementation.

29) 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 which shall provide for lighting that is low level and directional and has been submitted to and approved in writing by the local planning authority. 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 (or updated guidance). The scheme shall be implemented in accordance with the approved details and thereafter retained.

30) The submission of the reserved matters 'layout' shall include an odour impact assessment and any mitigation or remedial measures necessary, along with a timetable for implementation of any mitigation or remedial measures. The development shall be carried out in accordance with the approved details.

End of conditions schedule