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17 July 2019

Dear Councillor,

A meeting of **DISTRICT PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER** at these offices on **THURSDAY, 25TH JULY, 2019 at 2.00 pm** when your attendance is requested.

Yours sincerely,  
KATHRYN HALL  
Chief Executive

**A G E N D A**

**Pages**

1. To receive apologies for absence.
2. To receive Declarations of Interest from Members in respect of any matter on the Agenda.
3. To confirm Minutes of the Annual District Planning Committee meeting held on 22 May 2019 and the meeting of the District Planning Committee held on 30 May 2019. **3 - 8**
4. To consider any items that the Chairman agrees to take as urgent business.

**Recommended for Approval.**

5. DM/19/1897 - Land to the Rear of Friars Oak, London Road, Hassocks, BN6 9NA **9 - 100**

**Recommended for Refusal.**

None.

**Other Matters**

None.

6. Questions pursuant to Council Procedure Rule 10 due notice of which has been given.

### Human Rights Act

The reports and recommendations set out in this agenda have been prepared having regard to the requirements of the Human Rights Act 1998.

### Risk Assessment

In formulating the recommendations on the agenda, due consideration has been given to relevant planning policies, government guidance, relative merits of the individual proposal, views of consultees and the representations received in support, and against, the proposal.

The assessment of the proposal follows the requirements of the 1990 Town and Country Planning Act and is based solely on planning policy and all other material planning considerations.

Members should carefully consider and give reasons if making decisions contrary to the recommendations, including in respect of planning conditions.

Where specifically relevant, for example, on some applications relating to trees, and on major proposals which are likely to have a significant impact on the wider community, potential risks associated with the proposed decision will be referred to in the individual report.

**NOTE:** All representations, both for and against, the proposals contained in the agenda have been summarised. Any further representations received after the preparation of the agenda will be reported verbally to Members at the meeting. Any other verbal or additional information will be presented at the meeting.

The appropriate files, which are open to Member and Public Inspection, include copies of all representations received.

Members are also reminded the representations, plans and application file will also be available for inspection at these offices from 6.00 p.m. on the day of the meeting.

To: **Members of District Planning Committee:** Councillors R Salisbury, D Sweatman, R Bates, P Chapman, E Coe-Gunnell White, S Hatton, R Jackson, C Laband, A Peacock, N Walker, R Webb and R Whittaker

**Minutes of a meeting of District Planning Committee  
held on Wednesday, 22nd May, 2019  
from 7.26 pm - 7.27 pm**

**Present:**

R Bates	R Jackson	D Sweatman
P Chapman	C Laband	N Walker
E Coe Gunnell White	A Peacock	R Webb
S Hatton	R Salisbury	R Whittaker

**1. ELECTION OF CHAIRMAN.**

Councillor Sweatman nominated Councillor Salisbury as Chairman of the Committee for the 2019/20 Council year. This was seconded by Councillor Walker and with no further nominations put forward, this was agreed.

**RESOLVED**

That Councillor Salisbury be elected Chairman of the Committee for the 2019/20 Council year.

**2. APPOINTMENT OF VICE CHAIRMAN.**

Councillor Salisbury nominated Councillor Sweatman as Vice-Chairman of the Committee for the 2019/20 Council year. This was seconded by Councillor Walker and with no further nominations put forward, this was agreed.

**RESOLVED**

That Councillor Sweatman be appointed Vice-Chairman of the Committee for the 2019/20 Council year.

**3. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.**

None.

The meeting finished at 7.27 pm

Chairman

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**Minutes of a meeting of District Planning Committee  
held on Thursday, 30th May, 2019  
from 2.00 pm - 3.02 pm**

**Present:** R Salisbury (Chairman)  
D Sweatman (Vice-Chair)

E Coe-Gunnell White	R Jackson	R Whittaker
R Bates	C Laband	P Bradbury
P Chapman	N Walker	

**Absent:** Councillors S Hatton, A Peacock and R Webb

**Also Present:** Councillors A MacNaughton and N Webster

**1. TO RECEIVE APOLOGIES FOR ABSENCE.**

The Committee noted that apologies had been received from Councillor Hatton and Councillor Webb. The Chairman noted that Councillor Peacock was absent from the meeting in his role as a committee member but was present to observe the proceedings.

**2. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.**

None.

**3. TO CONFIRM MINUTES OF THE PREVIOUS MEETING OF THE DISTRICT PLANNING COMMITTEE HELD ON 26 MARCH 2019.**

The Minutes of the Committee held on 26 March 2019 were agreed as a correct record and signed by the Chairman.

**4. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.**

None.

**5. DM/18/4321 - LAND WEST OF COPTHORNE, COPTHORNE WAY, WEST SUSSEX, RH10 3RX**

Steve Ashdown, Planning Applications Team Leader, introduced the application which seeks Reserved Matters consent for the layout, appearance, scale and landscaping of the first two residential phases pursuant to the outline planning permission (13/04127/OUTES) that was granted consent by the Council under a notice dated 25th May 2016. It makes provision for 303 dwellings of which 91 units will be affordable in line with the requirements of the S106 Legal Agreement. The outline planning permission (13/04127/OUTES) granted consent for up to 500

dwellings across the wider site including commercial units, a site for a school and a site for a Health facility. Reserved matters have already been consented for the spine road that runs through the site and the first phase of the commercial units and work has commenced on site to deliver the already consented matters, along with the associated infrastructure.

The Planning Applications Team Leader drew attention to the update sheet which stated that the drainage engineer had no objection to the application. He also highlighted the 15m buffer zone protecting the area of ancient woodland. He noted that the units would be a mix of 1 to 5 bed units and the affordable mix included 2 bungalows.

Camilla Duckworth, agent, spoke in support of the application.

The Chairman reminded the Members that the principle of development and access had already approved in 2014 and that the conditions for the site formed part of the outline application approval. He noted that the key issues were listed on page 16 and the school site would be a separate planning application which would be processed by West Sussex County Council.

A Member thanked the officer for a comprehensive report and noted that the application complied with the Council's policy for 30% affordable housing and had a large number of 2/3 bed units.

Several Members commented on drainage, speed limits within the development, cycle routes connecting the site to Three Bridges and the Ancient Woodland. The Planning Applications Team Leader confirmed that Thames Water had agreed to discharge the condition concerning foul drainage. He advised that West Sussex County Council would deal with speed limits as it was a highway issue. He stated that the roads marked grey on the plans would be adopted. He confirmed that St Modwen Development is acting as a 'master developer' and was bringing forward the commercial development and spine road. St Modwen Homes had secured the first two residential parcels that formed this application. The Chairman noted that condition 5 covers cycle routes and pedestrian access within the site.

The Chairman advised that Worth Neighbourhood Plan carries little weight as only a draft plan was published. In reply to a Member's question he advised that there was only provision for electric charging points in garages. He noted that single phase charging points are slow and that future consideration must be made to install three phase charging points externally. He highlighted the comprehensive comments by the urban designer and was pleased with the pepper potting of affordable housing throughout the development. The plan incorporated improvements to protect children whilst using the playground.

In response to Members' questions the Planning Applications Team Leader stated that the report contained a detailed section on parking and the proposals comply with Mid Sussex District Council parking standards. He noted that in the outline planning permission a Section 106 agreement requires the provision of a bus service and talks were ongoing with Metro Bus for route 291 to run through the site. An application will come forward for cycle link to run south of the site which will connect it to Three Bridges.

Councillor Walker commented that the urban designer had been consulted and proposed that they move to the recommendations, this was seconded by Councillor

Whittaker. The Chairman took Members to the recommendations as set out in the report. These were approved unanimously.

## **RESOLVED**

That planning permission be granted subject to the conditions suggested in Appendix A and the agenda update sheet.

### **6. DM/19/0535 - LAND AT PENLAND FARM, HANLYE LANE, CUCKFIELD, RH17 5HR**

Steve Ashdown, Planning Applications Team Leader, introduced the application which seeks a variation of planning conditions nos. 5, 11, 21 and 26 of planning permission ref. DM/18/0194 (pursuant to the approved permission DM/16/1803), to allow for the retained temporary access from Hanlye Lane for 150 occupations and to allow for minor changes to the approved layout. The Officer noted that the conditions related to: 5 (construction management plan), 11 (site access), 21 (working hours) and 26 (approved drawings) of planning permission DM/1/0194. The principles and matters approved under the existing permission that are not altered by this current submission remain acceptable and it is not within the scope of this application to re-visit them.

The Officer advised that in order to install the new roundabout to replace the existing junction a road closure order was required. All works off the highway had already been completed by the applicant. West Sussex County Council had given temporary access for the occupation of 50 units. The works should commence in the summer of 2020 and London Lane in Cuckfield is the likely diversion route. The issue of any road closure is for West Sussex County Council as the Local Highway Authority and the impacts of any closure on local businesses and residents are matters that fall outside this application. The original program of five months for the highway works has been reduced to three months, however this based upon working seven days a week. The change to condition 21 would allow longer working hours for highway work only. The variation of condition 11 limits the occupation of the site to 150 dwellings prior to the completion of the highway works and the Highway Authority are content with the revised conditions. The increase in the number of occupations to 150 dwellings will help ensure that the site continues to deliver houses in the intervening period of time until the works are finally completed. Condition 26 is a minor change to swap already approved house types on 6 plots and it is not considered that this would impact on the overall character and appearance of the development. Condition 5 supplied new wording for the construction management plan and a new plan would be submitted before construction of the roundabout commences.

Councillor Pete Bradbury, Ward Member and West Sussex County Councillor spoke in favour of the application and commented that he had met with West Sussex County Council, the developers, local businesses and residents prior to changing the date for the highway works. The shorter closure of the junction was the better option and alternative solutions were considered but the roundabout was the best and safest solution. He noted that local businesses have a year to prepare for the road closure; he would continue to work to minimise the disruption and the main part of the work would be during the school holidays when there is less traffic and better weather. He thanked the officer for his efforts.

A Member thanked Councillor Bradbury for his update and expressed concern over pedestrian access. The Officer confirmed that there was a footpath link onto Penland Road and the footpath round the outside of site is part of the highway works.

A Member commented on the need for the roundabout and the Chairman confirmed that other ways to deal with traffic during the closure of the junction had been investigated. He noted that the original application pre-dated the District Plan and the Council had originally refused the application which had included a larger roundabout. The Planning Inspector had then approved a roundabout on appeal.

A Member thanked Councillor Bradbury for his work for his ward and supported the change to working hours.

The Chairman noted that no more Members wished to speak so took Members to Recommendation A as set out in the report. The permission was approved with 8 votes for and one against, Councillor Bates wished it to be noted that he voted against the recommendation.

### **RESOLVED**

That permission be granted subject to the conditions suggested in Appendix A and the agenda update sheet.

### **7. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10 DUE NOTICE OF WHICH HAS BEEN GIVEN.**

None.

The Chairmen noted that the next committee meeting was scheduled for 20 June 2019 at 2pm with the site visits on Monday 17 June.

The meeting finished at 3.02 pm

Chairman



MID SUSSEX DISTRICT COUNCIL

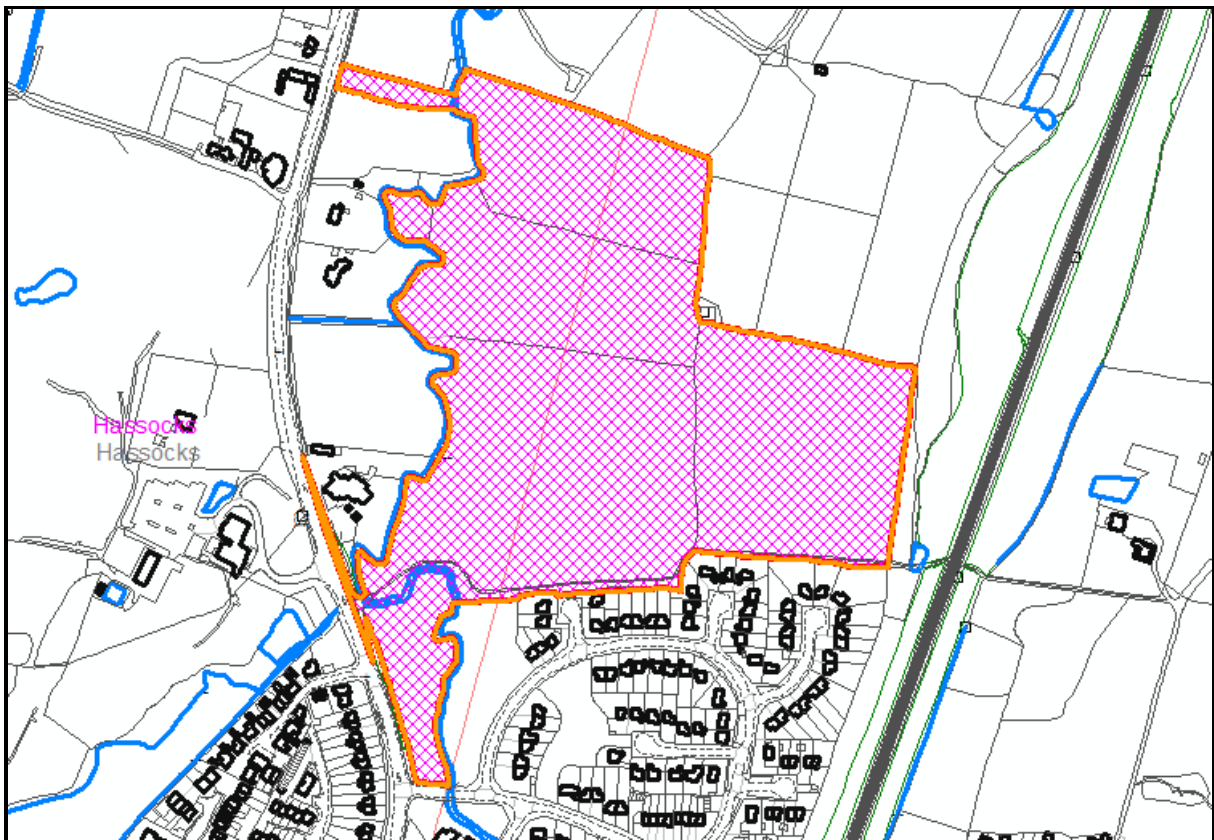
District Wide Committee

25 JUL 2019

RECOMMENDED FOR PERMISSION

**Hassocks**

DM/19/1897



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**LAND TO THE REAR OF FRIARS OAK LONDON ROAD HASSOCKS WEST SUSSEX**

**HYBRID APPLICATION COMPRISING OF OUTLINE PROPOSAL FOR RESIDENTIAL DEVELOPMENT OF 130 DWELLINGS CONSISTING OF 12NO. 1 BEDROOM APARTMENTS, 27NO. 2 BEDROOM HOUSES, 47NO. 3 BEDROOM HOUSES AND 44NO. 4 BEDROOM HOUSES AND ASSOCIATED ACCESS, TOGETHER WITH CHANGE OF USE OF PART OF THE LAND TO COUNTRY OPEN SPACE, FOLLOWING THE PROVISION OF A NEW PEDESTRIAN TUNNEL UNDER THE RAILWAY. ALL MATTER RESERVED APART FROM ACCESS. UPDATED INFORMATION RECEIVED 10TH JULY REGARDING AIR QUALITY.**

**RYDON HOMES LTD**

POLICY: Ancient Woodland / Areas of Special Control for Adverts / Built Up Areas / Countryside Area of Dev. Restraint / Classified Roads - 20m buffer / Flood Map - Zones 2 and 3 / Planning Agreement / Planning Obligation / Road Improvement Act Agreement / Aerodrome Safeguarding (CAA) / Sewer Line (Southern Water) / SWT Bat Survey / Tree Preservation Order Points / Archaeological Notification Area (WSCC) /

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 16th August 2019

WARD MEMBERS: Cllr Sue Hatton / Cllr Benedict Dempsey / Cllr Alexander Sparasci /

CASE OFFICER: Steven King

#### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Leader, Planning and Economy on the application for planning permission as detailed above.

#### **EXECUTIVE SUMMARY**

This application seeks planning permission for the following: Hybrid application comprising of outline proposal for residential development of 130 dwellings consisting of 12no. 1 bedroom apartments, 27no. 2 bedroom houses, 47no. 3 bedroom houses and 44no. 4 bedroom houses and associated access, together with change of use of part of the land to country open space, following the provision of a new pedestrian tunnel under the railway. All matter reserved apart from access.

The planning application for the housing element of the scheme is in outline form with only the means of access to be determined at the outline stage. The purpose of the application is to establish the principle of the development and to demonstrate that this amount of development can be accommodated within the site and that the proposed access to the development is satisfactory. The plans that are submitted with the application showing the internal layout of the roads and buildings within the site are for illustrative purposes to help to demonstrate that this amount of development could be accommodated within the site. If outline consent is granted, a subsequent reserved matters application will need to be submitted for the details of the proposal (the appearance, landscaping, layout and scale). It will be at this stage that detailed matters, (for example, an assessment of the design quality of the layout) will need to be assessed.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. In this part of Mid Sussex the development plan comprises the District Plan (DP).

The application site lies in countryside, outside the built up area of Hassocks and thus would be contrary to policy DP12 of the District Plan as general housing development is not one of the permitted exceptions to the policy of restraint in the countryside. The aim of the policy is to protect the countryside in recognition of its intrinsic character and beauty. The proposal is also contrary to policy DP6 of the District Plan as the proposal is for a development of more than ten units on a site that is contiguous with the built up area of Hassocks. The proposal also does not fall within one of the criteria for new homes in the countryside that are set out under policy DP15. All of these factors weigh against the proposal.

It is also relevant for Members to have regard to the reason for refusal of the previous application (DM/18/2342), which is set out in the planning history section of this report. That previous application was recommended for approval as officers considered that there were material planning considerations that indicated that the application could be supported. Members will need to come to a view as to whether there are sufficient material considerations to justify a decision on this application that would lead to a different conclusion to that which Members arrived at on the previous application DM/18/2342.

Whilst the proposal would be in conflict with policies DP6, DP12 and DP15 of the DP, it is considered that the proposal would comply with other policies within the development plan (DP13 Preventing Coalescence, DP17 Ashdown Forest Special protection Area (SPA) and Special Area of Conservation (SAC), DP20 Securing Infrastructure, DP21 Transport, DP22 Rights of Way and other recreational routes), DP26 Character and Design, DP27 Dwellings space standards, DP29 Noise Air and Light Pollution, DP30 Housing Mix, DP31 Affordable Housing, DP37 Trees Woodlands and Hedgerows, DP38 Biodiversity, DP39 Sustainable Design and Construction and DP41 Flood Risk and Drainage).

Taking all of the above into account, it is your officer's view that the application is not in accordance with the development plan, read as a whole, and that this is the proper starting point for decision making. The fact that the Council currently has a 5 year housing land supply means that full weight can be given to the development plan. However, the LPA also must have regard to other material considerations, including the National Planning Policy Framework (NPPF) when determining this application.

It is considered that there are other material considerations, specific to this application that are relevant to this application. These are:

- The views of the Secretary of State (SoS) on a previous application on this site for the same development (with the exception of the pedestrian tunnel under the railway line that is part of this application). As that decision makes clear, there are no overriding objections on environmental grounds to development of the site.
- The location of consented and allocated development around the application site.
- The provision of the new pedestrian tunnel.

These are important material considerations in the determination of this application.

It is considered that there is no reason why a well designed and laid out scheme cannot come forward in a subsequent reserved matters application should outline

consent be granted for this development with a policy compliant level of affordable housing. It is therefore considered that there would be compliance with policies DP26, DP30 and DP31 of the District Plan.

It is considered that the proposal would provide a satisfactory vehicular access and would not result in a severe impact on the highway network, which is the policy test in both the development plan and the NPPF. The Highway Authority does not object to the scheme.

The proposal now provides for the provision of a pedestrian tunnel under the railway line to seek to overcome the reason why the SoS refused planning permission for a previous proposal for 130 dwellings on this site. The proposed tunnel would deliver a clear safety benefit by removing an unmanned railway crossing. It would also provide a more accessible means of crossing the railway, which would be a positive benefit in terms of the Council's duties under the Equality Act. The main drawback from the proposed tunnel would be a concern that it could facilitate anti-social behaviour. This is a concern of Sussex Police.

There is a balance to be struck between the views of Sussex Police in relation to pedestrian subways and seeking to provide safe and accessible pedestrian access across the railway line. The detailed design of the tunnel can be controlled by a planning condition to ensure that the lighting and design of the structure minimise the risks of anti-social behaviour. Hassocks is not an area that suffers with high rates of crime and there are no reasons to think that the proposed development would be different to any other part of Hassocks in this respect. Given the consented development at the Golf Course and the allocated site at Clayton Mills, there would be a wider benefit to securing a safer and more accessible crossing of the railway line, which is a barrier to connectivity.

Overall it is considered that the proposal would comply with policy DP22 of the DP as the public right of way would not be adversely affected and its accessibility would be improved. It is not felt that a refusal of planning permission based on the provision of a tunnel and possible anti-social behaviour issues would be warranted. Overall, the provision of the tunnel would be a net benefit.

Therefore, to summarise, weighing against the scheme is that the fact that dwellings are being proposed outside the built up area and would normally be restricted under the relevant District Plan policies. Although it is your officer's view that there would be some adverse impact on the landscape as a result of the proposed development it is considered that this impact will be localised and that it could be ameliorated by the retention of landscape planting and new planting within the development.

Also weighing against the scheme is a conflict with the Regulation 14 Pre Submission Hassocks Neighbourhood Plan (HNP), which proposes to allocate this site as a local green space. However the Regulation 14 Pre Submission HNP is at an early stage of preparation and there are unresolved objections to a number of its proposed policies, including the policy to allocate this site as local green space. In light of the above the Regulation 14 Pre Submission HNP can only attract limited weight in the determination of planning applications.

It is also relevant to note that the previous application, reference DM/18/2342, was not refused on matters relating to highway safety, air quality, drainage, neighbour amenity, ecology, noise, housing mix, affordable housing, infrastructure, energy efficiency or archaeology. The previous application was refused because the site was in the countryside and as the site is not allocated for development, there was a conflict with policies DP6, DP12 and DP15 of the DP. Officers recommended the previous application for approval on the basis that there were sufficient material planning considerations to come to a decision that was not in conformity with the development plan. Notwithstanding the reason for refusal of the previous application, officers remain of the view that there are sufficient material planning considerations that enable a positive recommendation to be made on this application.

A section 106 legal agreement will be completed to secure the necessary infrastructure contributions to mitigate the impact of the development. These contributions will go towards the costs of providing County Council services (Education and libraries), District Council services (leisure and community buildings), Health Services and towards Policing Services. As these impacts would be mitigated by the section 106 agreement, these matters are neutral in the planning balance.

Weighing in favour of the scheme is that it would provide additional housing, including a policy compliant level of affordable housing in a sustainable category 2 settlement which would accord with the aim of the NPPF to significantly boost housing delivery. Although the site is not currently needed in order to provide a 5 year housing land supply, it would help maintain the existing supply, as the Council is required to do. The comments of the SoS, whilst made against a different planning policy background, remain an important material planning consideration. The provision of a tunnel under the railway line would improve accessibility for users of the PROW and provide a clear safety benefit over the current unmanned crossing.

In summary, the applicants have sought to address the single reason why the Secretary of State refused planning permission for this development in March 2018, by including the provision of a pedestrian tunnel under the railway line. It is important to note that the planning policy position has moved on since the Secretary of State's decision, with the adoption of the District Plan which replaced the Mid Sussex District Plan. At the present time the District Council can demonstrate a 5 year housing land supply and therefore the policies in the District Plan command full weight. The views of the Secretary of State remain a very important material consideration, in so far as they demonstrate that there is no overriding environmental objection to this application. The present scheme differs from that most recently refused by the Council by providing a pedestrian tunnel rather than an overbridge. Although the proposed overbridge was previously considered acceptable, the pedestrian tunnel is considered to be an improvement which offers additional public benefits in terms of accessibility. It is therefore a material difference between the current application and the previously refused scheme.

In light of all the above it is considered that there are other material planning considerations that justify a decision that is not in full conformity with all of the policies in the development plan. In light of the above it is considered that the balance of advantage in this case means that the application should be approved.

## **Recommendation**

### Recommendation A

Recommend that planning permission be granted subject to the completion of a section 106 legal agreement to secure the necessary infrastructure contributions and affordable housing and the conditions listed in the appendix.

### Recommendation B

Recommend that if the applicants have not entered into a satisfactory section 106 agreement to secure the necessary infrastructure payments and affordable housing by 17th October 2019 then the application should be refused at the discretion of Divisional Lead for Planning and Economy for the following reason:

The proposal fails to provide the required infrastructure contributions necessary to serve the development and the required affordable housing. The proposal therefore conflicts with policies DP20 and DP31 of the District Plan.

## **SUMMARY OF REPRESENTATIONS**

160 letters of objection:

- Hassocks has already had to absorb a huge number of houses, 500 at Clayton Mills, Hassocks Golf Course, Ham Fields
- site is contrary to Neighbourhood Plan as the site is allocated as a local green space
- will result in a loss of habitat and an adverse impact on wildlife
- will result in drainage problems and potential flooding
- field already floods on a regular basis
- infrastructure is already overstretched
- schools and doctors surgeries are full
- will bridge be enclosed to prevent objects being thrown on the line
- developers are trying to bully the Council and wear residents down
- will cause further traffic congestion
- will have an adverse impact on air quality management area at Stonepound Crossroads
- village is being turned into a town and planners are ruining the countryside
- proposal is contrary to policies DP6, DP12, DP13 and DP15 in the District Plan
- site is a valuable amenity for residents, walkers, dog walkers
- will pollute Herring Stream one of the ultra-rare 200 or so Chalk Streams that exist in the world for no good reason
- the Council can demonstrate a 5 year housing land supply so there is no presumption in favour of the development
- there is no need for additional dwellings in Hassocks as the village has met its housing targets
- will cause coalescence between Hassocks and Burgess Hill

- will have an adverse impact on peoples mental health by removing a quiet area that people can use to get in touch with nature
- proposal would ignore the Neighbourhood Plan
- traffic is already grid locked in Hassocks at rush hour
- will set a precedent for more developments elsewhere
- railway crossing is the shortest route to many destinations in Hassocks

## **SUMMARY OF CONSULTEES (full comments in appendices)**

### **County Planning Officer**

Requires infrastructure contributions towards education and library provision.

### **West Sussex County Council (WSSC), Lead Local Flood Authority (LLFA)**

No Objection subject to conditions suggested by the Mid Sussex Drainage Engineer

### **Highway Authority**

The information provided within the previous Transport Assessment (TA) from the 4th June 2018 is still considered to be relevant by the LHA. It is noted that the proposals have now been updated in terms of National Planning Policy Framework (NPPF) Policy July 2018 and slight changes to the bus and train information does not affect the reports and conclusions. It is concluded that the development will not have a severe impact on the local road network in accordance to NPPF. Based on the above the LHA would not recommend any changes to our original consultation responses provided in connection with DM/18/2342.

### **Public Rights of Way Officer**

WSSC PROW Service requires the applicant:

- 1) To up-grade footpath 5K to bridleway status within the site;
- 2) To provide a tunnel within the railway embankment suitable for use as a bridleway;
- 3) To provide suitable infrastructure to allow future cycle and horse users to access the A273 and to safely cross that road and connect to bridleway 4\_2C; and
- 4) To agree with the Clayton Mills developer to deliver a bridleway connection to the bridleway already agreed within that site.

### **Network Rail**

Network Rail have entered into a Basic Services Agreement with both Rydon Homes Ltd and Gleeson Developments Ltd to assess two options to enable the Woodside Pedestrian level crossing to be closed. Network Rail are currently working on designs for a stepped footbridge or a subway which would allow the closure of the crossing. The designs are hoped to be complete by the end of August 2019. Network Rail are supportive in principle of the application subject to an agreement being reached with the developer that provides a solution to the closure of the level crossing. The proposed solution will need to be funded by the developer.

### **Archaeological Officer**

Recommend Predetermination Archaeological Assessment. A Written Scheme of Investigation for the programme of archaeological works should be produced, submitted and approved in advance of any work commencing.

### **Environment Agency**

No objection subject to condition.

### **Southern Water**

To be reported.

### **MSDC Drainage Officer**

No objection subject to conditions.

### **Ecological Consultant**

In my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject to conditions.

### **Sussex Police**

With the level of crime and anti-social behaviour in Mid Sussex district being below average when compared with the rest of Sussex, I have no major concerns with the proposals. Secured By Design do not promote the use of pedestrian subway as these have in the past generated crime, increased the fear of crime and has the potential to create anti-social behaviour, loitering and graffiti.

### **Sussex Police (Infrastructure)**

Requires a contribution of £21,761.54 to mitigate the impact of the development.

### **Horsham and Mid Sussex Clinical Commissioning Group**

Requires a contribution of £82,590 to mitigate the impact of the development.

### **Urban Designer**

No objection.

### **Housing Enabling & Development Officer**

The application proposes a residential development of 130 dwellings of which 39 (30%) will be provided as Affordable Housing in line with current policy.



### **Community Leisure Officer**

Requires contributions to mitigate the impact of the development.

### **Environmental Protection Officer**

No objection subject to conditions regarding noise, air quality and construction.

### **Contaminated Land Officer**

No objection subject to condition.

### **Tree Officer**

I consider that there is scope to accommodate the development with the retention of the most important trees and the hedgerows.

### **HASSOCKS PARISH COUNCIL COMMENTS**

Hassocks Parish Council RECOMMENDS REFUSAL for the following reasons.

1. Housing Requirement. It is stated in the District Plan, Policy DP6 that "Some settlements (Burgess Hill ... Hassocks ... Warninglid) have already identified sufficient commitments/ completions to meet their minimum housing requirement for the full plan period and will not be expected to identify further sites within their Neighbourhood Plans." Hassocks has met the required level of development.
2. Hassocks Regulation 15 Submission Neighbourhood Plan. In Policy 1, Local Gap, of the Regulation 15 Submission Hassocks Neighbourhood Plan, the local gap between Hassocks and Burgess Hill is defined and the Plan seeks to protect this gap. In Policy 2, Local Green Spaces, the land to the north of Shepherds Walk is defined as a Local Green Space (LGS1). It is therefore considered that this application is contrary to the above policies also to Policy 14, Residential development within and adjoining the built-up area boundary of Hassocks, of the Regulation 15 Submission Hassocks Neighbourhood Plan.
3. Road Safety and Congestion. The Parish Council are strongly of the view that the access arrangements are unsatisfactory and dangerous. There are already three access points within 100 metres on this stretch of the A273 and the development of this site with 130 homes will add another. The access to this site has been designed in isolation and takes no account of the cumulative effect of traffic using the nearby junctions on this busy A Road. London Road is already a very busy road and there is frequently heavy congestion along London Road, Hurst Road, and Keymer Road, with frequent long tailbacks towards the Stonepound Crossroads. There are already two new development sites currently under construction along London Road, which will include two further junctions onto this busy road, all adding to pollution in an area which is a designated Air Quality Management Area that MSDC has a legal duty to alleviate.

Given the extensive local knowledge of Council Members, HPC would urge that MSDC requests WSCC to carry out a further Highways study to ensure that safety and air quality matters have been fully and realistically accounted for.

4. Heath Care Provision. It has been acknowledged by the Horsham and Mid Sussex CCG that Hassocks Health Centre does not have the capacity nor the physical space to accommodate 318 extra patients. The nearest health centre would be Brow surgery in Burgess Hill which is currently 2 miles from the proposed development site, however this GP Practice is in the process of planning a relocation to a new building within the regenerated Martletts shopping centre - a facility that does not currently exist nor will exist for some 5 years.
5. Renewable Energy. The Design and Access Statement (DAS) submitted by the developer says nothing about energy conservation, nor about the need to provide charging points for electric vehicles. The design is in direct conflict with Policy 5: Enabling Zero Carbon of the Regulation 15 Submission Hassocks Neighbourhood Plan which requires "All new residential development will be required to demonstrate that the net maximum heat energy requirement of the dwelling calculated using the SAP (Standard Assessment Procedure) is 15 kWh/m<sup>2</sup>/year or less." And "Proposals which make provision for charging electric vehicles at each dwelling (where feasible) and on-street; and make parking areas charging-ready will be supported."

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## **INTRODUCTION**

This application seeks planning permission for the following: Hybrid application comprising of outline proposal for residential development of 130 dwellings consisting of 12no. 1 bedroom apartments, 27no. 2 bedroom houses, 47no. 3 bedroom houses and 44no. 4 bedroom houses and associated access, together with change of use of part of the land to country open space, following the provision of a new pedestrian tunnel under the railway. All matters reserved apart from access.

## **RELEVANT PLANNING HISTORY**

A planning application (reference DM/15/0626) for the following development was reported to the District Planning Committee on 13th October 2016:

'Hybrid planning application comprising outline application for access only for residential development of 130 dwellings consisting of 12no. 1 bed apartments, 27no. 2 bed houses, 47no. 3 bed houses and 44no. 4 bed houses and associated access, together with change of use of part of land to form country open space.'

Members resolved to approve the application subject to the completion of a satisfactory legal agreement to secure the necessary affordable housing and infrastructure contributions. Prior to the decision being issued, the application was called in by the Secretary of State (SoS) for his own determination.

A Public Inquiry was held on 6th to 8th June 2017. The Planning Inspector appointed by the SoS recommended that the planning application be refused for the sole

reason that in the absence of any measure to improve the safety of the unmanned railway crossing, permitting the proposed development in such close proximity to it would involve an unacceptable risk to the safety of future occupiers. The SoS accepted the recommendation of his Inspector and refused planning permission for the development on this basis on 1st March 2018.

Following this a planning application for the following development was submitted to the Local Planning Authority (LPA) under reference DM/18/2342: Hybrid application comprising of outline proposal for residential development of 130 dwellings consisting of 12no. 1 bedroom apartments, 27no. 2 bedroom houses, 47no. 3 bedroom houses and 44no. 4 bedroom houses and associated access, together with change of use of part of the land for country open space, following the provision of a new footbridge across the railway. All matters reserved apart from access.

This application was recommended for approval at the District Planning Committee meeting on 29th November 2018 but was refused for the following reasons:

1. The site of the application lies in the countryside as defined in the District Plan. The Local Planning Authority can demonstrate a 5 year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been allocated for residential development in the District Plan. As such the proposal would conflict with policy DP6 of the District Plan as the proposed development does not meet any of the criteria listed in this policy. The proposal would not maintain or enhance the quality of the rural and landscape character of the District, as by definition built development will lead to the loss of open countryside, and does not meet either of the criteria in policy DP12 for development that will be permitted in the countryside. As such the proposal would conflict with policy DP12 of the District Plan. The proposal also conflicts with policy DP15 of the District Plan as it does not meet any of the criteria listed in this policy.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state the determination of a planning application must be carried out in accordance with the development plan unless material considerations indicate otherwise. As the Local Planning Authority can demonstrate a 5 year housing land supply the policies in the District Plan command full weight. The conflict with policies DP6, DP12 and DP15 means that the proposed development is in conflict with the development plan when read as a whole. There are no material considerations that would justify a decision otherwise than in accordance with the development plan.

2. The proposal fails to provide the required infrastructure contributions necessary to serve the development and the required affordable housing. The proposal therefore conflicts with policies DP20 and DP31 of the District Plan.

An appeal against this decision has been lodged and this will be determined at a Public Inquiry that will commence on 10th September 2019.

## **SITE AND SURROUNDINGS**

The site of the application is a broadly L shaped area of land located to the east of the London Road, Hassocks. The site is to the east of the Friars Oak Public House. The site consists of fields that are laid to grass. The total site is some 10.51 hectares.

Within the southern part of the site there is a public right of way that runs from west to east. To the south of this is the built up area of Hassocks, which includes the residential properties on Shepherds Walk, The Bourne, Bankside and The Spinney. To the east there is a wooded embankment that leads up to the London to Brighton railway line. The public right of way crosses the railway line and then goes eastwards into Hassocks. To the west of the site there is the Herring stream with the Friars Oak public house to the southwest. To the north there are trees and hedge along the field boundaries with open fields beyond this.

There is an existing access point to the southwest that crosses the stream and provides access into the site.

In terms of planning policy the site lies within the countryside as defined in the District Plan (DP).

## **APPLICATION DETAILS**

The application seeks outline planning permission for the erection of 130 dwellings comprising 12no. 1 bed apartments, 27 no. 2 bed houses, 47no. 3 bed houses and 44no. 4 bed houses. The matter to be determined at the outline stage is the means of access to the site. If this application is approved then a subsequent reserved matters application would need to be made to determine the layout, scale, appearance and landscaping of the site. The illustrative site layout that has been submitted has been provided to demonstrate that this number of dwellings can be accommodated within the site.

The application is proposing that 30% of the dwellings would be affordable.

In addition to this, the application also proposes a change of use of an area of land within the site from agricultural land into a country open space. This area of land is located to the northwest of the site and measures some 180m by 100m.

The proposal provides for the provision of a pedestrian tunnel under the railway line to seek to overcome the reason why the SoS refused planning permission for a previous proposal for 130 dwellings on this site. The applicants have stated that the provision of the new tunnel will be secured by means of a S106 Planning Obligation to which Network Rail will be signatories.

The proposed vehicular access to the site would from the southwest onto the London Road. The access point would be located some 30m to the south of the existing access on the opposite side of the road that serves the Hassocks Golf Club. The plans show that there would be a new road 5.5m in width that would provide access into the site. The existing bridge across the stream would be replaced with a new

bridge with a span of 15m. This bridge would have a footway 3.5m in width on the southern side to allow access by emergency vehicles if the access road became blocked.

This new access road would be on an embankment as a result of the height needed on the new bridge to cross the stream.

The plans show a new right turn lane being formed on the London Road to access the site. The pedestrian refuge island in the London Road would be relocated to the north of the new access. The plans show visibility splays of 3m by 120m in both the north and southerly direction.

## **LIST OF POLICIES**

### **Mid Sussex District Plan**

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP6 Settlement Hierarchy  
DP12 Protection and Enhancement of Countryside  
DP13 Preventing Coalescence  
DP15 New Homes in the Countryside  
DP17 Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)  
DP20 Securing Infrastructure  
DP21 Transport  
DP22 Rights of Way and other Recreational Routes  
DP23 Communication Infrastructure  
DP26 Character and Design  
DP27 Dwelling Space Standards  
DP29 Noise, Air and Light Pollution  
DP30 Housing Mix  
DP31 Affordable Housing  
DP37 Trees, Woodland and Hedgerows  
DP38 Biodiversity  
DP39 Sustainable Design and Construction  
DP41 Flood Risk and Drainage

### **Neighbourhood Plan**

Hassocks Neighbourhood Plan (HNP).

Hassocks Parish Council formally withdrew the Submission (Regulation 16) Hassocks Neighbourhood Plan dated June 2016 in a letter dated 4th January 2019. Consultation on the new Pre-submission (Regulation 14) Neighbourhood Plan took place between 7th January 2019 and 18th February 2019.

The HNP is at a relatively early stage of preparation. There are a number of unresolved objections to various policies within the plan, including objections to policy 2 in relation to the proposed allocation of the land to the rear of the Friars Oak public house as local green space. In light of these points limited weight can be afforded to the Regulation 14 HNP.

Policy 1: Local gaps

Policy 2: Local Green Spaces

Policy 4: Managing Surface Water

Policy 5: Enabling Zero Carbon

Policy 8: Air Quality Management

Policy 11: Outdoor Playing Space

#### *National Planning Policy Framework (NPPF) (Feb 2019)*

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is '*significantly boosting the supply of homes.*'

Paragraph 12 of the NPPF states '*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*'

Paragraph 38 of the NPPF states '*Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*'

With specific reference to decision-taking paragraph 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

## **ASSESSMENT**

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- The principle of development;
- Landscape Impact, local character designations and coalescence
- Access and Transport
- Impact on the railway crossing
- Air quality
- Drainage
- Ecology / Biodiversity
- Design and Layout
- Noise
- Housing Mix and Affordable Housing
- Neighbour amenity
- Infrastructure
- Neighbourhood Planning
- Energy efficiency
- Archaeology
- Impact on Ashdown Forest
- Planning Balance and Conclusion

### **Principle of Development**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

*'In dealing with such an application the authority shall have regard to:*

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the

development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan (DP). The DP has been adopted and has superseded the Mid Sussex Local Plan (MSLP), other than the policies in the MSLP which relate to site specific allocations. The HNP is not a made plan and therefore does not form part of the development plan.

Policy DP6 in the District Plan relates to the settlement hierarchy in the District. It states

*'Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale (with particular regard to DP26: Character and Design), and not cause harm to the character and function of the settlement.'*

*The growth of settlements will be supported where this meets identified local housing, employment and community needs.*

*Outside defined built-up area boundaries, the expansion of settlements will be supported where:*

- 1. The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings; and*
- 2. The site is contiguous with an existing built up area of the settlement; and*
- 3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy.*

*The developer will need to satisfy the Council that:*

- The proposal does not represent an underdevelopment of the site with regard to Policy DP26: Character and Design; or*
- A large site is not brought forward in phases that individually meet the threshold but cumulatively does not.'*

Whilst the site is contiguous with the built up area boundary of Hassocks it is for more than 10 dwellings. As such the proposal would be contrary to policy DP6.

Objections have been raised to the principle of the development on the basis that Hassocks has already contributed significantly to housing delivery in the District and therefore there is no further requirement for Hassocks to provide additional housing beyond these commitments. There is a table within the District Plan that accompanies policy DP6 that provides clarity between the District Council housing requirements and the role of Neighbourhood Plans in meeting this. The table shows the minimum residual amount of development for each settlement over the plan period as at April 2017. The text within the District Plan explains that



*'During the life of the plan it is likely that the settlement requirements will need to change in response to:*

- *The allocation of additional sites by the District Council*
- *Under or over-delivery by settlements - albeit the figures are assumed to be minimal*
- *The identification of future constraints*

*Therefore this position will be updated annually within the Authority Monitoring Report (AMR).'*

*The text goes on to state 'Some settlements (Burgess Hill, Hassocks, Hurstpierpoint, Ashurst Wood, Handcross, Pease Pottage, Scaynes Hill, Ansty, Staplefield, Slaugham and Warninglid) have already identified sufficient commitments/completions to meet their minimum housing requirement for the full plan period and will not be expected to identify further sites within their Neighbourhood Plans. However, this does not preclude Town and Parish Councils from identifying further sites within their Neighbourhood Plans should they wish to do so, in order to boost supply. Similarly, further sites may be allocated in the future to ensure that the minimum residual for each settlement category (set out in DP4: Housing) is met, based on monitoring.'*

It is important to note that the figures contained within the table that accompanies policy DP6 are not a cap on development. The numbers are referred to as minimum requirements. The fact that the table indicates that Hassocks has met its minimum requirement for the full plan period is not a reason in itself to resist this application. It is also worth noting that the Inspector's report to the SoS for application reference DM/15/0626 stated *'Whilst Hassocks has already made a considerable contribution to the District's housing needs [33, 111], the village is amongst the District's most sustainable locations [24], and there seems no compelling reason why it should not be able to take some more if necessary, consistent with its position in the settlement hierarchy.'*

Policy DP12 of the District Plan seeks to protect the character of the countryside. It states

*'The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:*

- *it is necessary for the purposes of agriculture; or*
- *it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.*

*Agricultural land of Grade 3a and above will be protected from non-agricultural development proposals. Where significant development of agricultural land is demonstrated to be necessary, detailed field surveys should be undertaken and proposals should seek to use areas of poorer quality land in preference to that of higher quality.*

*The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character.*

*Built-up area boundaries are subject to review by Neighbourhood Plans or through a Site Allocations Development Plan Document, produced by the District Council.*

*Economically viable mineral reserves within the district will be safeguarded.'*

The above policy is a key part of the overall spatial strategy of the DP, which seeks to protect the countryside and to focus development on the higher category settlements which have a wider range of services, facilities and better accessibility.

A fundamental principle of this policy is that the countryside is protected for its intrinsic beauty. Development can be permitted where it maintains or enhances the quality of the rural landscape character of the District and it is supported by a policy reference elsewhere in the DP, a development plan document or a neighbourhood plan.

In light of the above, a key issue is the impact of the proposal on the character of the area which will be assessed later in this report.

Policy DP15 in the District Plan allows for new dwellings in the countryside subject to a number of criteria. This proposal does not fall into one of the categories of development that are allowed under policy DP15.

In light of the above, it is considered that the proposal would be contrary to the policies that have been identified above because the proposal is for a large scale major development of residential development outside the built up area of Hassocks. As such it is necessary to consider other relevant policies in the development plan and other material planning considerations to determine if there are grounds to come to a decision that is not in compliance with the development plan.

### Emerging policy

The NPPF requires local planning authorities to produce a Strategic Housing and Economic Land Availability Assessment (SHELAA). In Autumn 2017, the Council sought nominations from landowners for sites which could be considered for housing and employment. This is the first stage of work in the preparation of the Council's Site Allocations Plan. The SHELAA (2018) sets out the long list of sites which were nominated to the Council. These sites do not have any planning status. Including them in the SHELAA does not mean that they will be developed in the future.

The District Council are in the process of preparing a Site Allocations Document which will identify sufficient housing sites to provide a five year housing land supply to 2031. It will also make sure that enough land is allocated to meet identified employment needs. The timetable for the preparation of the document is as follows:

- Regulation 18 - Preferred Options - Autumn 2019
- Regulation 19 - Pre-Submission Consultation - Spring 2020
- Submission for Examination - Summer/Autumn 2020
- Adoption - Spring/Summer 2021

The site of this planning application has been put forward in the SHELAA as a proposed housing site. A detailed assessment of the suitability of the sites that have been put forward in the SHELAA will be undertaken in line with the above timetable.

In light of the above, whilst the fact that this site has been promoted in the SHELAA for housing development is a material planning consideration, it can only be afforded very minimal weight in the determination of this planning application.

### Planning history of the site

In this case it is considered that the planning history of the site is highly relevant to an assessment about the principle of this proposal. Members resolved to approve the same scheme on this site (with the exception of the tunnel under the railway crossing) at the District Planning Committee meeting on 13th October 2016. Prior to the decision being issued, application reference DM/15/0626 was called in by the Secretary of State (SoS) for his own determination. A Public Inquiry was held on 6th to 8th June 2017. The Planning Inspector recommended that the planning application be refused for the sole reason that in the absence of any measure to improve the safety of the unmanned railway crossing, permitting the proposed development in such close proximity to it would involve an unacceptable risk to the safety of future occupiers. The SoS accepted the recommendation of his Inspector and refused planning permission for the development on this basis on 1st March 2018.

The planning policy background has moved on since the above Public Inquiry was held and the subsequent decision was issued by the SoS. Specifically, at the time of above decision, the development plan consisted of the Mid Sussex Local Plan (MSLP); the District Council could not demonstrate a 5 year housing land supply; and the presumption in favour of sustainable development applied. The planning policy position now is that the DP has been adopted and the District Council considers it can demonstrate a 5 year housing land supply as required by the NPPF. Consequently, the policies within the development plan are up to date and can command full weight.

It was under this new planning policy position of an adopted DP that the last application (reference DM/18/2342) was refused by the LPA. It should be noted that the previous application was recommended for approval but was refused by the District Planning Committee. It is the role of officers to provide advice and a recommendation to Members as to how the application should be decided. It is then a matter for the Members of the Planning Committee to assess the application and to come to their own judgement on the merits of the application, having taken account of the officer's report. Therefore whilst the previous application was refused by the LPA, this does not dictate the recommendation of officers on this planning application.

As with the previous application, officers remain of the view that there is a clear benefit in providing additional housing in the sustainable settlement of Hassocks. It is an aim of the NPPF to significantly boost the supply of homes. The development of this site would assist the LPA with delivering new housing. The applicants have stated in their submissions that they do not believe that the LPA can demonstrate a 5 year housing land supply. The LPA does not agree with this assertion and believes it can demonstrate a 5 year housing land supply. This is likely to be tested by the applicants at the Public Inquiry in September for the previously refused scheme. It is important for the LPA to maintain the 5 year housing land supply so that the policies in the DP continue to command full weight. It is also relevant that the scheme would provide a policy compliant level of affordable housing. The provision of affordable housing is a corporate priority of the District Council.

It is also relevant to note that there was no overriding objection to the previous scheme from the SoS on environmental grounds and that, through the provision of a new pedestrian tunnel, the current application has addressed the sole reason for the SoS's decision to refuse permission. Notwithstanding the change in the planning policy background, the views of the Planning Inspector and the SoS on matters such as landscape impact, air quality and flood risk are still considered to be important material considerations in the determination of this planning application. As discussed below, the provision of the new pedestrian tunnel is considered to be a public benefit.

In light of the above circumstances, it is considered that there are sufficient material considerations that would justify a decision that was not in accordance with the development plan.

## **Landscape Impact, local character designations and coalescence**

### Landscape Impacts

The site is not subject to any national landscape designations. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) that is available on file for inspection. The LVIA sets out in detail a professional assessment of the landscape impacts of the proposal. There are no reasons to question the methodology of this assessment. It is however clearly the case that an assessment of the impact of the proposal on the character of the landscape is ultimately a subjective one for the decision maker to make.

The LVIA notes the MSDC Landscape Capacity Study of 2007 concludes that the wider landscape area of Hurstpierpoint, Hassocks, Keymer, Sayers Common and Albourne being of substantial value. It states *'With regards to the Site the sensitivity to change is considered to be less than that of the wider area due to its settlement edge location, the proximity of the main road, visual influence of built elements of housing on Shepherds Walk and the enclosing vegetation flanking the western and eastern boundaries. Hence although there are notable landscape features of the Site including the vegetation along Herring Stream and the railway embankment and the hedgerows with mature oak trees, there are no designations of quality which apply and several influences which impart a settlement edge character.'* In relation to the

site itself the LVIA concludes that the site is considered a landscape of high-medium sensitivity.

The LVIA goes on to state *'There are no statutory designations of landscape or townscape quality which infer any special character on the Site itself or its immediate surroundings although four of the oak trees are covered by a Tree Protection Order for their contribution to the character of the area. The proposals provide for their retention and future management.'*

*'Acknowledging that the landscape is sensitive the proposed scheme has incorporated a number of inherent design measures to ensure a fit within the environment and to limit impacts on immediate and surrounding areas. Of particular note is the retention and conservation of the existing hedgerows and trees, the retention of the wooded corridors along the Herring Stream course and the railway embankment, the provision of wide landscape buffers and the landscape approach to treating the attenuation ponds.'*

The LVIA concludes by stating *'whilst a few significant effects have been identified, these are all contained locally and are not considered to be detrimental to the SDNP, the settlement character of Hassocks or to the wider landscape character of the area. Whilst it will change the nature of existing views for some of residents in the immediate vicinity, and will amend the built edge of the village, the natural enclosure and considerate design effectively limits these effects such that important landscape features are retained and the perception of change minimised including any possible perceived reduction in the Strategic Gap. On balance the Site is considered to be developable without undue or significant harm on the wider landscape or townscape, or on visual amenity value beyond that which might be reasonably expected of any residential development.'*

There have been no changes on the ground since the previous application (reference DM/18/2342) was determined that would alter officer's conclusions in relation to the landscape impact of the proposal.

It is clear that with any green field development there will be a significant change at the local level from that of an undeveloped field to a housing development. It is accepted that many people would regard this as a significant adverse impact on the landscape. In order to meet the housing needs of the District, however, there will inevitably be a need to develop green field sites (this is particularly the case in a predominantly rural authority such as Mid Sussex). It is also the case that much of Mid Sussex is subject to national designations (AONB and the South Downs National Park) that further limit the available area for new development.

As with the previous application, whilst it is your officer's view that there would be an impact on the landscape as a result of the proposed development it is considered that this impact will be localised and that it could be ameliorated by the retention of landscape planting and new planting within the development. This site provides the opportunity for a well-designed residential development that would provide a good environment for people to live in. The significant benefits of new housing must be weighed in the planning balance when considering the adverse local impact on the landscape of this proposal.

It is considered that there will be fairly significant change at the local level as a result of the construction of the new access into the site. The new access road would result in the loss of a large number of trees and would contribute to the urbanisation of this part of Hassocks. However the extent of this harm in visual terms would be limited to the areas surrounding the proposed access and would not be experienced in the wider locality.

As the access road runs into the site it will be on an embankment and will then return to the natural ground level. At its highest point where it will adjoin the new bridge, the embankment would be some 1.75m above the existing ground level. It would then join the natural ground level some 105m to the east. The proposed embankment and road would have some adverse impact on the landscape as they would appear as a manmade engineered feature. The plans show that the slope on either sides of the embankment would be 1 in 3. It is considered that this element of the proposed scheme would have some adverse impact on the landscape and this is a negative factor in relation to the scheme. However this harm is limited to the immediate locality around the access road and does not have an impact on the wider landscape.

It is relevant to note that in terms of changes to the wider landscape, the site is bounded to the south by existing residential development and will have housing development in the future to the west where consent exists and is being implemented for a residential development on the Golf Course for 165 dwellings and also by a strategic residential development to the east where a site has been allocated for 500 dwellings and a primary school and a planning application is pending determination. On this basis the harm to the character of the landscape is limited because this proposal will not be seen as an isolated incursion into the countryside. It will predominantly be enclosed by existing development to the south and the consented development to the west and allocated development to the east. As such the settlement boundary of Hassocks will not be extended further northwards than the allocated site to the east.

In his report to the SoS, the Inspector appointed to make a recommendation on application reference DM/15/0626 for 130 dwellings on this site stated "*As noted earlier, I agree that there would be some harm to the landscape, irrespective of the coalescence issue [156]. But the site is not unduly visible. Most of the existing landscape features could be retained, and some mitigation could be achieved through new planting. On balance, the harm to the landscape would not be so great as to warrant refusal on this ground.*" The SoS did not disagree with the views of his Inspector on this point. It is considered that notwithstanding the fact that this application was determined under a different planning policy background, the conclusions of the Inspector in relation to landscape impact should still be afforded significant weight.

In terms of an impact on the landscape, the significant difference between this application and the scheme that was refused by the District Planning Committee in November 2018 is the proposal to now provide a pedestrian tunnel under the railway line rather than a footbridge. As the railway line is on an embankment the proposed bridge would have been a substantial structure. The tunnel would not have an impact on the wider landscape and therefore this represents a reduction in the visual impact

of the proposal compared to the scheme that was refused by the District Planning Committee.

Given the above it is considered that whilst there will be some harm to the landscape as a result of the site changing from a green field to a residential development, the impact of this can be limited by appropriate boundary treatments and is also tempered by the consented residential development to the west and strategic housing allocation to the east. Your officer agrees with the views of the Planning Inspector that it would not be appropriate to refuse this application based on landscape matters. Therefore whilst there is some conflict with policy DP12 of the DP, this can be mitigated by the works that have been outlined above.

In relation to trees within the site, there are preserved trees. These are shown as being retained on the illustrative. The reserved matters submission will need to take account of these preserved trees and there are no reasons why it should not be possible to retain these trees as part of a subsequent reserved matters submission. As such policy DP37 of the DP would be met in this respect. The assessment of this issue is no different to the previous application reference DM/18/2342.

### Coalescence

Policy DP13 in the District Plan seeks to prevent coalescence. It states

*"The individual towns and villages in the District each have their own unique characteristics. It is important that their separate identity is maintained. When travelling between settlements people should have a sense that they have left one before arriving at the next.*

*Provided it is not in conflict with Policy DP12: Protection and Enhancement of the Countryside, development will be permitted if it does not result in the coalescence of settlements which harms the separate identity and amenity of settlements, and would not have an unacceptably urbanising effect on the area between settlements.*

*Local Gaps can be identified in Neighbourhood Plans or a Site Allocations Development Plan Document, produced by the District Council, where there is robust evidence that development within the Gap would individually or cumulatively result in coalescence and the loss of the separate identity and amenity of nearby settlements. Evidence must demonstrate that existing local and national policies cannot provide the necessary protection."*

The District Plan does not define strategic gaps on any policy maps. It is the role of Neighbourhood Plans to identify local gaps in accordance with the criteria laid out in policy DP13.

Policy 1 in the Regulation 14 Pre-submission Hassocks Neighbourhood Plan (HNP) states

*'Local Gaps have been defined and will be safeguarded between:*

- a. Keymer/Hassocks and Ditchling;*
- b. Keymer/Hassocks and Hurstpierpoint; and*

c. *Keymer/Hassocks and Burgess Hill.*

*as defined on the Proposals Map with the objectives of preventing coalescence and retaining the separate identity and amenity of settlements.*

*Development will be supported within the Local Gap where:*

- 1. It is necessary for the purposes of agriculture, or some other use which has to be located in the countryside; or*
- 2. It is a scheme for housing that is in accordance with MSDP Policy DP6 (1-3) and includes an appropriate landscape buffer to strengthen the purposes of the Local Gap; and it would not compromise individually or cumulatively the objectives and fundamental integrity of the gaps between Hassocks and the settlements of Ditchling, Hurstpierpoint, and Burgess Hill.'*

The clear aim of policy DP13 in the DP and policy 1 in the Regulation 14 Pre-submission HNP is to prevent coalescence between Burgess Hill and Hassocks. The site has been designated in the Regulation 14 Pre-submission HNP as being within the local gap between Hassocks and Burgess Hill. The issue therefore is whether this proposal would result in coalescence between the two settlements. There would be a distance of some 1.34km between the edge of the built development proposed in this scheme and the built up area of Burgess Hill at its closest point. At present at this point the distance between the two built up areas is some 1.56km.

Whilst it is a fact that the distance between the built up areas of Hassock and Burgess Hill would be reduced as a result of this proposal, the issue is whether this results in coalescence between the settlements.

In assessing the issue of coalescence on the called in application, the Inspector stated '*Policy C2's purpose is more targeted, in seeking to preserve a gap between Hassocks and Burgess Hill. But that does not necessarily justify protecting the whole of the existing gap in its entirety. The development already approved at Hassocks Golf Club will result in the gap being narrowed to some extent. In that context, the proposed development at Friars Oak would not reduce it any further. Although the development would be seen in glimpsed views from London Road, and distantly from the edge of Burgess Hill, it would not be unduly dominant in the landscape, nor would it extend the village threshold [68 - 71]. A clear gap of around 1.3km to Burgess Hill would still remain. As such, although the development would conflict with Policy C2, and would cause some landscape harm, it would not significantly damage the policy's main aims with regard to coalescence and preserving settlement identity. In the circumstances, it seems to me that the conflict with Policy C2 should carry no more than moderate weight.'* The SoS did not disagree with his Inspector's conclusion on this point.

As the MSLP has been superseded, policy C2 from that plan no longer exists. It has been replaced with policy DP13 which has similar aims.

Since the Inspector's report on application reference DM/15/0626, a further change has been the allocation of a strategic site for 500 dwellings and a primary school at Clayton Mills in Hassocks and the submission of a planning application for this development. The site allocation at Clayton Mills extends further northwards than the site of the planning application at Friars Oak field.



In light of the Inspector's conclusions, which were not disputed by the SoS, the fact that consent has been granted on the Hassocks golf club for residential development and the fact that a strategic site for development has been allocated on the eastern side of the railway line and a planning application has now been submitted for this development, it is not considered that a reason to refuse the application based on coalescence could be sustained. Given the fact that the site is well screened from the highway, it is your officer's view that the proposal would not result in coalescence between the two settlements and that their individual identity would be maintained. It is not considered that the proposed development would result in coalescence between Hassocks and Burgess Hill. When travelling along the London Road between the two settlements it is not felt that there would be a noticeable difference in the journey between the two settlements after the development being constructed compared to the current situation and there would still be a clear experience of departing from one settlement and then arriving in another. It is also relevant that the previous application (DM/18/2342) was not refused because of coalescence between Hassocks and Burgess Hill. As such there is no conflict with policy DP13 in the DP and policy 1 in the Regulation 14 Pre-submission HNP.

### **Access and Transport**

The application is in outline form, with the means of access to the site to be determined at the outline stage. The proposed highway works were summarised earlier in this report. The application is accompanied by a Transport Assessment (TA) that is available on file for inspection.

Policy DP21 in the District Plan states

*'Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026, which are:*

- *A high quality transport network that promotes a competitive and prosperous economy;*
- *A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- *Access to services, employment and housing; and*
- *A transport network that feels, and is, safer and healthier to use.*

*To meet these objectives, decisions on development proposals will take account of whether:*

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*
- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*

- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*
- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

*Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.*

*Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so.'*

The reference to development not causing a severe cumulative impact reflects the advice in paragraph 109 of the NPPF, which states '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*'

The proposal seeks the approval of the means of access at the outline stage. The views of the Inspector and SoS on the previous application are material considerations in the determination of this application.

With regards to the new access onto the London Road, the vehicular access will be provided with a 6m wide access reducing to 5.5m as it enters the site. The 6m width of the access is sufficient to allow two large vehicles to pass and re pass. The proposal includes the provision of a 3.5m wide strip along the southern side of the access road which will be constructed so that it can accommodate large emergency vehicles if needed, although will be used as a pedestrian/cycle link to the site on a day-to-day basis. This emergency link/ footway/cycleway will extend from the A273 to a point approximately 100m into the site where the public footway continues eastward. A short section of this public right footpath will be 3.5m wide to allow access for emergency vehicles up to the first cul-de-sac residential area at which point emergency vehicles will be able to access the remaining internal road network. A 2m wide footway will also be provided along the northern side of the access for pedestrians.

The new access to serve the Friars Oak development would be some 27m to the south of the access that would serve the Hassocks Golf Club development on the opposite side of London Road.

The plans show that the new crossover would provide visibility splays of 3m by 120m in each direction. At this point the speed limit of the road is 30mph. According to Design Manual for Roads and Bridges (DMRB) visibility splays of 90m should be provided where the speed limit is 30mph. As such the visibility splays would be sufficient and there is no objection from the Highway Authority to this element of the scheme.

With regards to the impact of the development on the highway network, traffic surveys have been undertaken at the Stonepound Crossroads and the golf club access to inform the applicant's submissions. Automated Traffic Count (ATC) including vehicle speeds has been undertaken on the A273 London Road in the vicinity of the proposed site access. The above traffic surveys were undertaken on behalf of RPS by 360 TSL traffic survey company on Thursday 19 April 2018. The ATC traffic and speed survey was undertaken on the week period commencing on 16 April 2018. The resultant peak highway hours are 08.00 to 09.00 and 16.45 to 17.45.

The applicants have also factored in a number of schemes as committed development in their highway modelling. These are the development at Little Park Farm and Highfield Drive (157 dwellings), Hassocks Golf Club (130 dwellings) and land at Ham Fields (129 dwellings). Clayton Mills is a site that has been allocated in the District Plan for some 500 dwellings and a new primary school. The site sits between the railway line and Ockley Lane and is to the north of the development off Mackie Avenue. Vehicular access to this site will be via Ockley Lane. The TA states that a review of potential movements to and from the site using the work place destinations shows that very few if any trips are likely to pass through the Stonepound crossroads; as such no movements associated with this site have been included for this in the TA submitted with this application.

Some concern has been raised by third parties about whether the Clayton Mills proposal should have been modelled in the applicant's submissions. The Highway Authority have advised that the Clayton Mills proposal did model Stonepound Crossroads but the number of movements from Clayton Mills did not really warrant it. The Highway Authority are therefore of the view that the proposed development at Clayton Mills does not need to be within the Transport Assessment for this application at Friars Oak.

The TS provided in support of this application does estimate potential vehicular trip generation arising from this proposal. It suggests that there will be 20 arrivals and 63 departures within the weekday AM peak and 51 arrivals and 29 departures in the weekday PM peak.

The following improvements have previously been agreed with WSCC and are those being put forward as part of the development at the Hassocks Golf Course by i-transport:

- Introduction of MOVA version 6 (updated version of existing MOVA);
- A HGV/bus detectors;
- Re-positioning of loops for right turning traffic at stop-lines;
- Change Stage Sequence to improve efficiency;
- Road widening on Hurst Road to enable a left turn filter on Hurst Road;
- Upgrade the existing controlled crossing; and
- Including tactile paving and dropped kerbs at all crossing points.

The Highway Authority has stated that they would not recommend any changes to their original consultation response provided in connection with DM/18/2342. Referring back to their previous response, in relation to capacity issues the Highway Authority stated *'The junction analysis has been undertaken using the Industry standard Junctions 9 computer programme for the site access priority junction and LINSIG programme for the signalised junction. The results of the assessment show that the proposed access arrangement will operate well within capacity, the existing signalised junction is demonstrated to operate above its design capacity in the existing situation and with the introduction of the committed and proposed development traffic, this level of capacity reduces further. The mitigation measures identified have been agreed with WSCC and will either be implemented as part of this development proposal or as part of the Hassocks Golf Course application which also proposes these measures. The measures identified are considered to be sufficient to mitigate the developments impact at this junction.'*

*It is recognised that this proposal would give rise to a more intensive use of London Road; however, based on the above it is not anticipated to result in a severe cumulative impact on the operation of the local network.'*

In making his recommendation to the SoS on application reference DM/16/0626, the Inspector stated *'Traffic impact and the safety of the proposed vehicular access are dealt with in the TA, and the Highway Authority's initial objections have been overcome [82-85]. Even with the proposed junction improvement at Stonepound, there would continue to be some queuing, but the development's net effect would not be severe, and therefore would not justify refusal on those grounds. The safety of the access onto London Road has been properly audited, and I see no reason to disagree with the conclusions reached by the Highway Authority.'* Whilst it is acknowledged that there have been further developments since the Inspectors report was written (the additional units at Ham Fields compared to the originally consented scheme and the allocation of the site at Clayton Mills) it is considered the comments by the Inspector demonstrate the importance and weight that was given by the Inspector to the views of the Highway Authority, who are the statutory body responsible for the highway network in the District.

It is considered that it remains the case that significant weight should be attached to the views of the Highway Authority. Officer's are of the view that experience has shown that at appeal, Inspectors will give significant weight to the views of the Highway Authority on highway matters.

Given the views of the Highway Authority on the evidence that has been submitted, it is not considered that the proposal would have a severe impact on the operation of the highway network. It is also relevant that the previous application reference

DM/18/2342 was not refused by the LPA on matters relating to highway safety or capacity. There have been no changes in planning policy or changes in circumstances on the ground that would warrant a different conclusion being arrived at by the LPA on this issue compared to the decision that was made in November 2018. In light of all the above it is considered that there would be no conflict with this element of policy DP21 in the DP or the NPPF.

The proposed plans show the creation of a 15m single span bridge. This would require an embankment to be formed for the bridge and access road. The sections provided by the applicant show that at the point of the bridge, the road level would be some 2m above the existing ground level. Moving eastwards into the site, the sections show that the access road would be raised above the existing ground level for some 130m into the site at which point the natural ground level rises and would then meet the new road. The Highway Authority had no objection to the principle of this bridge on the previous application and as advised above, has advised that their previous comments remain relevant for this current application.

With regards to pedestrian accessibility to the site, the proposed pedestrian crossing over the railway line will be addressed separately. Hassocks is a category 2 settlement as defined in the District Plan with the associated services that come with such a designation, such as shops, public houses, school and places of employment. Footway provision extends as far north as Hassocks Golf Club and to the signalised junction with the B2116 to the south of the site. There is a pedestrian link through the site into Shepherds Walk to the south. It would therefore be possible for prospective residents to walk to the centre of Hassocks to access a variety of amenities. In this respect the pedestrian access of the site is considered to be similar to the site allocated (and now with the benefit of planning permission) in the Neighbourhood Plan at Hassocks Golf Club for development on the opposite side of the London Road. Therefore whilst prospective residents are likely to use the private car for many day to day trips, this would be no different to the golf club site opposite.

### Public right of way

Policy DP22 in the DP states

*'Rights of way, Sustrans national cycle routes and recreational routes will be protected by ensuring development does not result in the loss of or does not adversely affect a right of way or other recreational routes unless a new route is provided which is of at least an equivalent value and which does not sever important routes.'*

*Access to the countryside will be encouraged by:*

- *Ensuring that (where appropriate) development provides safe and convenient links to rights of way and other recreational routes;*
- *Supporting the provision of additional routes within and between settlements that contribute to providing a joined up network of routes where possible;*
- *Where appropriate, encouraging making new or existing rights of way multi-functional to allow for benefits for a range of users. (Note: 'multi-functional will generally mean able to be used by walkers, cyclists and horse-riders).'*

The Council is in receipt on a separate application (reference DM/16/3730) to stop up a section of the public right of way that runs through the site and to divert it. This application is submitted under Section 257 of the Town and Country Planning Act 1990. This permits the making of an order for the stopping up or diversion of a footpath or bridleway which is necessary to enable development to be carried out either in accordance with a valid planning permission or by a government department. The order cannot be made unless the LPA (or Secretary of State) is satisfied the order is necessary to enable the development in question to proceed.

The diverted section would be some 195m in length. The purpose of this would be to divert the PROW around a proposed flood compensation area that is shown within the illustrative site plan. The applicants have stated that this will allow the continued use of the footpath through the development, even during flood events where currently sections are impassable during flood events.

In terms of timing, the LPA can make an order either once planning permission has been granted or, following an amendment to Section 257 by the Growth and Infrastructure Act 2013, in anticipation of planning permission (i.e. once an application for planning permission has been made) but an order made in advance of planning permission cannot be confirmed until that permission has been granted. An order can take at least 3 months to be confirmed (if unopposed). If there are unresolved objections, the order must be submitted to the relevant Secretary of State for confirmation and a local inquiry may need to be held. This can delay the decision for 12 months or more.

As with the previous application, the Council have received a number of objections to the application to divert the PROW. In relation to this planning application, concerns have been raised that if the PROW cannot be diverted, the applicants will not be able to provide the flood compensation area that is shown in the southwest corner of the site. Whilst this concern is noted, it must be remembered that this is an outline planning application to establish the principle of providing 130 dwellings on the site. It is only the means of access that is to be determined at the outline stage; the layout that has been submitted is for illustrative purposes.

If outline planning permission is granted for this development, it will be subject to a number of conditions, including conditions regarding foul and surface water drainage. A subsequent reserved matters application will need to be made to the LPA showing the proposed layout of the site. If the application to divert the PROW is not approved, this will simply mean that the applicants will have to revise their proposed layout, including any proposed flood compensation areas, to take account of this. If the developer cannot satisfy the LPA that the drainage condition that is attached to the outline planning permission can be satisfactorily discharged, then the LPA would not discharge the planning condition and the planning permission could not be implemented.

In making his recommendation on application reference DM/15/0626, the Inspector stated *'The diversion of public footpath 5k, to accommodate one of the proposed attenuation ponds and the new access road [10], would lengthen it slightly, and would add to the changes to its character. But there is no reason to doubt that the path would be retained, and that an appropriate surfacing and landscape treatment*

*could be devised. Although the separate application for the footpath diversion remains before MSDC for a decision, for the purposes of the present inquiry, the SCG records the parties' view that the proposed diversion does not give any grounds to justify a refusal of permission for the proposed housing development [154]. I agree.'*

In light of all the above it is considered that there are no reasons to resist the application based on the proposal to divert a section of the PROW through the site.

The County Councils Public Rights of Way Officer has stated in their consultation response that they would require the applicant to:

- 1) *'to up-grade footpath 5K to bridleway status within the site;*
- 2) *to provide a tunnel within the railway embankment suitable for use as a bridleway;*
- 3) *to provide suitable infrastructure to allow future cycle and horse users to access the A273 and to safely cross that road and connect to bridleway 4\_2C; and*
- 4) *to agree with the Clayton Mills developer to deliver a bridleway connection to the bridleway already agreed within that site.'*

The Council has also received representations from third parties requesting that the PROW is upgraded within the site. Whilst these comments are noted, it is not considered that it would be a necessary requirement of a planning permission for this development to carry out all of these four actions. As has been set out earlier in this report, planning applications should be determined in accordance with the development plan unless material planning considerations indicate otherwise. Policy DP22 relating to public rights of way and other recreational routes has been set out in full earlier in this report. The provision of a tunnel in place on the unmanned crossing over the railway line will ensure that the PROW is not lost or adversely affected, thereby complying with policy DP22.

The LPA can encourage the applicants to upgrade the PROW within the site to a bridleway but it is not a requirement of policy DP22 that this is done. Likewise it is not a requirement of policy DP22 to install a crossing over the A273 to serve the pathway into the country open space. It is not considered that a condition requiring a crossing here would meet all of the tests in the PPG for imposing planning conditions.

### **Impact on the railway crossing**

The application that was determined by the SoS (reference DM/15/0626) was refused for a single reason relating to the impact of the development on the safety of the pedestrian crossing over the London to Brighton railway line. The SoS agreed with the recommendations of his Inspector on this issue. The Inspector stated *'For access to most local facilities, the walking distances from the application site do not differ markedly, whatever the choice of route, whether by the Woodside railway crossing, or the Woodland Tunnel or the Semley Road/ Stanford Avenue route [86, 87, 125]. Faced with this range of options, it seems probable that, for these types of trips, the majority would opt for the easier and safer alternatives, rather than the unmanned rail crossing, with its steep steps, stiles, sometimes muddy paths and lack*

*of surveillance, to say nothing of the likely feeling of danger in crossing the track itself.*

*I acknowledge the argument that users of the rail crossing should be responsible for their own actions. But in a development of 130 dwellings there is also the likelihood that some potential users would be persons classed as vulnerable, for one reason or another, who could not necessarily take such responsibility. In this context, paragraph 32 of the NPPF requires safe and suitable access for all people. Although in this case the rail crossing would not be the only access available, the issues that it raises would still potentially affect the safety of some persons in accessing the development.*

*Drawing these considerations together, it seems to me that the potential implications for public safety are an important consideration. In the absence of any measures to improve the safety of the unmanned railway crossing, permitting the proposed development in such close proximity to it would in my view involve an unacceptable risk to the safety of future occupiers, contrary to the aims of NPPF paragraph 32.'*

*The SoS stated '...in the absence of any measure to improve the safety of the unmanned railway crossing, the Secretary of State concludes that permitting the proposed development in such close proximity to the crossing would involve an unacceptable risk to the safety of future occupiers and, for this reason, the development should be resisted.*

*Overall, therefore, the Secretary of State concludes that, despite the benefits that would flow from the proposal, the unacceptable risk to the safety of future occupiers from the unmanned railway crossing represents a sufficiently substantial material consideration to outweigh the benefits, so that the application should be refused.'*

On the previous application (reference DM/18/2342) which was refused by the LPA at the District Planning Committee on 29 November 2018 the applicants sought to address this reason for refusal by including the provision of a footbridge over the railway line. The plans proposed a steel pedestrian bridge spanning the railway, with a clearance of around 5.5m above the rails with a maximum height above the track of about 7m.

There was debate at the District Planning Committee in November 2018 regarding the suitability of providing a pedestrian footbridge in relation to its accessibility. However this previous application was not refused by the LPA on matters relating to the pedestrian footbridge. By definition therefore the LPA accepted that a pedestrian footbridge was an acceptable way of crossing the railway line.

The applicants have sought to address the concerns that were raised in the debate at the previous Planning Committee meeting through the provision of a tunnel under the railway line instead of a footbridge. The railway line and embankment are outside of the red line of the planning application site. The applicants have stated that *'The provision of the new tunnel will be secured by means of a S106 Planning Obligation to which Network Rail will be signatories.'*



In relation to securing the provision of a tunnel, as the railway line and embankment are outside the application site, it would be necessary for there to be a negatively worded condition attached to the planning permission for this development to secure the provision of the tunnel. Guidance of the use of planning conditions is contained within the PPG. The Town and Country Planning Act 1990 enables the LPA in granting planning permission to impose "such conditions as they think fit". This power must be interpreted in light of material factors such as the NPPF, the supporting guidance on the use of conditions in the PPG and relevant case law. Planning conditions should be necessary, relevant to planning and the development permitted, enforceable, precise and reasonable in all other respects. The PPG advises that conditions requiring works on land that is not controlled by the applicant can be used, with the condition being worded in a negative form to prevent development authorised by the planning permission or other aspects linked to the planning permission until a specified action has been taken. The PPG states that *'Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.'*

In this case, Network Rail have stated *'As you will be aware Network Rail has been in discussion with the developer in relation to the proposed development and subsequent impact on the Woodside Pedestrian level crossing.'*

*Network Rail have entered into a Basic Services Agreement with both Rydon Homes Ltd and Gleeson Developments Ltd to assess two options to enable the Woodside Pedestrian level crossing to be closed. Network Rail are currently working on designs for a stepped footbridge or a subway which would allow the closure of the crossing. The designs are hoped to be complete by the end of August 2019.*

*Network Rail are supportive in principle of the application subject to an agreement being reached with the developer that provides a solution to the closure of the level crossing. The proposed solution will need to be funded by the developer.'*

In light of the above it is considered that the imposition of a planning condition to prevent any works taking place on the site (other than works to the vehicular access to the site to allow construction of the tunnel to take place) would comply with the guidance in the PPG since there is a reasonable prospect of a tunnel being provided. Ultimately it would be a matter for the applicants to reach agreement with Network Rail to provide the tunnel; if they cannot provide the tunnel then they would not be able to implement the planning permission.

The following section of the report addresses the merits of the proposed tunnel. The Equality Act 2010 came into force on 1 October 2010. It provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. As part of the Equality Act, a Public sector equality duty came into force on 5 April 2011. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.

- Foster good relations between people who share a protected characteristic and those who do not.

The equality duty covers the nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The broad purpose of the equality duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities.

This is relevant in a planning context and a claim that the Public Sector Equality Duty (PSED) has not been discharged in reaching a relevant decision can be cited in a challenge seeking, for example, to quash a planning permission or a declaration that a certain policy is unlawful.

Policy DP22 in the DP states:

*'Rights of way, Sustrans national cycle routes and recreational routes will be protected by ensuring development does not result in the loss of or does not adversely affect a right of way or other recreational routes unless a new route is provided which is of at least an equivalent value and which does not sever important routes.'*

*Access to the countryside will be encouraged by:*

- *Ensuring that (where appropriate) development provides safe and convenient links to rights of way and other recreational routes;*
- *Supporting the provision of additional routes within and between settlements that contribute to providing a joined up network of routes where possible;*
- *Where appropriate, encouraging making new or existing rights of way multi-functional to allow for benefits for a range of users. (Note: 'multi-functional will generally mean able to be used by walkers, cyclists and horse-riders).'*

It is clear that the current unmanned pedestrian crossing over the railway is not accessible to those with physical disabilities, persons with pushchairs and prams. The railway line is on top of a substantial embankment and there are steep steps up to the crossing itself and also stiles at either side of the crossing. It is considered that the proposed provision of a tunnel would be a significant improvement in terms of accessibility as it would provide a safe crossing under the railway line that would be fully accessible. It is your officer's view that the proposed pedestrian tunnel would also result in an improvement to all users of the crossing compared with the current unmanned crossing over the railway line.

Officer's considered that the proposed pedestrian bridge proposed as part of the previous application (DM/18/2342) was acceptable. However it was acknowledged that this would not have been fully accessible to all users as a result of the number of steps that would be required to get up to the level of the railway line and then to cross the bridge. The proposed tunnel would offer an improvement in terms of accessibility compared to both the current position and that which was proposed with a pedestrian bridge because this would remove the need to climb a large number of steps to get over the embankment and the railway line.

Weighing against the provision of a tunnel are the views of Sussex Police. They state 'Secured By Design do not promote the use of pedestrian subway as these have in the past generated crime, increased the fear of crime and has the potential to create anti-social behaviour, loitering and graffiti. I would like to direct the planning authority to SBD New Homes 2019 document para 18.13 where it states'; *The creation of new pedestrian subways should be avoided. However, if the subway is already in existence and it is necessary to retain it, it should be well-lit with vandal resistant lighting (see paragraph 8.19), be as wide and as short as possible, with a clear line of sight to the exit. Chamfering the access points can help reduce areas of concealment. Radius (convex) entrance/ exit walls can reduce the length of the subway and the opportunity for inappropriate loitering. The designer should consider wall finishes that enable easy removal of graffiti.*

Hassocks is not an area that suffers with high rates of crime. Were this scheme to be permitted, it is likely that the pedestrian tunnel would be well used because it would serve both this scheme and the site at Clayton Mills which has been allocated for around 500 dwellings in the District Plan. There is a balance to be struck between the views of Sussex Police in relation to pedestrian subways and seeking to provide safe and accessible pedestrian access across the railway line. It is considered that with appropriate design in terms of the width of the tunnel and appropriate lighting it is not likely that this would generate a problem in relation to crime/anti-social behaviour that would warrant a refusal of the planning application on this ground. There would be no conflict with policy DP22 of the DP as the public right of way would become more accessible with the provision of a tunnel compared to the current situation. The same point would apply in relation to the Equality Act 2010.

### **Air quality**

The Stonepound crossroads to the south of the site was designated an Air Quality Management Area (AQMA) with Defra in March 2012 due to the levels of nitrogen dioxide (NO<sub>2</sub>) being above the target. The boundary of the AQMA has been defined on the basis of the areas which are, or are likely to exceed the air quality objectives for nitrogen dioxide and where there is "relevant exposure", that is places where people live close to the road. The Air Quality Management Area at Stonepound Crossroads includes parts of Keymer Road, Brighton Road, London Road and Hurst Road. Eight properties are affected within the Designated Area, 1-6 Overcourt and The Coach House, Keymer Road, and Shouldarry, Brighton Road Hassocks.

Local Authorities are required to produce annual air quality reports to identify local areas where the air quality objectives will not be met and to ensure that air quality considerations are considered as part of decision making processes e.g. land use planning and traffic management.

In locations where particular pollutants are found to be above National Air Quality Objective levels, which are based on expert advice concerning health effects relating to AQ, the local authority must declare an Air Quality Management Area (AQMA) and formulate an Air Quality Action Plan which specifies the steps to be taken to move towards the air quality objectives. The only AQMA in Mid Sussex district is at Stonepound Crossroads, Hassocks. The pollutant of concern is NO<sub>2</sub> related to traffic fumes. Measured levels have remained above the Air Quality Objective level of 40

ug/m<sup>3</sup>. The Council are not required to monitor particulate matter (PM) levels locally but levels are monitored county wide by Sussex Air. The monitored levels are below the objective levels for PM.

In relation to air pollution policy DP29 in the District Plan states:

*'The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

- *It does not cause unacceptable levels of air pollution;*
- *Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;*
- *Development proposals (where appropriate) are consistent with Air Quality Management Plans.*

*The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.'*

Paragraph 181 of the NPPF states *'Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.'*

The PPG states *'Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation (including that applicable to wildlife).'*

Given the fact that there is an AQMA around 1km to the south of the site it is considered that air quality is a material planning consideration in the determination of this application.

The planning application is accompanied by an Air Quality report that is available on file for inspection. This report has been reviewed by the Councils Environmental Health Officer (EHO). The EHO has stated *'The submitted Air Quality report refers to the NO<sub>2</sub> monitored results obtained by the Environmental Protection Team. This*

*data was obtained by using passive monitoring devices at various sites around the area of Stonepound Crossroads.*

*To assess the potential impact of the proposed development on air quality, the report uses an advanced air quality forecasting model, 'ADMS Roads ', which is a recognised model for such a process. The model requires a variety of information to be inputted, which includes: traffic data; emission factors and meteorological data.*

## **MODELLED POLLUTION IMPACTS**

*The scheme, if approved, will result in a small increase in the volume of road traffic (i.e. in relation to the existing volume). However, it is predicted that by the time the residential units are occupied, NO<sub>2</sub> levels will be below the objective level of 40ug/m<sup>3</sup>. Impacts are assessed as being Low/Imperceptible overall as the increase in NO<sub>2</sub> caused by development traffic is not predicted to cause a breach of the objective levels. By the time the development is completed in 2023 the assessed impact will be negligible at all properties.*

*The previous application for 130 units at the same site was refused planning permission, but not for reasons relating to air quality. The Secretary of State has explicitly stated that "the proposals would not give rise to any unacceptable impacts on air quality".*

## **CONCLUSION**

*The development is not likely to cause unacceptable levels of pollution, and is consistent with the local air quality action plan. It is therefore in accordance with national and local guidance. The proposed mitigation measures are welcomed. These are:*

- *Travel Plan*
- *Electric vehicle charging points for all allocated spaces as part of Marketed Units and possibly those associated with the affordable units subject to further discussion with the Housing Association;*
- *Covered cycle parking for units without garages;*
- *Information identifying routes to public transport and local facilities by foot and cycle;*
- *Cycle and public transport travel vouchers;*
- *Low NO<sub>x</sub> boilers for all residential units;*
- *Information on Car Sharing Schemes; and*
- *Provision of a new footbridge over the railway from the site that will allow good pedestrian access to local amenities and also encourage existing local residents to travel via walking rather than private vehicle use.*

*Accordingly, I recommend a condition, relating to Air Quality, to allow measures to be agreed between the developers and the LPA.'*

*It is necessary to use modelling to predict future air quality; it is not possible to measure the future. The EHO has no objection to the proposal based upon matters relating to air quality. In light of the EHO's views it is not considered that there are*

any sustainable grounds to resist this application based on matters relating to air quality. As with the previous application (DM/18/2342) it is considered that the application complies with policy DP29 and the scheme is acceptable in relation to this issue.

## **Drainage**

### Surface Water

Policy DP41 in the District Plan seeks to ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. Paragraph 163 of the NPPF states: *'When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment<sup>50</sup>. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.'*

The application is supported by a Flood Risk Assessment (FRA) which has been considered by WSCC, as Local Lead Flood Risk Authority, the Environment Agency (EA) and your own drainage engineer.

The applicants FRA state that in terms of the site itself, there is a band of land adjacent to the Herring Stream on the western side of the site and falls within Flood Zones 2 and 3. The majority of the site is located within Flood Zone 1.

The NPPF contains a Sequential Test that is a decision making tool. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

In Table 1, Paragraph 065 of 'Planning Practice Guide - Flood Risk and Coastal Change', land is divided into four basic zones:

**Zone 1 Low Probability:** Land having a less than 1 in 1,000 annual probability of river or sea flooding. (Shown as 'clear' on the Flood Map - all land outside Zones 2 and 3)

**Zone 2 Medium Probability:** Land having between a 1 in 100 and 1 in 1,000 annual probability of river flooding; or land having between a 1 in 200 and 1 in 1,000 annual probability of sea flooding.

Zone 3a High Probability: Land having a 1 in 100 or greater annual probability of river flooding; or Land having a 1 in 200 or greater annual probability of sea flooding.

Zone 3b The Functional Floodplain: This zone comprises land where water has to flow or be stored in times of flood. Local planning authorities should identify in their Strategic Flood Risk Assessments areas of functional floodplain and its boundaries accordingly, in agreement with the Environment Agency.

The PPG identifies the vulnerability of land uses to flooding by dividing land use into five distinct categories

- i. Essential infrastructure
- ii. Highly vulnerable
- iii. More vulnerable
- iv. Less vulnerable
- v. Water-compatible development

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	x	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	x	x	x	✓*

Key:

✓ Development is appropriate

x Development should not be permitted.

The PPG provides the Government's detailed guidance on flood risk matters. In relation to Flood Risk Vulnerability Classification the PPG defines Essential Infrastructure as follows:

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.

- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations; and water treatment works that need to remain operational in times of flood.
- Wind turbines.

The Exception Test, as set out in paragraph 159 of the NPPF, is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.

The two parts to the Exception Test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

Concerns have been raised consistently by third parties on the previous applications about drainage issues on the site. One of the concerns raised related to the Sequential Test as set out in the NPPF. Objectors to the scheme contended that a Sequential Test is required in the first instance and that this then determines whether an Exception Test can even be applied. It has been contended that the LPA must first consider the extent to which Sequential Test considerations have been satisfied for identifying a site for development and be satisfied that there are no alternative sites available that have a lower risk of flooding. It has been contended that if there are no alternative sites having a lower risk of flooding and if the Exception Test is passed, only then would it be appropriate to assess the technical solutions for draining the site within the planning application.

The applicant states that the housing element of the scheme lies entirely within Flood Zone 1 but the proposed access will cross areas designated as Flood Zones 2 and 3. The applicant therefore contends that the proposal should be assessed in its component parts. Flood Risk vulnerability is set out in table 2 to the PPG. Dwellings are a "more vulnerable" use and in this case the more vulnerable use is restricted to Flood Zone 1. As such the applicant contends that the Sequential Test does not need to be applied to the housing element.

The applicant then contends that essential infrastructure (in this case the access road into the site) can be appropriate to any of the Flood Risk Zones but an Exception Test is required in relation to essential infrastructure projects that are proposed within Zones 2 and 3. The applicants state that the proposal would pass the Exception Test because the benefits of new housing, including affordable housing in a sustainable location will contribute to meeting the housing needs of the District. It has also been shown in the Flood Risk Assessment that risk can be managed, there will be no increased flood risk elsewhere and there is a potential reduction in flood risk overall.

The PPG states *'Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.'*



In assessing the issue of the drainage of the site the Inspector who recommended that application reference DM/15/0626 was refused stated

*'RHL's proposed drainage strategy has been subjected to extensive and rigorous testing [74-78]. The resulting scheme has been accepted by all of the relevant bodies who have statutory responsibilities for drainage and flooding [80]. There is no technical evidence to counter that of the applicants. Although some elements, such as the proposed road bridge, are not yet designed in full detail, the testing has taken in an appropriate range of worst-case scenarios. I therefore see no reason to doubt that the scheme would be effective in controlling surface water run-off by sustainable means, managing flooding from fluvial and any other sources, maintaining a safe, dry access route, and accommodating 130 dwellings and open space, without risk to future occupiers or to the surrounding area.*

*Although the western part of the site is within flood zones 2 and 3, the applicants have adequately demonstrated that vulnerable development would not need to be located in this area. If this were not the case, then in accordance with PPG advice, it would have been necessary to apply the sequential test (and possibly also the exceptions test), based on the scheme as a whole. But in this case the scheme lends itself to the 'component-parts' approach that the applicants have taken [79]. That approach is not ruled out by anything in the PPG, and indeed is clearly envisaged in the third footnote to Table 3. In any event, in the present case it is evident that through the MSDP process, MSDC has already sought to identify the most suitable sites for housing, and it seems likely that any sequentially preferable alternative sites would by now have come to light. In this context, the sites already identified in the HNP are not alternatives, as they are already part of the identified supply. In the circumstances, I consider that the approach taken by the applicants is acceptable.*

*Satisfactory arrangements will be needed for the future management and maintenance of the drainage infrastructure. However, the need for such arrangements is commonplace in large developments. There is no reason why this cannot be dealt with satisfactorily by condition.*

*I therefore conclude that the proposed development could be carried out without giving rise to unacceptable flood risks, either on or off-site. In this regard, the scheme would comply with the relevant MSLP Policies CS13, CS14 and CS15, which together seek to ensure that all developments have adequate drainage, and that river channels and floodplains are properly protected.'*

It is therefore considered that irrespective of whether a Sequential Test should have been applied or not to this proposal, it is reasonable for the LPA to consider the development that has been submitted and to come to a view on whether or not the site can be satisfactorily drained.

There are no objections to the scheme based on drainage matters from either the EA or the Councils own Drainage Engineer. In light of the fact that there are no objections from the relevant consultees and having regard to the Inspectors views (which were not disputed by the SoS), it is considered that the applicants have demonstrated that the site can be satisfactorily drained in accordance with policy

DP41 of the DP. As with the previous application this conclusion is based on modelling but it must be acknowledged that this is a realistic way to proceed since it is not possible to measure the future.

It is also relevant to note that the previous application, reference DM/18/2342, was not refused by the LPA on matters relating to surface water drainage. It is not considered that there have been any changes since this decision was made that would warrant a different conclusion being arrived at on this matter to that which the Planning Committee made in November 2018.

### Foul Drainage

The applicant's intention is to dispose of foul water to the public sewer. On the previous application, reference DM/18/2342 Southern Water stated *"The wastewater discharged from the proposed development will be drained to Southern Water's Goddards Green Wastewater Treatment Works. The works currently does not have the capacity to accommodate flows from the proposed development. Improvements are planned to provide for capacity to serve future developments. These are planned to be completed at the end of the current AMP period. We would wish occupation of development to be deferred until adequate treatment capacity is available to serve the development. Should the Local Planning Authority be minded to grant planning permission for this development we request that the following condition is attached to the consent: "Occupation of the development will not be permitted until the Local Planning Authority is satisfied that, in consultation with Southern Water, that adequate wastewater treatment facilities exist to effectively drain the development".* At the time of writing this report their comments on this application were awaited.

As Members will know, developers have a right to connect to the foul sewer which has been confirmed in the Supreme Court. When there is insufficient capacity in the network, Southern Water requests an appropriate condition to be imposed on the planning permission to secure the means of foul water sewerage disposal, which may include the provision of additional off-site sewers and/or improvements to the existing off-site sewers under the Water Industry Act 1991. Subject to the imposition of such a condition it is considered that the foul drainage from the site will be satisfactory.

In light of the above it is felt that policy DP41 of the District Plan is met with respect to the foul drainage of the site. It is also relevant to note that the previous application, reference DM/18/2342, was not refused by the LPA on matters relating to foul drainage. It is not considered that there have been any changes since this decision was made that would warrant a different conclusion being arrived at on this matter to that which the Planning Committee made in November 2018.

### **Ecology / Biodiversity**

Policy DP38 in the DP states:

*'Biodiversity will be protected and enhanced by ensuring development:*

- *Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity,*

- including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- *Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and*
  - *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
  - *Promotes the restoration, management and expansion of priority habitats in the District; and*
  - *Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.*

*Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.*

*Valued soils will be protected and enhanced, including the best and most versatile agricultural land, and development should not contribute to unacceptable levels of soil pollution.*

*Geodiversity will be protected by ensuring development prevents harm to geological conservation interests, and where possible, enhances such interests. Geological conservation interests include Regionally Important Geological and Geomorphological Sites.'*

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2017/1012.

Paragraph 175 of the NPPF states

*'When determining planning applications, local planning authorities should apply the following principles:*

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

- b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>6</sup> and a suitable compensation strategy exists; and*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

The application has been supported by an Ecological Note that confirms that the ecological surveys that have been carried out on the site remain valid and in date. Bat, Reptile and Great Crested Newt (GCN) surveys have been carried out by the applicants. The report has been considered by the Council's ecology consultant.

In relation to GCN, there are two ponds (P1 and P2) located within 250m of the site that are not separated by significant dispersal barriers. All additional ponds within 250m of the site are separated by London Road (A273) and a stream, which are significant dispersal barriers. Pond P1 was surveyed for the presence of Great Crested Newts between April and May 2017 but access was denied to survey Pond P2. The applicant's report concludes that it *'is considered that Great Crested Newts are not be present within the site and no further consideration is given to this species within this document.'*

In relation to bats, the applicants' report concludes that *'During the activity survey carried out on the 28th of April 2017, very low levels of bat activity were recorded within the site, the majority of registrations recorded from Common Pipistrelle Pipistrellus (a total of 14 registrations). Less activity was recorded for Noctule bats Nyctalus noctula (a total of five registrations) and only a single registration was recorded for Soprano Pipistrelle Pipistrellus pygmaeus.'*

In relation to reptiles a small number of Slow Worms *Anguis fragilis* were recorded within the site along the field margins.

With regards to mitigations and enhancements, the hedgerow within the site offer suitable foraging and navigational opportunities for bats. The hedgerows within the site will be retained with only minor loss to facilitate access. The applicant's report states that the inclusion of new tree planting and the creation of new attenuation ponds as part of the development proposals will provide improved navigational and foraging opportunities for bats. The report recommends a sympathetic lighting scheme, such as sodium or LED lights be employed to retain the suitable foraging and navigation opportunities for bats.

In relation to reptiles the applicants report states that *'Given that reptiles have only been recorded around the margins of the fields, it is considered that a simple habitat manipulation / translocation exercise could be carried out to persuade reptiles to move to suitable areas of retained / new habitat.'* The report goes on to state *'The creation of new areas of open space, oversown with a species-rich seed mix, within the development proposals will provide new opportunities for reptiles.'*

The applicants' report has been assessed by the Council's Ecological Consultant. He has raised no objection to the application subject to conditions. Your Officer agrees with the findings of the Council's Ecological Consultant. It is therefore considered that policy DP38 of the DP is met.

There are four oak trees within the site that are protected by a Tree Preservation Order. These trees are situated within the central hedgerow which runs from north to south across the site. A large oak is also located along the southern boundary. The trees will be preserved as they make a significant contribution to the character of the area and where necessary, mitigation will be undertaken in order to do so. As such there would be no conflict with policy DP37 of the DP in relation to these trees.

## **Design and Layout**

The application is submitted in outline form with only the means of access to be determined at the outline stage. The layout plan that has been submitted is illustrative to show how the site could be developed to provide 130 units.

The illustrative plan shows the site divided into 3 field parcels of development. The illustrative plan shows a mixture of detached, semidetached and terraced properties. The illustrative layout shows the site arranged with a perimeter block layout. This allows for houses to front onto the street to provide a proper street scene and allows the houses to have a traditional back to back arrangement. It also allows the houses to front onto the attractive boundary planting so that this is all in the public realm. It is considered that as a matter of principle this is a sound way of laying out a development.

The site is of a sufficient size to be able to accommodate this quantum of development. It would be at the reserved matters stage that the layout of the site would be determined. If the LPA is not satisfied with the layout of the site at the reserved matters stage then the reserved matters application would not be approved.

The site area totals 10.51 hectares, of which the two primary land uses are residential and open space. The applicants have stated that the country open space would take up some 4.54ha leaving 5.97ha as the remainder of the site. In response to queries from your officer about these figures the applicants have stated *'With regards to the density, a simple gross calculation of 5.92ha/130 units would produce a density of around 22 dph. But of course in practice density can also be expressed as net density, excluding areas such as the long access road, open spaces etc. this would see the density raise to around 27dph.'*

It is considered that it is reasonable to look at the developable area of the site. Nonetheless, a density of 27 dwellings per hectare is a relatively low density by modern standards and as such it is considered that the scheme would not be fully in accordance with the final bullet point of policy DP26 in the District Plan, which seeks to optimise the potential of sites to accommodate development. This is also reflected in paragraph 122 of the NPPF. Whilst the scheme would be capable of providing the high quality homes that are sought by policy DP26 and the NPPF it is considered that the relatively low density of the scheme is a negative factor in the overall planning balance. However it should be recognised that the density of the scheme has not changed from the previous application (DM/18/2342) that was reported to the Planning Committee in November 2018 and the density of the scheme did not form a reason for refusal. Given that the development plan and national policy have not changed on this issue since November 2018 it is not considered that it would be reasonable to resist the application now based on this issue.

The layout of the site shows an area of public open space being positioned at the north western end of the site. As well as providing an amenity for residents of the site and others to use, the applicants have stated that the position of this open space would provide a defensible barrier to prevent further northwards development. In his decision letter on application reference DM/16/0626 the SoS *"gives moderate weight to the social benefit arising from the provision of a large area of public open space. In coming to this conclusion, the Secretary of State also agrees with the Inspector at IR198 that the "country open space" would make the best use of the site's landscape features, avoid built development in the floodplain, and limit the incursion into the countryside."* Your officer has no reason to come to a different view on this matter now. It should also be noted that the previous application DM/18/2342 was not refused by the LPA on matters relating to the location of the proposed country open space.

## **Noise**

In relation to noise, policy DP29 states *"The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

### *Noise pollution:*

- *It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- *If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

*Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.*

*In appropriate circumstances, the applicant will be required to provide:*

- *an assessment of the impact of noise generated by a proposed development; or*

- *an assessment of the effect of noise by an existing noise source upon a proposed development ;'*

Noise is a material planning consideration. The Planning Practice Guidance (PPG) states neither the Noise Policy Statement for England nor the NPPF (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

The PPG advises that increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. The PPG that advises that noise should not be considered in isolation to the economic, social and environmental dimensions of the proposed development.

The application is accompanied by a noise and vibration assessment that has considered by the Council's EHO. The main source of noise to the site is the railway line to the east and the London Road to the west. The railway line is on an embankment some 5m in height. The applicants' report concludes *'The provision of standard double glazing units will be appropriate to mitigate environmental noise at the site. In order to achieve the recommended internal noise criteria in bedrooms, the ventilation strategy should recognise a 'closed window' solution. In living rooms, background ventilation requirements for the easternmost row of houses closest to the railway line, where glazing is facing the railway, should be met assuming acoustically treated trickle ventilators. Given the relatively low daytime noise levels, living room windows may still be openable for rapid or purge ventilation, or occupants' choice. Elsewhere on site, natural ventilation is acceptable in living rooms from a noise perspective.*

*Given the design of the proposed layout, the majority of the site will not require any mitigation in order to achieve acceptable external noise levels in gardens. It may be appropriate to consider an acoustic fence for those few garden boundaries where acoustic protection is not afforded by the new layout (e.g. the north eastern and south western corner plots where there is a direct line of sight to the road/railway from the garden).*

*The site is not impacted by significant vibration from the railway line. There is unlikely to be adverse comment from newly introduced residential receptors as a result of vibration from the railway.'*

The Council's EHO has stated *'The submitted Idom Merebrook noise assessment (June 2018) has considered the noise from the adjacent A273 and railway line, which are the dominant noise sources in this location. The report indicates that due to high noise levels, bedroom windows (in the form of standard double glazing) at the proposed development would need to be kept closed in order to avoid sleep*

*disturbance and meet World Health Organisation and BS8233 internal noise standards.*

*This in turn would mean that additional ventilation may be required, with adequate air flow to allow thermal comfort. In this case there are two questions which the Planning officer may wish to consider:*

- 1) How acceptable is it to have residents in this development sleeping all year round in a windows closed environment?*
- 2) If acceptable, what type of ventilation would be deemed appropriate for these residents?*

*With regard to the first question, there are a number of Planning appeals where this issue has been commented on. The prevailing view of Inspectors seems to be that closed window solutions are not desirable but can be acceptable for traffic noise and/or general background noise but are less acceptable where noise is of an industrial/commercial nature.*

*In our view, closed windows with additional ventilation is not an ideal solution, but may be acceptable where developers can demonstrate that good design has been used to minimise the need for artificial ventilation. Accordingly, care should be taken to minimise the potential impact of noise within the buildings themselves; living rooms and bedrooms should ideally be located on shielded façades with non-sensitive spaces such as corridors, bathrooms, en-suite, utility rooms, windowless gable ends and kitchens located on the road/railway facing façades of residential properties.*

*In any event, a judgement is required on whether closed windows for notable periods will provide an acceptable living environment for future occupiers.*

*With regard to the second question, developers and consultants tend to argue that attenuated trickle ventilation and suitably glazed windows should suffice where a noisy area means internal noise levels will be compromised with open windows. Our view is that a ventilation system should be a mechanical air supply ventilation system which can be used as a viable alternative to opening windows in order to allow the provision of outside air for breathing and allow residents control of their thermal comfort. Therefore a forced, mechanical ventilation supply system (not necessarily extract system), should be provided for bedrooms where BS8233/WHO internal noise levels are not achievable with windows open. Other systems which can provide sufficient airflow for thermal comfort may be acceptable. Trickle vents, which are designed to address condensation issues, not thermal comfort, are not sufficient in our view. We acknowledge that each case should be assessed on its own merits.'*

The Inspector's report on application reference DM/15/0626 stated that a suitably worded planning condition could be imposed to ensure that noise levels could be appropriately controlled. The previous application reference DM/18/2342 that was refused by the LPA was not refused on matters relating to noise impact and therefore by definition, the LPA accepted that the potential impacts of noise of prospective occupiers of the site was acceptable. There have been no changes in planning policy or circumstances on the ground that would lead to a different



conclusion being arrived at on this issue now. As such it is considered that the application complies with policy DP29 of the DP.

## **Housing Mix and Affordable Housing**

Policy DP30 in the District Plan seeks to ensure that housing development provides a mix of dwelling types and sizes that reflect current and future housing needs. Policy DP31 seeks to provide 30% affordable housing on development so 11 dwellings or more, with a mix of tenure of affordable housing, normally approximately 75% social or affordable rented homes, with the remaining 25% for intermediate homes, unless the best available evidence supports a different mix.

Whilst the application is in outline form, the description of the application refers to a particular housing mix. The applicants have confirmed that the overall housing mix is fixed as per the application description. However the affordable housing statement submitted with the application states *'full details of the proposed affordable housing are not settled at this stage and this Statement therefore only addresses principles that must be considered at the outline stage.'* It goes on to state *'The number of affordable homes to be provided will be 39 (30% of the total housing provision proposed). The precise mix, and tenure types will be agreed by negotiation, however, the following indicative mix is put forward for consideration:*

- 10 no. 1 bed apartments (26%)
- 17 no. 2 bed dwellings (44%)
- 12 no. 3 bed dwellings (31%)'

The scheme would provide a policy compliant level of 30% affordable housing. The Council's Housing Officer has stated that a lower number of 3 bedroom affordable units is preferable to suit the known housing needs of the area. The Housing Officer has stated that the following would be a better housing mix:

10 x 1 bed flats  
21 x 2 bed dwellings (all 2 bed 4 person)  
8 x 3 bed houses

The Housing Officer has stated that the preferred tenure split is:

Affordable Rent (30 dwellings)	Shared Ownership (9 dwellings)
10 x 1 bed flats	0 x 1 bed flats
7 x 2 bed flats	2 x 2 bed flats
10 x 2 bed houses (1 wheelchair accessible)	2 x 2 bed houses
3 x 3 bed houses	5 x 3 bed houses

The detail of the proposed affordable housing mix and tenure can be controlled through the section 106 legal agreement and subsequent reserved matters application.

The overall housing mix, both market and affordable is as follows:

1 bed dwellings 12 units (9%)  
2 bed dwellings 27 units (21%)  
3 bed units 47 dwellings (36%)  
4 bed units 44 dwellings (34%)

It is considered that this is a reasonable mix and would help to contribute to the sustainable communities sought in policy DP30. Whilst clearly under a different policy context in terms of the local plan and the previous version of the NPPF, it is considered that the Inspector's conclusions on application reference DM/16/0626, which was for the same mix of dwellings as is proposed now, are still relevant to assessing the issue of housing mix on this application. The Inspector stated *'The Section 106 agreement provides for a range of tenures, with 30% affordable housing, complying with adopted MSLP Policy H4. As such, the development would be capable of creating a mixed and inclusive community, whilst also widening the opportunities for home ownership.'* He concluded on this point that *'...the development would accord with the aims of the NPPF's housing policies. The social benefits of providing such a development, in accordance with national policy, command significant weight.'*

The previous application, reference DM/18/2342 that was refused by the LPA was not refused on matters relating to the proposed housing mix and therefore by definition, the LPA considered this element of the scheme to be acceptable in November 2018 when this application was reported to the District Planning Committee. There have been no changes to planning policy since this decision was made that would lead to a different conclusion this matter now.

In respect of affordable housing the scheme would provide a policy compliant level of affordable housing, namely 30%. The appearance of the affordable dwellings and their location within the development would also all be determined at a subsequent reserved matters application.

In light of the above it is considered that policies DP30 and DP31 of the DP are met.

### **Neighbour amenity**

Policy DP26 seeks to ensure that new development does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution.

If this outline application is approved, it would be at the subsequent reserved matters application that the detail of the layout of the site and the design of the proposed buildings would be submitted and assessed. It is therefore at the reserved matters stage that a detailed assessment about the impact of the proposed development on the amenities of existing occupiers surrounding the site would need to be made since it is at this stage that the detail of these relationships would be known.

The illustrative plans show the footprint of the proposed houses some 24m away from the nearest properties on Bankside to the south. Whilst illustrative these distances would be sufficient so that there was no significant impact on residential amenity in relation to overlooking and the new properties would not be overbearing. As such policy DP26 would be met. The previous application, reference DM/18/2342 that was refused by the LPA was not refused on matters relating to the impact on neighbour amenity and therefore by definition, the LPA considered this element of the scheme to be acceptable in November 2018 when this application was reported to the District Planning Committee. There have been no changes to planning policy since this decision was made that would lead to a different conclusion this matter now.

## **Infrastructure**

Policy DP20 of the District Plan seeks to ensure that development is accompanied by the necessary infrastructure. This includes securing affordable housing which is dealt with under Policy 31 of the District Plan. Policy DP20 sets out that infrastructure will be secured through the use of planning obligations.

The Council has approved three Supplementary Planning Documents (SPDs) in relation to developer obligations (including contributions). The SPDs are:

- a) A Development Infrastructure and Contributions SPD which sets out the overall framework for planning obligations
- b) An Affordable Housing SPD
- c) A Development Viability SPD

The National Planning Policy Framework sets out the government's policy on planning obligations in paragraphs 54 and 56 which state:

*'54 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

and:

*'56 Planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.'*

These tests reflect the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations).

Having regard to the relevant policies in the District Plan, the SPDs, Regulation 122, guidance in the NPPF and the material planning consideration outlined above, the infrastructure set out below is to be secured via a planning obligation. Copies of all

relevant consultation responses including the housing and leisure officer of the Council, West Sussex County Council, NHS Sussex and the Sussex Police & Crime Commissioner are available in the appendices.

#### West Sussex County Council Contributions:

Requires the following infrastructure contributions:

- Library provision: Contribution based on a formula;
- Education Primary: Contribution based on a formula;
- Education Secondary: Contribution based on a formula;

#### District Council Infrastructure Requirements (including police and health requirements)

Formal sport: a financial contribution of £159,297 is required toward pitch drainage, ancillary facilities and the creation of additional community sports pitches at Downlands School, London Road Recreation Ground and/or Hassocks FC

Community Buildings: a financial contribution based on a formula is required toward pitch drainage, ancillary facilities and the creation of additional community sports pitches at Downlands School, London Road Recreation Ground and/or a new community facility at the North of Clayton Mills development site.

Local Community Infrastructure: a financial contribution based on a formula is required towards the provision of allotments at Parkland Close and/or improvements to the Clayton Green Recreation Ground

Horsham and Mid Sussex CCG: A financial contribution of £82,590 is required to go towards Hassocks Health Centre

Sussex Police: A financial contribution of £21,761.54 is required to go towards police infrastructure.

The details of the infrastructure to be provided with this development will be secured by a section 106 legal agreement.

The additional population from this development will impose additional burdens on existing infrastructure and the monies identified above will mitigate these impacts. As Members will know developers are not required to address any existing deficiencies in infrastructure; it is only lawful for contributions to be sought to mitigate the additional impacts of a particular development.

It is considered that the above infrastructure obligations would meet policy requirements and statutory tests contained in the CIL Regulations.

### **Neighbourhood Planning**

Hassocks Parish Council formally withdrew the Submission (Regulation 16) Hassocks Neighbourhood Plan dated June 2016 on 4th January 2019. Consultation

on the new Pre-submission (Regulation 14) Neighbourhood Plan took place between 7th January 2019 and 18th February 2019.

In light of the above the Regulation 14 Neighbourhood Plan can only attract limited weight in the determination of planning applications. The PPG sets out the Government's guidance on what circumstances might it be justifiable to refuse planning permission on the grounds of prematurity. It states

*'arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

*Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.'*

In his recommendation on application reference DM/15/0626 on this site, the Inspector stated *'Local people have invested time and energy in the neighbourhood plan process [145]. In the course of that process, the Friars Oak site was rejected for housing. Granting permission contrary to local opinion could undermine public confidence in neighbourhood planning. But the HNP has not reached the stage where it would carry significant weight. In the Ham Fields decision, the SoS gave the draft plan moderate weight, but that was before its progress had been halted [41]. The Written Ministerial Statement on Neighbourhood Planning does not apply, and none of the objectors raises any serious arguments as to prematurity. In the circumstances, I conclude that the conflict with Policies 1 and 3 in the draft HNP carries only modest weight.'*

Since the Inspector's report on application reference DM/15/0626 was written the Neighbourhood Plan has not progressed to a stage where it could be afforded significant weight.

Whilst the proposal would have a significant impact on one of the currently proposed green space allocations in the Regulation 14 Submission HNP, it is not felt that it could be reasonably argued that approving this application would undermine the whole plan making process for the HNP. As such it would be very difficult to justify a

refusal of planning permission based on grounds of prematurity. Nonetheless, the conflict with the emerging neighbourhood plan policy 2 is a negative factor that weighs against this proposal.

### **Energy efficiency**

Policy DP39 in the DP requires developers to seek to improve the sustainability of their developments. The policy refers to a number of measures that should be incorporated where appropriate into new development. The policy refers to a number of measures that should be incorporated where appropriate into new development. The application is accompanied by a Sustainability Statement that is available on file for inspection. In summary it refers to a number of water saving features that will be used and advises that the proposed buildings will use a fabric first approach to reducing energy consumption. For example, the applicants state that the development will utilise devices to reduce water consumption to 105 Litres/per person/per day. This would accord with policy DP39 which refers to a figure of 110 litres/person/day. It states that all market housing will be specified with electric vehicle charging points on each plot.

It is considered the applicants have addressed policy DP39 of the DP. It is at the reserved matters stage that the layout of the scheme would be considered and it is at this stage that the potential for minimising energy use through the layout of the scheme can be addressed.

Policy 5 of the Regulation 14 Re Submission HNP is entitled Enabling Zero Carbon and states support will be offered for development proposals that incorporate sustainable design features, providing any adverse local impacts can be made acceptable.

All new residential development proposals should seek to maximise the opportunities for inclusion of renewable and low carbon energy generation.

Planning applications for major developments should be accompanied by an Energy Assessment to demonstrate how carbon dioxide emissions are to be minimised onsite.

Proposals which make provision for charging electric vehicles and making parking areas charging ready will be supported.' Given the stage of preparation of the HNP limited weight can be afforded to this policy at present. The application would comply with elements of the Neighbourhood Plan policy as electric charging points for cars will be provided and the proposal would incorporate energy and water saving features as set out above.

### **Communications infrastructure**

Policy DP23 of the DP seeks to encourage the incorporation of digital infrastructure in major new housing development. It is considered that a suitably worded condition can be used to require the details of this to be submitted.

## Archaeology

Policy DP34 in the DP relates to listed buildings and other heritage assets. Archaeological assets fall within the definition of heritage assets in this policy. The policy seeks to conserve heritage assets in a manner appropriate to their significance.

The application is accompanied by a desk based assessment (DBA) of the site to consider known historic environment evidence and the potential for hitherto unknown below ground archaeological evidence. This DBA concludes that there is high potential for encountering Romano-British remains and moderate potential for prehistoric and Anglo-Saxon archaeological evidence. On the application that was determined by the SoS the Council's Archaeological Consultant had no objection to the application subject to a safeguarding condition. On the current application the Council's Archaeological Consultant has recommended that a predetermination evaluation is carried out. The Archaeological Consultant has stated *'Appraisal of this proposal using the West Sussex Historic Environment Record and information provided with the application does indicate a need for further information to reach an informed judgment of the impact the planning application can be anticipated to have on heritage assets of archaeological interest. It is therefore recommended that any available LIDAR data should be assessed, with the findings included as an appendix to the DBA. In addition, it is also recommended that an archaeological field evaluation is undertaken at the predetermination stage, with the results submitted as part of the planning application. Furthermore, it is recommended that any geotechnical works to be undertaken by the applicant at the predetermination stage should be observed under archaeological watching brief conditions, with the results to also be submitted as part of the planning application.'*

The details of the planning application, other than the proposal for a tunnel under the railway line, are no different to the scheme that was considered by this Council and then ultimately determined by the SoS (reference DM/15/0626). In light of the history of the site it is your officer's view that it would still be appropriate for there to be a planning condition imposed regarding archaeological matters. It would be possible for the reserved matters submission to be informed by the results of archaeological work on the site. It is therefore your officer's view that with such a condition the application would comply with policy DP34 of the DP.

## Impact on Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from

recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development.

The main issues are recreational disturbance on the SPA and atmospheric pollution on the SAC, particularly arising from traffic emissions.

#### Recreational disturbance

Given the fact that the application site is not within 7km of the Ashdown Forest SPA, there is not considered to be any likely significant effect on the Ashdown Forest in relation to recreational pressure.

#### Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as **windfall development**, such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

#### Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that the proposed development would not have an adverse effect on the integrity of the Ashdown Forest SPA and would not have a likely significant effect, alone or in combination, on the Ashdown Forest SAC. Having undertaken a Habitats Regulations Assessment of the implications of the project for the site in view of that site's conservation objectives and fully considered any representation received, Mid Sussex District Council as the competent authority may now determine the proposed development.

### **CONCLUSION**

The planning application for the housing element of the scheme is in outline form with only the means of access to be determined at the outline stage. The purpose of the application is to establish the principle of the development and to demonstrate that this amount of development can be accommodated within the site and that the proposed access to the development is satisfactory. The plans that are submitted with the application showing the internal layout of the roads and buildings within the site are for illustrative purposes to help to demonstrate that this amount of



development could be accommodated within the site. If outline consent is granted, a subsequent reserved matters application will need to be submitted for the details of the proposal (the appearance, landscaping, layout and scale). It will be at this stage that detailed matters, (for example, an assessment of the design quality of the layout) will need to be assessed.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. In this part of Mid Sussex the development plan comprises the District Plan (DP).

The application site lies in countryside, outside the built up area of Hassocks and thus would be contrary to policy DP12 of the District Plan as general housing development is not one of the permitted exceptions to the policy of restraint in the countryside. The aim of the policy is to protect the countryside in recognition of its intrinsic character and beauty. The proposal is also contrary to policy DP6 of the District Plan as the proposal is for a development of more than ten units on a site that is contiguous with the built up area of Hassocks. The proposal does also not fall within one of the criteria for new homes in the countryside that are set out under policy DP15. All of these factors weigh against the proposal.

It is also relevant for Members to have regard to the reason for refusal of the previous application (DM/18/2342), which is set out in the planning history section of this report. That previous application was recommended for approval as officers considered that there were material planning considerations that indicated that the application could be supported. Members will need to come to a view as to whether there are sufficient material considerations to justify a decision on this application that would lead to a different conclusion to that which Members arrived at on the previous application DM/18/2342.

Whilst the proposal would be in conflict with policies DP6, DP12 and DP15 of the DP, it is considered that the proposal would comply with other policies within the development plan (DP13 Preventing Coalescence, DP17 Ashdown Forest Special protection Area (SPA) and Special Area of Conservation (SAC), DP20 Securing Infrastructure, DP21 Transport, DP22 Rights of Way and other recreational routes), DP26 Character and Design, DP27 Dwellings space standards, DP29 Noise Air and Light Pollution, DP30 Housing Mix, DP31 Affordable Housing, DP37 Trees Woodlands and Hedgerows, DP38 Biodiversity, DP39 Sustainable Design and Construction and DP41 Flood Risk and Drainage).

Taking all of the above into account, it is your officer's view that the application is not in accordance with the development plan, read as a whole, and that this is the proper starting point for decision making. The fact that the Council currently has a 5 year housing land supply means that full weight can be given to the development plan. However, the LPA also must have regard to other material considerations, including the National Planning Policy Framework (NPPF) when determining this application.

It is considered that there are other material considerations, specific to this application that are relevant to this application. These are:

- The views of the Secretary of State (SoS) on a previous application on this site for the same development (with the exception of the pedestrian tunnel under the railway line that is part of this application). As that decision makes clear, there are no overriding objections on environmental grounds to development of the site.
- The location of consented and allocated development around the application site.
- The provision of the new pedestrian tunnel.

These are important material considerations in the determination of this application.

It is considered that there is no reason why a well designed and laid out scheme cannot come forward in a subsequent reserved matters application should outline consent be granted for this development with a policy compliant level of affordable housing. It is therefore considered that there would be compliance with policies DP26, DP30 and DP31 of the District Plan.

It is considered that the proposal would provide a satisfactory vehicular access and would not result in a severe impact on the highway network, which is the policy test in both the development plan and the NPPF. The Highway Authority does not object to the scheme.

The proposal now provides for the provision of a pedestrian tunnel under the railway line to seek to overcome the reason why the SoS refused planning permission for a previous proposal for 130 dwellings on this site. The proposed tunnel would deliver a clear safety benefit by removing an unmanned railway crossing. It would also provide a more accessible means of crossing the railway, which would be a positive benefit in terms of the Council's duties under the Equality Act. The main drawback from the proposed tunnel would be a concern that it could facilitate anti-social behaviour. This is a concern of Sussex Police.

There is a balance to be struck between the views of Sussex Police in relation to pedestrian subways and seeking to provide safe and accessible pedestrian access across the railway line. The detailed design of the tunnel can be controlled by a planning condition to ensure that the lighting and design of the structure minimise the risks of anti-social behaviour. Hassocks is not an area that suffers with high rates of crime and there are no reasons to think that the proposed development would be different to any other part of Hassocks in this respect. Given the consented development at the Golf Course and the allocated site at Clayton Mills, there would be a wider benefit to securing a safer and more accessible crossing of the railway line, which is a barrier to connectivity.

Overall it is considered that the proposal would comply with policy DP22 of the DP as the public right of way would not be adversely affected and its accessibility would be improved. It is not felt that a refusal of planning permission based on the provision of a tunnel and possible anti-social behaviour issues would be warranted. Overall, the provision of the tunnel would be a net benefit.

Therefore, to summarise, weighing against the scheme is that the fact that dwellings are being proposed outside the built up area and would normally be restricted under the relevant District Plan policies. Although it is your officer's view that there would be some adverse impact on the landscape as a result of the proposed development

it is considered that this impact will be localised and that it could be ameliorated by the retention of landscape planting and new planting within the development.

Also weighing against the scheme is a conflict with the Regulation 14 Pre Submission Hassocks Neighbourhood Plan (HNP), which proposes to allocate this site as a local green space. However the Regulation 14 Pre Submission HNP is at an early stage of preparation and there are unresolved objections to a number of its proposed policies, including the policy to allocate this site as local green space. In light of the above the Regulation 14 Pre Submission HNP can only attract limited weight in the determination of planning applications.

It is also relevant to note that the previous application, reference DM/18/2342, was not refused on matters relating to highway safety, air quality, drainage, neighbour amenity, ecology, noise, housing mix, affordable housing, infrastructure, energy efficiency or archaeology. The previous application was refused because the site was in the countryside and as the site is not allocated for development, there was a conflict with policies DP6, DP12 and DP15 of the DP. Officers recommended the previous application for approval on the basis that there were sufficient material planning considerations to come to a decision that was not in conformity with the development plan. Notwithstanding the reason for refusal of the previous application, officers remain of the view that there are sufficient material planning considerations that enable a positive recommendation to be made on this application.

A section 106 legal agreement will be completed to secure the necessary infrastructure contributions to mitigate the impact of the development. These contributions will go towards the costs of providing County Council services (Education and libraries), District Council services (leisure and community buildings), Health Services and towards Policing Services. As these impacts would be mitigated by the section 106 agreement, these matters are neutral in the planning balance.

Weighing in favour of the scheme is that it would provide additional housing, including a policy compliant level of affordable housing in a sustainable category 2 settlement which would accord with the aim of the NPPF to significantly boost housing delivery. Although the site is not currently needed in order to provide a 5 year housing land supply, it would help maintain the existing supply, as the Council is required to do. The comments of the SoS, whilst made against a different planning policy background, remain an important material planning consideration. The provision of a tunnel under the railway line would improve accessibility for users of the PROW and provide a clear safety benefit over the current unmanned crossing.

In summary, the applicants have sought to address the single reason why the Secretary of State refused planning permission for this development in March 2018, by including the provision of a pedestrian tunnel under the railway line. It is important to note that the planning policy position has moved on since the Secretary of State's decision, with the adoption of the District Plan which replaced the Mid Sussex District Plan. At the present time the District Council can demonstrate a 5 year housing land supply and therefore the policies in the District Plan command full weight. The views of the Secretary of State remain a very important material consideration, in so far as they demonstrate that there is no overriding environmental objection to this application. The present scheme differs from that most recently refused by the

Council by providing a pedestrian tunnel rather than an overbridge. Although the proposed overbridge was previously considered acceptable, the pedestrian tunnel is considered to be an improvement which offers additional public benefits in terms of accessibility. It is therefore a material difference between the current application and the previously refused scheme.

In light of all the above it is considered that there are other material planning considerations that justify a decision that is not in full conformity with all of the policies in the development plan. In light of the above it is considered that the balance of advantage in this case means that the application should be approved.

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## APPENDIX A – RECOMMENDED CONDITIONS

1. Approval of the details of the appearance, layout, scale and landscaping of the site (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority for any phase of development, prior to the commencement of development on site.

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 2 years from the date of this permission.

The development hereby permitted must be begun before the expiration of 1 year from the date of approval of the last of the reserved matters.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990.

### **Pre commencement**

2. No development other than works to construct the road bridge over the Herring Stream shall take place until the pedestrian tunnel under the railway line has been constructed and is available for use by the public.

Reason: In order to provide a safe crossing over the railway line and to comply with policy DP21 of the Mid Sussex District Plan 2014 - 2031.

3. No development shall take place until a programme of archaeological work has been secured in accordance with a written scheme of investigation, to be submitted to the local planning authority and approved in writing. The scheme of investigation shall thereafter be carried out in full.

Reason: The site is of archaeological significance and it is important that it is recorded by excavation before it is destroyed by development and to accord with Policy DP34 of the Mid Sussex District Plan 2014 - 2031

4. No development shall take place until a scheme of ecological mitigation has been submitted to the local planning authority and approved in writing. The scheme shall include details of:
  - i. a Construction Environmental Management Plan (CEMP) setting out the practical steps to be taken to avoid impacts on wildlife during site preparation and construction;

- ii. drainage and pollution prevention details sufficient to demonstrate that there will be no adverse long-term impacts on the ecology of the adjacent stream;
- iii. a detailed lighting strategy, supported by modelled lux levels, showing measures to be used to minimise light pollution of hedgerows and other wildlife habitats with particular regard to minimising impacts on bat foraging;
- iv. full details of habitat creation and enhancement measures and a Landscape and Ecological Management Plan (LEMP) to ensure long-term management of retained and newly-created features; and
- v. a reptile relocation strategy, making provision for retention within the site through suitable habitat creation/enhancement and ongoing management (integrated with the LEMP).

These details shall be informed by ecological survey reports, updated where necessary, in compliance with BS4220: 2013 - Biodiversity. Code of practice for planning and development.

The ecological mitigation scheme shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with DP38 of the District Plan and 175 of the NPPF.

5. No development of any kind shall be commenced until a detailed Flood Risk Management Scheme has been submitted to the local planning authority and approved in writing. The scheme shall contain detailed proposals for the management of all types of flood risks within the site, including the detailed design of all proposed bridges, culverts and structures within the floodplain, all necessary flood compensation areas, and any other necessary mitigation measures, broadly in accordance with the principles outlined in the approved Flood Risk Assessment, dated June 2018. The scheme shall also set out a timetable for the implementation of these measures, and the proposed arrangements for their future management and maintenance. The Flood Risk Management Scheme shall thereafter be implemented in accordance with the details and timetable thus approved, and the measures provided shall be retained and maintained in full working order for the lifetime of the development.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031

6. The access to the development shall be constructed in accordance with the approved access plan, No JNY8994-05. The remainder of the main access road, including the proposed bridge, embankments and culvert, shall be constructed in accordance with further details, to be submitted to the local planning authority and approved in writing. No other development on the site shall be commenced until the junction with London Road, and the first 200 metres of the access road, have been provided, at least to base course, in accordance with these approved details.

Reason: In the interests of road safety and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031

### **Pre occupation**

7. No dwelling shall be occupied until the estate roads, footways, turning areas, and parking spaces to serve that dwelling have been provided, at least to base course,

in accordance with details to be submitted to the local planning authority and approved in writing.

Reason: In the interests of road safety and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031

8. No dwelling shall be occupied until the submitted Residential Travel Plan, dated 4 June 2018, has been brought into effect. Thereafter, the Travel Plan shall be implemented in accordance with the recommendation set out therein.

Reason: In the interests of promoting sustainable transport and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031

9. No dwelling shall be occupied until a footpath link has been provided from the development to Shepherds Walk, in accordance with details to be submitted to the local planning authority and approved in writing.

Reason: In the interests of promoting sustainable transport and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031

10. No construction work on any dwelling shall commence until a detailed scheme for the provision of the proposed public open space, shown on the approved plan No 10552-OA-02, has been submitted to the local planning authority and approved in writing. The open space scheme shall include detailed proposals with regard to layout, landscaping, drainage, equipment, footpaths, cycleways, and boundary treatments within the open space areas and details of the pedestrian bridge over the Herring Stream. The scheme shall also contain proposals for the future management and maintenance of the open spaces, and the timing of provision. The open space scheme shall thereafter be implemented in accordance with these approved details, and the open space shall be kept available for use by the public.

Reason: To ensure satisfactory provisional equipment and to ensure that play area is provided and retained within the development for use by the general public and to accord with Policy DP24 of the Mid Sussex District Plan 2014 - 2031

11. No construction work on any dwelling shall commence until a detailed scheme of surface water drainage has been submitted to the local planning authority and approved in writing. The scheme shall contain details of all proposed attenuation ponds, basins, swales, and other surface water drainage infrastructure, broadly in accordance with the principles outlined in the approved Flood Risk Assessment, dated June 2018. The scheme shall also set out a timetable for the implementation of these measures, and the proposed arrangements for their future management and maintenance. The Surface Water Drainage Scheme shall thereafter be implemented in accordance with the details and timetable thus approved, and the measures provided shall be retained and maintained in full working order for the lifetime of the development.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031

12. No construction work on any dwelling shall commence until a Foul Drainage Scheme for the development has been submitted to the local planning authority and approved in writing. The foul drainage scheme shall thereafter be implemented as approved, and no dwelling shall be occupied until the relevant foul drainage infrastructure to serve that dwelling has been provided.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031

13. No dwelling shall be occupied until an Air Quality Mitigation Scheme for the whole development has been submitted to the local planning authority and approved in writing. The scheme shall contain full details of the mitigation measures that are proposed, and their costs, broadly equating to the emissions mitigation calculation at Table 15 of the submitted Air Quality Assessment report, dated May 2018. The scheme shall also include a timetable for the implementation of these approved mitigation measures. The mitigation measures shall be carried out in accordance with the details and timetable thus approved.

Reason: To preserve the amenity of local residents regarding air quality and emissions and to accord with Policy DP29 of the Mid Sussex District Plan 2014 - 2031

14. The development shall not be occupied until a detailed scheme for protecting the residential units from noise generated by passing trains and traffic has been submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB L<sub>Amax</sub> when measured in bedrooms internally between 23:00 and 07:00 hours, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure adequate thermal comfort and fresh air for the occupants, with the windows closed. Noise levels in gardens and public open spaces shall not exceed 55 dB LAeq 1 hour when measured at any period. All works which form part of the approved scheme shall be completed before any part of the relevant phase of development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To protect the amenity of future residents with regard to external noise and to accord with Policy DP29 of the Mid Sussex District Plan 2014 - 2031

15. The details of landscaping to be submitted pursuant to Condition 1 shall include a timetable for their implementation, and the landscaping works shall thereafter be implemented in accordance with the timetable thus approved. For a period of five years after planting, any plants or trees which die or are destroyed, or become seriously damaged or defective, shall be replaced by another of the same size and species, at the same place, within the next available planting season.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031

16. All existing trees and hedgerows on the site shall be retained unless specifically approved for removal at the reserved matters stage. All trees and hedges to be retained shall be protected during construction by means of protective fencing, in accordance with the details specified in the submitted Arboricultural Implications Assessment, dated 30 April 2018. Within the areas thus fenced, there shall be no excavation, trenching, alterations to ground levels, or storage of materials at any

time during the construction period. For a period of five years after the removal of the protective fencing, any tree or hedge which is cut down, uprooted, destroyed, or become seriously damaged or defective, shall be replaced at the same location by another of a size and species to be approved by the local planning authority in writing, within the next available planting season.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031

17. No dwelling shall be occupied until details of the play areas and open space areas to be provided within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted information shall include the details of the layout, equipment, landscaping, fencing, timetable for construction and future management of the areas to be provided. The development shall be implemented in accordance with the approved details.

Reason: To ensure satisfactory provision of play space and equipment and to ensure that the play area/s are provided and retained within the development for use by the public and to accord with policy DP24 of the Mid Sussex District Plan 2014-2031.

18. Prior to any of the units hereby permitted being occupied the developer shall provide details of the provision of fibre to premises infrastructure that has been provided in the development. None of the units shall be occupied until these details have been approved in writing by the Local Planning Authority.

Reason: To ensure improved digital connectivity and the provision of high-speed broadband and 4G to the development and to accord with Policy DP23 of the District Plan.

### **Construction phase**

19. Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday      08:00 - 18:00 Hours  
Saturday                09:00 - 13:00 Hours  
Sundays and Bank/Public Holidays no work permitted

Reason: To protect the amenity of local residents and to accord with Policy DP29 of the Mid Sussex District Plan 2014 - 2031

20. **Approved Plans**

The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

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



## INFORMATIVES

1. You are advised that this planning permission requires compliance with a planning condition(s) **before development commences**. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from: <https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions> (Fee of £34 will be payable per request). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.
2. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
3. The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

### Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Location Plan	10552-OA-03	A	17.05.2019

## APPENDIX B – CONSULTATIONS

### Parish Consultation

Hassocks Parish Council RECOMMENDS REFUSAL for the following reasons.

1. Housing Requirement. It is stated in the District Plan, Policy DP6 that "Some settlements (Burgess Hill... Hassocks...Warninglid) have already identified sufficient commitments/ completions to meet their minimum housing requirement for the full plan period and will not be expected to identify further sites within their Neighbourhood Plans." Hassocks has met the required level of development.
2. Hassocks Regulation 15 Submission Neighbourhood Plan. In Policy 1, Local Gap, of the Regulation 15 Submission Hassocks Neighbourhood Plan, the local gap between Hassocks and Burgess Hill is defined and the Plan seeks to protect this gap. In Policy 2, Local Green Spaces, the land to the north of Shepherds Walk is defined as a Local Green Space (LGS1). It is therefore considered that this application is contrary to the above policies also to Policy 14, Residential development within and adjoining the built-up area boundary of Hassocks, of the Regulation 15 Submission Hassocks Neighbourhood Plan.

3. Road Safety and Congestion. The Parish Council are strongly of the view that the access arrangements are unsatisfactory and dangerous. There are already three access points within 100 metres on this stretch of the A273 and the development of this site with 130 homes will add another. The access to this site has been designed in isolation and takes no account of the cumulative effect of traffic using the nearby junctions on this busy A Road. London Road is already a very busy road and there is frequently heavy congestion along London Road, Hurst Road, and Keymer Road, with frequent long tailbacks towards the Stonepound Crossroads. There are already two new development sites currently under construction along London Road, which will include two further junctions onto this busy road, all adding to pollution in an area which is a designated Air Quality Management Area that MSDC has a legal duty to alleviate.

Given the extensive local knowledge of Council Members, HPC would urge that MSDC requests WSCC to carry out a further Highways study to ensure that safety and air quality matters have been fully and realistically accounted for.

4. Heath Care Provision. It has been acknowledged by the Horsham and Mid Sussex CCG that Hassocks Health Centre does not have the capacity nor the physical space to accommodate 318 extra patients. The nearest health centre would be Brow surgery in Burgess Hill which is currently 2 miles from the proposed development site, however this GP Practice is in the process of planning a relocation to a new building within the regenerated Martletts shopping centre - a facility that does not currently exist nor will exist for some 5 years.
5. Renewable Energy. The Design and Access Statement (DAS) submitted by the developer says nothing about energy conservation, nor about the need to provide charging points for electric vehicles. The design is in direct conflict with Policy 5: Enabling Zero Carbon of the Regulation 15 Submission Hassocks Neighbourhood Plan which requires "All new residential development will be required to demonstrate that the net maximum heat energy requirement of the dwelling calculated using the SAP (Standard Assessment Procedure) is 15 kWh/m<sup>2</sup>/year or less." And "Proposals which make provision for charging electric vehicles at each dwelling (where feasible) and on-street; and make parking areas charging-ready will be supported."

### **County Planning Officer**

Without prejudice to the informal representations of the County Council in respect of the above planning proposal, I am writing to advise you as to the likely requirements for contributions towards the provision of additional County Council service infrastructure, other than highways and public transport that would arise in relation to the proposed development.

The proposal falls within the Mid Sussex District and the contributions comply with the provisions of Mid Sussex District Local Development Framework Supplementary Planning Document- Development Infrastructure and Contributions July 2018.

The planning obligation formulae below are understood to accord with the Secretary of State's policy tests outlined by the in the National Planning Policy Framework, 2019.

The advice is as follows:

#### **1. School Infrastructure Contribution**

1.1 The Director for Children and Young People's Services advises that it appears that at present primary/secondary schools within the catchment area of the proposal currently would not have spare capacity and would not be able to accommodate the children

generated by the assumed potential residential development from this proposal. Accordingly, contributions would need to be requested. However, the situation will be monitored and further advice on all of the main education sectors, (i.e. Primary/Secondary/Further Secondary) should be sought if this planning application is to be progressed.

## 1.2 Financial Contribution

The financial contribution sought by the County Council would be based on: the estimated additional population that would be generated by the proposed development, reduced to reflect any affordable dwellings, with a 33% discount, for occupation by persons already residing in the education catchment area; the County Council's adopted floorspace standard for education provision; and the estimated costs of providing additional education floorspace. As the housing mix is not known at this stage, I propose the insertion of a formula into any legal Agreement in order that the school infrastructure contribution may be calculated at a later date. The formula should read as follows:

The Owner and the Developer covenant with the County Council that upon Commencement of Development the Owner and/or the Developer shall pay to the County Council the School Infrastructure Contribution as calculated by the County Council in accordance with the following formula:-

(DfE figure (Primary) x ACP = Primary Education Contribution) + (DfE figure (Secondary) x ACP = Secondary Education Contribution) = Education Contribution where:

Note: x = multiplied by.

ACP (Additional Child Product) = The estimated additional number of school age children likely to be generated by the development calculated by reference to the total number of Housing Units, less any allowance for Affordable Housing Units, as approved by a subsequent reserved matters planning application. The current occupancy rates are as follows:

	Dwelling Size	Occupancy
	House	Flat
1 bed	= 1.5	1.3
2 bed	= 1.9	1.9
3 bed	= 2.5	2.4
4+ bed	= 3.0	2.8

Using the latest published occupancy rates from the census statistics published by the Office for National Statistics to determine an overall population increase the following factors are applied. According to 2001 census data, there are 14 persons per 1000 population in each school year group for houses and 5 persons per 1000 population in each school year group for flats. There are 7 year groups for primary (years R to 6) and 5 for secondary (years 7 to 11). For Sixth Form, a factor of 0.54 is applied to the Child Product figure as this is the average percentage of year 11 school leavers who continue into Sixth Form colleges in West Sussex.

DfE Figure = Department for Education (DfE) Secondary/Further Secondary school building costs per pupil place) as adjusted for the West Sussex area applicable at the date when the School Infrastructure Contribution is paid (which currently for the financial year 2019/2020 is £18,370 - Primary, £27,679 - Secondary, updated as necessary by the Royal Institute of Chartered Surveyors Building Cost Information Service All-In Tender Price Index.

1.3 The contributions generated by this proposal shall be spent on a new primary school serving Hassocks or additional facilities at The Windmills Junior School should the new school not progress.

The contributions generated by this proposal shall be spent on expansion at Downlands Community School.

## 2. Infrastructure Contribution

2.1 The County Librarian advises that the proposed development would be within the area served by Hassocks Library and that the library would not currently be able to adequately serve the additional needs that the development would generate.

However, a scheme is approved to provide additional floorspace at the library. In the circumstances, a financial contribution towards the approved scheme would be required in respect of the extra demands for library services that would be generated by the proposed development.

### 2.2 Financial Contribution

The financial contribution sought by the County Council would be based on: the estimated additional population that would be generated by the proposed development; the County Council's adopted floorspace standard for library provision; and the estimated costs of providing additional library floorspace. As the housing mix is not known at this stage, I propose the insertion of a formula into any legal Agreement in order that the library contribution may be calculated at a later date. The formula should read as follows:

The Owner and the Developer covenant with the County Council that upon Commencement of Development the Owner and/or the Developer shall pay to the County Council the Libraries Infrastructure Contribution as calculated by the County Council in accordance with the following formula:-

$L \times AP =$  Libraries Infrastructure Contribution where:

Note: x = multiplied by.

AP (Additional Persons) = The estimated number of additional persons generated by the development calculated by reference to the total number of Open Market Units and shared Ownership Affordable Housing Units as approved by a subsequent reserve matters planning application. Using the latest published occupancy rates from census statistics published by the Office for National Statistics with the current occupancy rates given as a guideline:

	Dwelling Size		Occupancy
	House		Flat
1 bed	= 1.5		1.3
2 bed	= 1.9		1.9
3 bed	= 2.5		2.4
4+ bed	= 3.0		2.8

L = Extra library space in sqm. per 1,000 population x the library cost multiplier (which currently for the financial year 2019/2020 are [30/35 sq.m] and £5,384 per sqm respectively).

2.3 2.3 The contributions generated by this proposal shall be spent on expansion of the facilities at Hassocks Library.

### 3. (TAD) Contribution

3.1 The Total Access Demand Contribution will be calculated by the County Council in accordance with the following formula:

Total Access Demand Contribution = Sustainable Access Contribution + Infrastructure Contribution, where:

Sustainable Access Contribution = (C - D) x E, where:

C (Total Access) = (A (number of dwellings) x B (Occupancy per dwelling)) using the latest published occupancy rates from census statistics published by the Office for National Statistics with the current occupancy rates given as a guideline:

	Dwelling Size		Occupancy
	House		Flat
1 bed	= 1.5		1.3
2 bed	= 1.9		1.9
3 bed	= 2.5		2.4
4+ bed	= 3.0		2.8

D = Parking Spaces provided by the residential development element of the Proposed Development

E = Standard multiplier of £700

Infrastructure Contribution = D x F, where:

D = Parking Spaces provided by the residential development element of the Proposed Development

F = Standard multiplier of £1400

Where affordable dwellings are involved, the appropriate discount is applied to the population increase (A x B) before the TAD is formulated.

#### **General points**

Please ensure that the applicants and their agents are advised that any alteration to the housing mix, either size, nature or tenure, may generate a different population and require re-assessment of contributions. Such re-assessment should be sought as soon as the housing mix is known and not be left until signing of the section 106 Agreement is imminent.

It should be noted that the figures quoted in this letter are based on current information and will be adhered to for 3 months. Thereafter, if they are not consolidated in a signed S106 agreement they will be subject to revision as necessary to reflect the latest information as to cost and need.

Review of the contribution towards the provision of additional County Council services should be by reference to an appropriate index, preferably RICS BCIS All-In TPI. This figure is subject to annual review.

Appropriate occupancy rates using the latest available Census data will be used.

Should you require further general information or assistance in relation to the requirements for contributions towards the provision of County Council service infrastructure please contact, in the first instance, the Planning Applications Team officer, named above.

Where the developer intends to keep some of the estate roads private we will require provisions in any s106 agreement to ensure that they are properly built, never offered for adoption and that a certificate from a suitably qualified professional is provided confirming their construction standard.

Where land is to be transferred to the County Council as part of the development (e.g. a school site) that we will require the developer to provide CAD drawings of the site to aid design/layout and to ensure that there is no accidental encroachment by either the developer or WSCC.

### **West Sussex County Council (WSCC), Lead Local Flood Authority (LLFA)**

As the basic site layout remains the same as the previous consultation (DM/18/2342) our comments also remain the same and we have **no objection** to the development with regards to surface water risk based on the information, subject to the conditions suggested by the Mid Sussex Drainage Engineer.

### **Highway Authority**

#### **Background**

The previous planning application (DM/18/2342) was recommended for approval by officers but was refused at the District Planning Committee by the Local Planning Authority's (LPA) planning committee in November 2018 for the following reasons:

1. The site of the application lies in the countryside as defined in the District Plan. The Local Planning Authority can demonstrate a 5 year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been allocated for residential development in the District Plan. As such the proposal would conflict with policy DP6 of the District Plan as the proposed development does not meet any of the criteria listed in this policy. The proposal would not maintain or enhance the quality of the rural and landscape character of the District, as by definition built development will lead to the loss of open countryside, and does not meet either of the criteria in policy DP12 for development that will be permitted in the countryside. As such the proposal would conflict with policy DP12 of the District Plan. The proposal also conflicts with policy DP15 of the District Plan as it does not meet any of the criteria listed in this policy.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state the determination of a planning application must be carried out in accordance with the development plan unless material considerations indicate otherwise. As the Local Planning Authority can demonstrate a 5 year housing land supply the policies in the District Plan command full weight. The conflict with policies DP6, DP12 and DP15 means that the proposed development is in conflict with the development plan when read as a whole. There are no material considerations that would justify a decision otherwise than in accordance with the development plan.

2. The proposal fails to provide the required infrastructure contributions necessary to serve the development and the required affordable housing. The proposal therefore conflicts with policies DP20 and DP31 of the District Plan.

An appeal has been lodged and there is a Public Inquiry in September to determine the appeal.

For the purposes of this application the Local Highway Authority (LHA) is aware that Local Councillors request further engagement with the LHA. This is duly noted and we are aiming to undertake a site meeting in due course.

### **Comments**

In summary, the information provided within the previous Transport Assessment (TA) from the 4th June 2018 is still considered to be relevant by the LHA. It is noted that the proposals have now been updated in terms of National Planning Policy Framework (NPPF) Policy July 2018 and slight changes to the bus and train information does not affect the report's and conclusions. It is concluded that the development will not have a severe impact on the local road network in accordance to NPPF.

### **Conclusion**

Based on the above the LHA would not recommend any changes to our original consultation responses provided in connection with DM/18/2342. The TA has been updated to meet the latest NPPF dated July 2018. In terms of Section 106 Contributions the 'Gateway' feature proposed was included within the DM/18/2342.

### **Public Rights of Way Officer**

This revised application has been submitted by Rydon Homes following refusal by the Secretary of State of application DM/18/2342. It proposes 130 homes on land between the A273 London Road and the London - Brighton mainline railway, which runs on an embankment on the eastern perimeter of the site.

West Sussex County Council (WSSCC), as local highway authority, has a duty to 'assert and protect' the public's highway rights. This duty extends to public rights of way (PROW) (largely footpaths and bridleways) in addition to the road highway network. This response, by WSSCC PROW Service, is made separately to any response WSSCC Highways (road highways) may choose to make.

It is welcomed that Rydon Homes recognises part of public footpath 5K is recorded through this site. The existence of a PROW is a material consideration, and should planning consent be granted the impact of development upon the public use, enjoyment and amenity of the PROW must be considered by the planning authority.

The previous application included a Transport Assessment (June 2018) proposing installation of a footbridge to accommodate footpath 5K across the mainline railway. This despite recognising the existing at-grade railway crossing is only reachable by ascending steep flights of steps on either side of the railway. It is, therefore, welcomed this revised application now proposes a tunnel through the railway embankment.

This revised application and provision of a tunnel through the railway embankment is the opportunity to create a local off-road access network supporting sustainable access future and existing residents can value. This site is adjacent to the strategic development site of Clayton Mills, to be developed immediately east of the railway line, and it is reasonable to assume future residents of both sites will want to conveniently and safely connect between sites, whether for local community interaction or as part of a journey further afield, both on foot and on bicycle. It can also be reasonably asserted that the tunnel could provide means

for horse riders to directly connect between the existing bridleways around Hurstpierpoint and popular bridleways around Ditchling. WSCC PROW Service therefore requires the applicant:

1. to up-grade footpath 5K to bridleway status within the site;
2. to provide a tunnel within the railway embankment suitable for use as a bridleway;
3. to provide suitable infrastructure to allow future cycle and horse users to access the A273 and to safely cross that road and connect to bridleway 4\_2C; and
4. to agree with the Clayton Mills developer to deliver a bridleway connection to the bridleway already agreed within that site.

The means to upgrade from footpath to bridleway is relatively simply achieved under the Highways Act 1980 s25, which the WSCC PROW Service would be pleased to facilitate. A width of 4m would permit all modes to safely and conveniently pass each other without conflict.

Provision for a bridleway through the site (for the benefit of walker, cyclists and horse riders) is supported by Mid Sussex District Council's (MSDC) District Plan:

- Policy DP21 seeks to deliver a resilient network that reduces carbon emissions over time; access to services, employment and housing; and a transport network that is safer and healthier to use;
- Policy DP22 requires development to provide safe and convenient links to rights of way and other recreational routes; provision of additional routes within and between settlements that contribute to providing a joined up network of routes; and encouraging making new or existing rights of way multi-functional to allow for benefits for a range of users, including horse-riders.

This will enable this development to satisfy the Plan's Strategic Objectives to protect and enhance the environment, promote economic vitality, safe and cohesive communities, and supporting healthy lifestyles.

Further weight is given by NPPF para 98: *"Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails."*

It should be noted that unless the footprint of the future tunnel conforms exactly to the current alignment of FP5K, a footpath diversion Order will be necessary. A further and separate diversion Order could also be needed given the proposal in the southern part of the site to construct a Flood Compensation Area on the legally recorded line of footpath 5K. Without prior diversion, construction would amount to offences of obstruction and disturbing the surface of footpath 5K. MSDC will be expected to act as Order Making Authority to process diversion of footpath 5K under the Town & Country Planning Act 1990 section 257. The WSCC PROW service must be consulted as part of any such diversion Order(s) and its prior agreement to an alignment and a specification will be required before it lends formal support to any diversion proposal.

The applicant must note:

- that undertaking any works affecting footpath 5K prior to formal confirmation of any diversion may invalidate any diversion Order procedure; and,
- the granting of planning permission does not in itself authorise obstruction of, interference to, diversion or stopping up of any PROW across the site - a separate procedure is required.



The upgrade of footpath 5K to bridleway within the site and east of the railway line will require a suitable surface to be laid; a specification must be agreed with WSCC PROW Service in advance of works.

The application additionally proposes other off-road access enhancements - a route in the north-west of the site connecting to the A273 London Road and existing cycle path; and in the south of the site to connect footpath 5K (future bridleway) with Shepherds Walk. It is suggested the north-western path is established for bridleway use as this will provide a closer connection to bridleway 4\_2C than the existing route of footpath 5K; it will also allow bridleway users to avoid the site's main access junction with the A273 with its consequent traffic volumes. The path to Shepherds Walk would reasonably be used for cycle access from the site to the railway station and the town centre; it is recommended it is provided free of structures and to a standard in terms of surfacing and width agreed with WSCC Highways.

WSCC will require details of the landscaping that will be carried out to facilitate the 'Emergency Access Point' to be provided close to the A273 at the western end of footpath 5K (which could be a future bridleway unless that is routed through the north-west of the site - see above). There is no objection to this in principle; however, WSCC PROW must reserve its position until it is satisfied the design provides suitably for future footpath/ bridleway users.

In addition to the specifics above, the applicant must also note the general conditions below:

- No structure, for example gates or stiles, may be erected on the PROWs without the prior consent of WSCC PROW Service. Should planning consent be approved by the Local Planning Authority this would not confer consent for such a structure, which would require a separate application to WSCC PROW Service.
- The surface of any PROW must not be altered in any way without the prior consent of WSCC PROW Service. Should planning consent be approved by the Local Planning Authority this would not confer consent altering the surface of the PROWs, which would require a separate application to WSCC PROW Service.
- If any PROW's surface is considered damaged as a result of the development then the applicant will be required to make good the surface to a standard satisfactory to WSCC PROW Service.
- Should any building works, demolition or construction encroach upon footpath 5K then a Temporary Path Closure Order may be required, for which an application must be made to WSCC PROW Service. - Should planning consent be approved by the Local Planning Authority this would not confer consent for such a closure, which would require a separate application to WSCC PROW Service.

In conclusion, WSCC PROW Service does not raise objection to this application subject to the grant of any planning permission being conditioned that the applicant must deliver, to the satisfaction of WSCC PROW Service, points 1 - 4 as set out on page 1 of this response.

## **Network Rail**

I am writing to provide you with an update on Network Rail's position in relation to planning application DM/19/189. As you will be aware Network Rail has been in discussion with the developer in relation to the proposed development and subsequent impact on the Woodside Pedestrian level crossing.

Network Rail have entered into a Basic Services Agreement with both Rydon Homes Ltd and Gleeson Developments Ltd to assess two options to enable the Woodside Pedestrian level

crossing to be closed. Network Rail are currently working on designs for a stepped footbridge or a subway which would allow the closure of the crossing. The designs are hoped to be complete by the end of August 2019.

Network Rail are supportive in principle of the application subject to an agreement being reached with the developer that provides a solution to the closure of the level crossing. The proposed solution will need to be funded by the developer.

### **Archaeological Officer**

As this appears to be a re-submission of a previously application for this site, featuring only minor changes I reiterate the comments of my colleague Joanna Taylor on a previous application for this site (DM/18/2342), dated 10/07/2018 and copied below for reference:

Recommend Predetermination Archaeological Assessment:

The Heritage Conservation Team, Surrey County Council provides advice to Mid Sussex District Council in accordance with the Mid Sussex District Plan and the National Planning Policy Framework. The district council is located within the County Council of West Sussex.

The National Planning Policy Framework (Section 12) emphasises that the conservation of archaeological interest is a material consideration in the planning process. Paragraph 128 of the NPPF says that applicants should submit desk-based assessments, and where appropriate undertake field evaluation, to describe the significance of heritage assets and how they would be affected by the proposed development. This information should be supplied to inform the planning decision. If planning consent is granted, paragraph 141 of the NPPF says that applicants should be required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) and to make this evidence publicly available.

A Historic Environment Desk-Based Assessment (DBA) was submitted in support of the planning application (ASE 2018) and estimated the potential for heritage assets being located within the site boundaries (Para 8.7.2 as):

- Prehistoric - Moderate
- Romano-British - High
- Early Medieval - Moderate
- Medieval - Unknown
- Post-medieval - Low

The DBA further concluded (Para 12.2) that:

- The route of the possible Roman road (Vine's Line) and associated Archaeological Notification Area (DWS8680) cross the Site from north to south;
- A small part of the Site in the south-west corner was once within the manors and estates of Wickham;
- The Site has the potential for as yet unknown heritage assets (archaeological remains) to be present;
- Where such remains are present they may be impacted on by groundwork;
- Past arable cultivation may have had some impact on the archaeological resource at the Site

Appraisal of this proposal using the West Sussex Historic Environment Record and information provided with the application does indicate a need for further information to reach an informed judgment of the impact the planning application can be anticipated to

have on heritage assets of archaeological interest. It is therefore recommended that any available LIDAR data should be assessed, with the findings included as an appendix to the DBA. In addition, it is also recommended that an archaeological field evaluation is undertaken at the predetermination stage, with the results submitted as part of the planning application. Furthermore, it is recommended that any geotechnical works to be undertaken by the applicant at the predetermination stage should be observed under archaeological watching brief conditions, with the results to also be submitted as part of the planning application.

The nature and scope of predetermination assessment and evaluation should be agreed with our office and carried out by a developer appointed archaeological practice before any decision on the planning application is taken. The ensuing archaeological report/s will need to establish the significance of the site and the impact of the proposed development. Once the archaeological impact of the proposal has been defined, our office can if necessary discuss mitigation options and make recommendations. If archaeological safeguards do prove necessary, these could involve design measures to preserve remains in situ or where that is not feasible archaeological investigation prior to development.

A Written Scheme of Investigation for the programme of archaeological works should be produced, submitted and approved in advance of any work commencing.

Please do not hesitate to contact the Heritage Conservation Team, Surrey County Council should you require further information.

This response relates solely to archaeological issues.

### **Environment Agency**

Thank you for consulting the Environment Agency on the above application.

### **Environment Agency Position**

Thank you for consulting the Environment Agency on the above application.

### **Environment Agency Position**

We have no objection to the proposed development as submitted, **subject to the inclusion of the following condition**, in any permission granted.

We consider that planning permission could be granted to the proposed development, as submitted, if the following planning condition is included as set out below. Without this condition, the proposed development on this site poses an unacceptable risk and we would object to the application.

### **Condition - Implementation of Flood Risk Assessment**

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. Provision of compensatory flood storage as identified within 10.9.25 of the FRA
2. Access road level to be set at 36.5mAOD and bridge soffit set at 35.7mAOD as identified within 10.9.17 of the FRA
3. Clear span crossing (Option 5) as identified within 10.9.5
4. Installation of flood relief culvert as shown on Drawing number 301-001 Rev M

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

### **Reason**

In line with section 9 of the Planning Practice Guidance of the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change to:

1. prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site or overtopping;
2. ensure access and egress remains available during flood conditions, and elevated enough so as to not cause overland flood flow routes to back up, and cause flooding issues elsewhere;
3. preserve flood plain connectivity and
4. provide additional flood compensation

### **Advice to Local Planning Authority/Application**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Our response to this application is on the understanding that Mid Sussex District Council is satisfied that the Sequential test has been adequately demonstrated to the requirements set out in the national Planning Policy framework (NPPF).

Should you have any further queries please do not hesitate to contact me.

### **Southern Water**

To be reported.

### **MSDC Drainage Officer**

**Recommendation:** No objection subject to conditions

### **List of relevant documents assessed for this latest application**

- Extent of Country Open Space (Post Revised Drainage Strategy) 10552-OA-02 rev B
- Extent of Country Open Space (Post Revised Drainage Strategy) 10552-OA-03 rev A

- Flood Risk Assessment Technical Note IDOM February 2019
- Site Waste Management Plan, Lighting Assessment, Drainage & Utilities Statement June 2018
- 17627R - Land off London Road, Hassocks, West Sussex Review of DP11 Proposals - Strategic Allocation to the north of Clayton Mills, Hassocks

### **Summary and overall assessment of this latest application**

Cumulative impacts of flooding - Clayton Mills development will have more of an impact on flooding than the Friars Oak Fields site.

Future flood risk - modelling for the Friars Oak Fields Site remains robust as it is based on actual topographical surveys rather than LIDAR mapping. Climate Change scenarios have been considered and the modelling has been tested for the maximum climate change allowances and high flood levels in the river.

A detailed review of Policy for the Management of Surface Water and the SfA8 will be necessary to inform any Reserved Matters or Condition Clearance applications.

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### **COMMENTS ON PREVIOUS APPLICATION REFERENCE DM/18/2342**

#### **Summary and overall assessment**

A revised Flood Risk Assessment has been supplied with this application and it is updated with revised flood modelling so includes increased allowance for climate change, has assessed the risk of blockage to culverts and has included a 50% Cini Sensitivity figure. This is represented in the Outline Drainage Strategy plans - one reference 17627r-301-002C showing the Baseline Scenario with 50% Climate Change and the other reference 17627r-301-001M showing the Proposed Bridge Scenario with 105% CC, 40% blockage to the culvert and 50% Cini value.

The modelling and plans show that the flood extent is slightly increased above previous modelling so the layout of the development has been altered slightly to ensure that all attenuation ponds, the compensatory flood storage area and the necessary foul pumping station are outside the flood areas.

As a result of the above I am satisfied that the site can be satisfactorily drained without increasing flood risk subject to details to be provided at the Reserved Matters stage should this application be approved.

#### **Flood Risk**

An assessment of flood risk to the development site highlighted that there is a risk of fluvial flooding related to the Herring Stream. In addition, there is risk of surface water flooding in the immediate vicinity of Herring Stream. Mitigations are proposed to manage these risks and are focused on 'avoidance' by not locating 'More Vulnerable' development within the Flood Zone 3a outline and 'improving understanding' by recommending that a full intrusive ground investigation be undertaken to confirm the published geology and groundwater levels.

## Surface Water Drainage Proposals

In terms of managing surface water runoff, it is proposed that on-site attenuation is utilised to restrict flows offsite to pre-development rates. The pre-development Greenfield runoff rates should be matched for the 1 in 1 year event up until the QBAR figure is reached. The QBAR figure should then not be exceeded for all storms up to and including the 1 in 100 year event + climate change. This provides for the flows into the watercourse system to be managed in a way that does not cause flood risk elsewhere and also manages the peak flows.

I understand that permeable paving and other SuDS methods such as swales will be utilised to help manage the surface water drainage on the site. This is welcome and proposals should be set out in the Reserved Matters application should this application be approved.

As the groundwater conditions have not yet been investigated, groundwater monitoring should be undertaken before detailed design. There may well be pockets on this site that would allow infiltration into the ground as I believe there are varied geological strata on this site.

## Foul Water Drainage Proposals

It is proposed that the development will drain via an adopted public sewer network into the existing Southern Water foul sewers. Southern Water has stated that there is not currently capacity for this development so the applicants will need to liaise with Southern Water to ensure that improvements can be made to the network in order to accommodate the development. There will be a foul water pumping station on the site to enable lower parts of the site to connect into the existing sewer network. This should be located outside of the identified flood extents

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## Suggested Conditions

- I am satisfied that the Conditions listed in the officers report for application reference DM/18/2342 are still relevant and appropriate to this current application.

## Advice

The applicants should ensure that they continue to liaise with Southern Water, the Environment Agency and Mid Sussex District Council regarding the drainage of this site. The WSCC Policy for the Management of Surface Water should be followed to ensure that the site will not increase flood risk on site or elsewhere now or in the future. Please also note that any alterations to the watercourse or floodplain [including outfalls and culverts that affect the flow in the watercourse] will require consent from either the EA (related to Main River) or MSDC (related to Ordinary Watercourses).

## PREVIOUS CONDITIONS

- Surface Water to include Management and Maintenance details for the lifetime of the development.
- Groundwater monitoring should be carried out prior to the submission of the Reserved Matters application to ensure that ground water conditions at the site will not adversely affect the drainage design.
- Foul water

- That the development is carried out in line with the content of the FRA reference FRA-17627r-18-33, June 2018 as this sets out the intended soffit and road level for the bridge through the floodplain and the amount of flood plain compensation storage needed on the site.

### **Ecological Consultant**

In my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject the reserved matters being supported by the following details:

- a Construction Environmental Management Plan (CEMP) setting out the practical steps to be taken to avoid impacts on wildlife during site preparation and construction;
- drainage and pollution prevention details sufficient to demonstrate that there will be no adverse long-term impacts on the ecology of the adjacent stream;
- a detailed lighting strategy, supported by modelled lux levels, showing measures to be used to minimise light pollution of hedgerows and other wildlife habitats with particular regard to minimising impacts on bat foraging;
- full details of habitat creation and enhancement measures and a Landscape and Ecological Management Plan (LEMP) to ensure long-term management of retained and newly-created features; and
- a reptile relocation strategy, making provision for retention within the site through suitable habitat creation/enhancement and ongoing management (integrated with the LEMP).

These details shall be informed by ecological survey reports, updated where necessary, in compliance with BS4220: 2013 - Biodiversity. Code of practice for planning and development.

The approved details shall be implemented in full unless otherwise agreed in writing with the local planning authority.

### **Sussex Police**

Thank you for your correspondence of 23rd May 2019, advising me of a hybrid application comprising of outline proposal for residential development of 130 dwellings consisting of 12no. 1 bedroom apartments, 27no. 2 bedroom houses, 47no. 3 bedroom houses and 44no. 4 bedroom houses and associated access, together with change of use of part of the land to country open space, following the provision of a new pedestrian tunnel under the railway. All matter reserved apart from access, at the above location, for which you seek advice from a crime prevention viewpoint.

I have had the opportunity to examine the detail within the application and in an attempt to reduce the opportunity for crime and the fear of crime I offer the following comments from a Secured by Design (SBD) perspective. SBD is owned by the UK Police service and supported by the Home Office that recommends a minimum standard of security using proven, tested and accredited products. Further details can be found on [www.securedbydesign.com](http://www.securedbydesign.com) Due to the application being outline, my comments will be broad with more in depth advice being delivered at reserved matters.

The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. With the level of crime and anti-social behaviour in Mid Sussex district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however,

additional measures to mitigate against any identified local crime trends and site specific needs should be considered.

I note this is a resubmission of a previous application where the proposal previously asked for a pedestrian footbridge across the railway, this application now asks for a pedestrian tunnel underneath the railway line.

My previous comments within PE/MID/18/12/A in response to planning application DM/18/2342 remain extant, however I would like to add additional comments on the proposed tunnel underneath the railway.

SBD do not promote the use of pedestrian subway as these have in the past generated crime, increased the fear of crime and has the potential to create anti-social behaviour, loitering and graffiti.

I would like to direct the planning authority to SBD New Homes 2019 document para 18.13 where it states; *The creation of new pedestrian subways should be avoided. However, if the subway is already in existence and it is necessary to retain it, it should be well-lit with vandal resistant lighting (see paragraph 8.19), be as wide and as short as possible, with a clear line of sight to the exit. Chamfering the access points can help reduce areas of concealment. Radius (convex) entrance/ exit walls can reduce the length of the subway and the opportunity for inappropriate loitering. The designer should consider wall finishes that enable easy removal of graffiti.*

I thank you for allowing me the opportunity to comment.

I would also ask you to note that Sussex Police is now exploring the impact of growth on the provision of policing infrastructure over the coming years and further comment on this application may be made by our Joint Commercial Planning Manager.

The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act.

### **Sussex Police (Infrastructure)**

Sussex & Surrey Police are an active member of the National Police Estates Group and now act as one on all infrastructure and town planning related matters across their combined geographical area. Our approach to Section 106 requests is in accordance with national best practice recommended by the National Police Chief's Council (NPCC). The approach now adopted has been tested at public inquiries nationally and found to be in accordance with the statutory CIL tests.

The large numbers of housing being developed across Sussex and more specifically the district of Mid Sussex will place a significant additional demand upon our police service. These impacts will be demonstrated in this submission and the necessity of investment in additional policing services is a key planning consideration in determination of this planning application.

This development will place permanent, on-going demands on Sussex Police which cannot be fully shouldered by direct taxation. Like many other public services, policing is not fully funded via public taxation. This request outlines a number of the capital costs that will be



incurred by Sussex Police to enable safe policing of this development. All of the infrastructure outlined in this funding request has been found compliant with regulation 122 of the Community Infrastructure Levy and are considered directly related to the development in scale and kind and necessary to make the development acceptable in planning terms.

The application site is a greenfield site once built upon this development will create an additional demand upon the police service that does not currently exist. The police will need to recruit additional staff and officers and equip them. The development will also require the services of a police vehicle. Staff and officers will also need to be accommodated in a premises that will enable them to serve the development. This request is proportionate to the size of the development and is intended to pay for the initial, additional costs resulting directly from the development for those areas where the police do not have existing capacity. The request also explains how the police service is funded, outlines National Planning Policy support for policing contributions and references numerous appeal decisions where police requests for developer contributions have been upheld.

Police forces nationally, are not in a position to support major development of the scale now being proposed for many of the nation's town and cities without the support from the planning system. If we are obliged to do so using our own resources only, then it is reasonable to conclude that there will be a serious risk of service degradation as existing coverage is stretched to encompass the new development and associated population growth. This is already evident across Sussex due to the significant numbers of housing being developed and clearly shown by the increasing numbers of recorded crimes in Sussex over the last year. Our force must ensure that development growth is supported by the infrastructure necessary to guarantee the safety and security of the new communities.

It is the responsibility of the PCC to ensure our Chief Constable has sufficient financial support to deliver a high level of policing to the residents of Sussex. Our office continues to actively seek financial contributions via Section 106 agreements and Community Infrastructure Levy funds to support our capital program. This will enable Sussex Police to deliver the highest possible service to ensure the protection of the communities that we serve. In line with many other police forces Sussex & Surrey Police have updated our methodology for infrastructure requests to ensure our representations are transparent and provide an up to date, accurate reflection of our current capacity in the districts.

In order to mitigate against the impact of growth our office have calculated that the capital "cost" of policing new growth as a result of this major planning application equates to £21,761.54.

These funds would be used for the future purchase of infrastructure to serve the proposed development. This cost will now be broken down clearly to show the capital infrastructure required to support these new officers.

The contribution represents a pooled contribution towards the provision of new infrastructure to serve the site and surrounding area. The pooling of contributions towards infrastructure remains appropriate under the CIL Regulations, provided this does not exceed five separate contributions and subject to other regulatory tests.

### **Horsham and Mid Sussex Clinical Commissioning Group**

I refer to your letter of 23/5/19 and appreciate being consulted on this proposed hybrid planning application.

As you are aware, Horsham & Mid Sussex Clinical Commissioning Group (CCG) are the GP- led statutory NHS body responsible for planning, commissioning and monitoring the

majority of local health services in the Horsham & Mid Sussex area. (CCGs having been created following the Health & Social Care Act 2012 and replaced Primary Care Trusts on 1st April 2013).

Horsham & Mid Sussex CCG therefore cover the entirety of Mid Sussex District Council's catchment area and the above planning application. Should a planning consent be given then this would create a potential further 317 new residents/patients to the area. In this respect, Hassocks Health Centre is exceeding its capacity and the CCG has already secured or applied for the permitted maximum number of Section 106s for future infrastructure improvements to enable further patients to be registered from several local new housing developments.

Meanwhile, for this particular planning application we wish to focus on a GP practice which is only 2 miles distant from this proposed development i.e. The Brow Surgery Burgess Hill, a town centre located NHS service which is in the process of planning a relocation to a new building within the regenerated Martlets shopping centre with discussions on going.

The regeneration generally will reach out beyond Burgess Hill and it is likely that this new facility will attract new patients as a result.

Accordingly, however the new building is delivered there will be extensive fit out costs and in the light of this

we therefore consider that a Section 106 application for a developer contribution to be entirely appropriate towards Healthcare capital infrastructure fit out costs for The Brow surgery's move.

In calculating our requirement, we utilise currently available West Sussex average occupancy figures, agreed with West Sussex County Council and using the Senior District Valuer's approved formula.

Overall, all potential new residents will utilise some or all of the health services the CCG commissions and will put further pressure on medical services generally. We are also mindful that new housing developments do not disadvantage the health services for existing residents/patients.

In the circumstances, we are seeking a Section 106 developer contribution of £82,590 based on the number of units on a pro rata basis (This equates to an average of £665 per dwelling for houses and £339 for apartments)

### **Urban Designer**

This is an outline scheme in which appearance, design, landscaping and scale are reserved matters. My observations are therefore initial comments. Being an outline proposal, the scheme is short on information which makes it difficult to assess its design merits, so these are initial comments on the revised layout drawing 10552-OA-01 rev D:

Except for the proposed tunnel, the layout for the current proposal is very similar to the outline consent DM/15/0626. With the exception of the building frontages on plots 1 and 2 that have been sensibly rotated to face the entrance approach, my previous comments are otherwise still relevant:

1. The main open space is poorly integrated and peripheral to the site. The hedgerow appears to prevent the possibility of any natural surveillance. The position of the open space needs to be re-thought with consideration given to placing it within a more central

position where it will help to break-up and provide a much needed focus to a layout that seems to be lacking in interest / incident and sense of place.

2. The flank-on configuration of the houses on plots 75-85 and 125+126 to their site boundary thresholds affords them minimal natural surveillance over their respective footpaths and threshold spaces.
3. The parking in a number of areas has a too dominant relationship with the public realm and undermines street enclosure in some cases.

The long umbilical link of the front entrance approach still impacts adversely on the integration of the proposed development with the existing built-up area and further consideration needs to be given to community safety / natural surveillance both here and in respect of the proposed tunnel link.

I would like to add that the design of the entrance approach road and the attenuation ponds (at the entrance and in the open spaces) will also need to be carefully designed so they sit naturally within the landscape and do not appear "engineered". The prominent position of the pumping station is also a concern in this respect.

### **Housing Enabling & Development Officer**

The application proposes a residential development of 130 dwellings of which 39 (30%) will be provided as Affordable Housing in line with current policy.

The applicant's Affordable Housing Statement dated May 2019 acknowledges the required tenure mix of the affordable dwellings as 75% to be social or affordable rent and 25 % to be intermediate housing products and provides an indicative affordable housing mix of:

10 x 1 bed flats  
17 x 2 bed dwellings  
12 x 3 bed dwellings

The statement notes that the Council's Housing Officer has previously advised that a lower number of 3 bedroom dwellings is preferable. In accordance with the Affordable Housing SPD (April 2018) a mix which would better suit known affordable housing need is:

10 x 1 bed flats  
21 x 2 bed dwellings (all 2 bed 4 person)  
8 x 3 bed houses

The preferred tenure split is:

Affordable Rent (30 dwellings)

Shared Ownership (9 dwellings)

10 x 1 bed flats  
7 x 2 bed flats  
10 x 2 bed houses (1 wheelchair accessible)  
3 x 3 bed houses

0 x 1 bed flats  
2 x 2 bed flats  
2 x 2 bed houses  
5 x 3 bed houses

Affordable dwellings must be in clusters of no more than 10 units per cluster with each cluster distinctly separate from the next through the use of private units.

## **Community Leisure Officer**

Thank you for the opportunity to comment on the plans for the development of 130 residential dwellings on land to the rear of Friars Oak London Road Hassocks West Sussex BN6 9NA on behalf of the Head of Corporate Resources. The following leisure contributions are required to enhance capacity and provision due to increased demand for facilities in accordance with the District Plan policy and SPD which require contributions for developments of over 5 units.

### **CHILDRENS PLAYING SPACE**

The developer has indicated that they intend to provide play provision on site and full details regarding the layout, equipment and on-going maintenance will need to be agreed by condition.

### **FORMAL SPORT**

In the case of this development, a financial contribution of £159,297 is required toward improvements to tennis and football pitches in Adastral Park.

### **COMMUNITY BUILDINGS**

The provision of community facilities is an essential part of the infrastructure required to service new developments to ensure that sustainable communities are created. In the case of this development, a financial contribution of £91,361 is required toward the cost of redeveloping the Belmont Close pavilion to include community space suitable for a play group and youth club - this venue is within walking distance of the development site.

### **OTHER**

Public Open Space - the Council would seek to adopt this, laid out to an agreed plan, and with an appropriate 30-year commuted sum.

Public Right of Way - I understand there is a proposal for a new cycle route as part of the North of Hassocks development (DP11) so would like to ensure the existing footpath and new tunnel are upgraded to allow shared cycle and pedestrian use to link in with the off-road network, to be agreed by condition.

In terms of the scale of contribution required, these figures are calculated on a per head formulae based upon the total number of units proposed and an average occupancy of 2.5 persons per unit (as laid out in the Council's Development Infrastructure and Contributions SPD) and therefore is commensurate in scale to the development. The Council maintains that the contributions sought as set out are in full accordance with the requirements set out in Circular 05/2005 and in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

## **Environmental Protection Officer**

This application site is close (approx. 900m) to the Stonepound Crossroads AQMA. Additional vehicle movements generated as a result of the development will add to the existing high levels of congestion and pollution at the crossroads. Therefore the pollution impacts must be carefully considered, and mitigated against appropriately. The site is also bordered by a railway and an A road, so noise impacts upon future residents should also be considered.

## AIR QUALITY (AQ) BACKGROUND

Local Authorities are required to produce annual air quality reports to identify local areas where the air quality objectives will not be met and to ensure that air quality considerations are considered as part of decision making processes e.g. land use planning and traffic management.

In locations where particular pollutants are found to be above National Air Quality Objective levels, which are based on expert advice concerning health effects relating to AQ, the local authority must declare an Air Quality Management Area (AQMA) and formulate an Air Quality Action Plan which specifies the steps to be taken to move towards the air quality objectives. The only AQMA in Mid Sussex district is at Stonepound Crossroads, Hassocks. The pollutant of concern is NO<sub>2</sub> related to traffic fumes. Measured levels have remained above the Air Quality Objective level of 40 ug/m<sup>3</sup>. The Council are not required to monitor particulate matter (PM) levels locally but levels are monitored county wide by Sussex Air. The monitored levels are below the objective levels for PM.

It is important to note that the objective level for NO<sub>2</sub> applies at locations where members of the public are likely to be regularly present and are likely to be exposed over the averaging period of the objective. The annual mean objective for nitrogen dioxide is considered to apply at the façades of residential properties, schools, hospitals etc. and not at hotels or in gardens.

Air quality is a material consideration when a development is planned. The Local Planning Authority requires an Air Quality assessment (AQA) in cases where it deems air quality impacts from the development may adversely affect health. The AQA should consider impacts only from confirmed developments that have planning permission.

The AQA provides modelled predicted concentrations for a range of scenarios i.e. without development (baseline), with development, with development including mitigation measures. Whilst modelling cannot be 100% accurate, it is the accepted method for assessing pollution impacts and there is no alternative when testing future year scenarios or future development. Model accuracy can be tested against existing monitored results for baseline calibration.

There is no official guidance on the assessment of air quality impacts, but there is local guidance produced by Sussex Air and the Institute of Air Quality Management (IAQM) have produced guidance which is widely accepted and used for assessing the significance of air quality impacts.

## CONTEXT

The National Planning Policy Framework states that the planning system should perform an environmental role to minimise pollution and should *"contribute to...reducing pollution"*. To prevent unacceptable risks from air pollution, planning decisions should ensure that new development is appropriate for its location. The NPPF states that the effects of pollution on health and the sensitivity of the area and the development should be taken into account: *"Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan"*.

Planning Practice Guidance (PPG) includes guiding principles on how planning can take account of the impacts of new development on air quality: *"Whether or not air quality is*

*relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation (including that applicable to wildlife)".*

Mid Sussex District Plan DP29 states that

*The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

- *It does not cause unacceptable levels of air pollution;*
- *Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;*
- *Development proposals (where appropriate) are consistent with Air Quality Management Plans.*

## FRIARS OAK DEVELOPMENT

The submitted Air Quality report refers to the NO<sub>2</sub> monitored results obtained by the Environmental Protection Team. This data was obtained by using passive monitoring devices at various sites around the area of Stonepound Crossroads.

To assess the potential impact of the proposed development on air quality, the report uses an advanced air quality forecasting model, 'ADMS Roads', which is a recognised model for such a process. The model requires a variety of information to be inputted, which includes: traffic data; emission factors and meteorological data.

## MODELLED POLLUTION IMPACTS

The scheme, if approved, will result in a small increase in the volume of road traffic (ie in relation to the existing volume). However, it is predicted that by the time the residential units are occupied, NO<sub>2</sub> levels will be below the objective level of 40ug/m<sup>3</sup>. Impacts are assessed as being Low/Imperceptible overall as the increase in NO<sub>2</sub> caused by development traffic is not predicted to cause a breach of the objective levels. By the time the development is completed in 2023 the assessed impact will be negligible at all properties.

The previous application for 130 units at the same site was refused planning permission, but not for reasons relating to air quality. The Secretary of State has explicitly stated that "the proposals would not give rise to any unacceptable impacts on air quality".

## CONCLUSION

The development is not likely to cause unacceptable levels of pollution, and is consistent with the local air quality action plan. It is therefore in accordance with national and local guidance. The proposed mitigation measures are welcomed. These are:

- Travel Plan
- Electric vehicle charging points for all allocated spaces as part of Marketed Units and possibly those associated with the affordable units subject to further discussion with the Housing Association;
- Covered cycle parking for units without garages;
- Information identifying routes to public transport and local facilities by foot and cycle;

- Cycle and public transport travel vouchers;
- Low NOx boilers for all residential units;
- Information on Car Sharing Schemes; and
- Provision of a new footbridge over the railway from the site that will allow good pedestrian access to local amenities and also encourage existing local residents to travel via walking rather than private vehicle use.

Accordingly, I recommend a condition, relating to Air Quality, to allow measures to be agreed between the developers and the LPA.

## NOISE

The submitted Idom Merebrook noise assessment (June 2018) has considered the noise from the adjacent A273 and railway line, which are the dominant noise sources in this location. The report indicates that due to high noise levels, bedroom windows (in the form of standard double glazing) at the proposed development would need to be kept closed in order to avoid sleep disturbance and meet World Health Organisation and BS8233 internal noise standards.

This in turn would mean that additional ventilation may be required, with adequate air flow to allow thermal comfort. In this case there are two questions which the Planning officer may wish to consider:

- 1) How acceptable is it to have residents in this development sleeping all year round in a windows closed environment?
- 2) If acceptable, what type of ventilation would be deemed appropriate for these residents?

With regard to the first question, there are a number of Planning appeals where this issue has been commented on. The prevailing view of Inspectors seems to be that closed window solutions are not desirable but can be acceptable for traffic noise and/or general background noise but are less acceptable where noise is of an industrial/commercial nature.

In our view, closed windows with additional ventilation is not an ideal solution, but may be acceptable where developers can demonstrate that good design has been used to minimise the need for artificial ventilation. Accordingly, care should be taken to minimise the potential impact of noise within the buildings themselves; living rooms and bedrooms should ideally be located on shielded façades with non-sensitive spaces such as corridors, bathrooms, en-suite, utility rooms, windowless gable ends and kitchens located on the road/railway facing façades of residential properties.

In any event, a judgement is required on whether closed windows for notable periods will provide an acceptable living environment for future occupiers.

With regard to the second question, developers and consultants tend to argue that attenuated trickle ventilation and suitably glazed windows should suffice where a noisy area means internal noise levels will be compromised with open windows. Our view is that a ventilation system should be a mechanical air supply ventilation system which can be used as a viable alternative to opening windows in order to allow the provision of outside air for breathing and allow residents control of their thermal comfort. Therefore a forced, mechanical ventilation supply system (not necessarily extract system), should be provided for bedrooms where BS8233/WHO internal noise levels are not achievable with windows open. Other systems which can provide sufficient airflow for thermal comfort may be acceptable. Trickle vents, which are designed to address condensation issues, not thermal comfort, are not sufficient in our view. We acknowledge that each case should be assessed on its own merits.

## SUMMARY

- NO2 levels are trending downwards and air quality is predicted to meet national objectives at all existing receptors by 2023
- Traffic generated by the development will be a small proportion in relation to existing traffic levels (several hundred trips in relation to circa 14,000)
- Modelling indicates that this development will not cause a breach of the objective levels
- Secretary of State has stated that the development would not give rise to unacceptable impacts on AQ
- Noise levels are high, but can be dealt with by way of condition
- Dust from construction activities can be dealt with by way of condition

Therefore, should the development receive approval, Environmental Protection recommends the following conditions:

### **Conditions:**

- Construction hours: Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday    08:00 - 18:00 Hours  
Saturday            09:00 - 13:00 Hours  
Sundays and Bank/Public Holidays no work permitted

Reason: To protect the amenity of local residents.

- Minimise dust emissions: Demolition/Construction work shall not commence until a scheme of measures as specified in appendix A5 of the Air Quality Assessment (ref J3266C/1/F1 submitted by AQC) for the control of dust during the construction phase has been submitted to and approved by the local planning authority. The scheme as approved shall be operated at all times during the construction phases of the development.

Reason: To protect the amenity of local residents from dust emissions during construction.

- No burning materials: No burning of demolition/construction waste materials shall take place on site.

Reason: To protect the amenity of local residents from smoke, ash, odour and fume.

- No development shall take place until a Construction Noise Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall also consider vibration from construction work, including the compacting of ground. The approved Plan shall be adhered to throughout the construction period.

Reason: To safeguard the amenity of adjacent occupiers

- Air Quality - Construction work shall not commence until a scheme of measures to minimise the long-term impact upon local air quality and to mitigate emissions has been submitted to and approved by the local planning authority. The scheme shall be in accordance with sections 7.5 to 7.8 (inclusive) of the Air Quality Assessment (ref J3266C/1/F1 submitted by AQC).



Reason: To preserve the amenity of local residents regarding air quality and emissions.

- **Soundproofing (Rail & Road Noise):** No development shall take place until a detailed scheme for protecting the residential units from noise generated by passing trains and traffic has been submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB LAmax when measured in bedrooms internally between 23:00 and 07:00 hours, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure adequate thermal comfort and fresh air for the occupants, with the windows closed. Noise levels in gardens and public open spaces shall not exceed 55 dB LAeq 1 hour when measured at any period. All works which form part of the approved scheme shall be completed before any part of the relevant phase of development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To protect the amenity of future residents with regard to external noise.

## **Contaminated Land Officer**

### **Main Comments:**

The application looks to construct 130 residential dwellings on land that has historically been used for agricultural use.

Agricultural land may have been used for the storage or disposal of items such as biocides, fuels, animal corpses etc.

It is also noted that a railway line runs to the east of the site, which is also linked to potential contamination from fuels, preservatives for the sleepers, herbicides, metal fines, etc.

Given the above, the size of the project and sensitivities of the end use, a phased contaminated land condition should be attached.

Additionally, a discovery strategy should also be attached, so that in the event that contamination not already identified through the desktop study is found, that works stop until such time that a further assessment has been made, and further remediation methods put in place if needed.

### **Recommendation:**

#### **Approve with conditions**

- 1) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:
  - a) A desk study report documenting all the previous and existing land uses of the site and adjacent land in accordance with best practice including BS10175:2011+A1:2013 Investigation of potentially contaminated sites - code of practice. The report shall contain a conceptual model showing the potential pathways

that exposure to contaminants may occur both during and after development; **and unless otherwise agreed in writing by the LPA,**

- b) A *site investigation* report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk study created in accordance with BS10175:2011+A1:2013 and BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs); the laboratory analysis should be accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS) where possible; the report shall refine the conceptual model of the site and state either that the site is currently suitable for the proposed end-use or that will be made so by remediation; **and, unless otherwise agreed in writing by the LPA,**
  - c) A *remediation method statement* detailing the remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. For risks related to bulk gases, this will require the production of a design report and an installation report for the gas as detailed in BS 8485:2015 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings. The scheme shall consider the sustainability of the proposed remedial approach. It shall include nomination of a competent person<sup>1</sup> to oversee the implementation and completion of the works.
- 2) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (i)c that any remediation scheme required and approved under the provisions of conditions (i)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by the LPA such verification shall comprise a stand-alone report including (but not be limited to):
- a) Description of remedial scheme
  - b) as built drawings of the implemented scheme
  - c) photographs of the remediation works in progress
  - d) certificates demonstrating that imported and/or material left in-situ is free of contamination, and records of amounts involved.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (i)c.

Reason (common to all): To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

In addition, the following precautionary condition should be applied separately:

- 3) If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any

remediation undertaken will be produced to the satisfaction of and approved in writing by the LPA.

**Tree Officer**

The trees appear to have been assessed and plotted correctly within the A I A.

This is an outline application and I consider that there is scope to accommodate the development with the retention of the most important trees and the hedgerows.

7 trees are proposed for removal and Policy DP37 requires trees to be replaced on a 1:1 basis. Other hedgerow sections will also be removed and mitigation should also be provided for this.

No arboricultural method statement has been submitted as part of the application. This should be secured by pre commencement condition, as well as planting/tree replacement/landscape plans.

Adherence to the AIA dated 30/4/18 should be conditioned as one of the approved documents of this application.

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