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## Appeal Decision

Inquiry Held on 10 - 11 September 2019

Site visit made on 11 September 2019

by **Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 November 2019

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**Appeal Ref: APP/D3830/W/18/3218035**

**Land at Friars Oak Fields, East of London Road, Hassocks BN6 9NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Rydon Homes Ltd against the decision of Mid Sussex District Council.
  - The application Ref DM/18/2342, dated 6 June 2018, was refused by notice dated 5 December 2018.
  - The development proposed is hybrid application comprising of outline proposal for residential development of 130 dwellings consisting of 12 No. 1 bedroom apartments, 27 No. 2 bedroom houses, 47 No. 3 bedroom houses and 44 No. 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.
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### Decision

1. The appeal is allowed and planning permission is granted for hybrid application comprising of outline proposal for residential development of 130 dwellings consisting of 12 no. 1 bedroom apartments, 27 no. 2 bedroom houses, 47 no. 3 bedroom houses and 44 no. 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 at Land at Friars Oak Fields, East of London Road, Hassocks BN6 9NA in accordance with the terms of the application, Ref DM/18/2342, dated 6 June 2018, subject to the conditions in the attached Annex.

### Procedural Matters

2. The element of the hybrid planning application relating to the proposed residential development was submitted in outline with only access to be considered. The matters of appearance, landscaping, layout and scale would be for future consideration were the appeal allowed. I have determined the appeal on that basis. However, the appellant has submitted an illustrative layout plan which I have taken into account as a guide to how the site might be developed.
3. I have had regard to the appellant's request, prior to the Inquiry, to amend the description of development to substitute the reference to provision for a new footbridge across the railway with a tunnel instead, on Network Rail owned land. I have determined the appeal on the basis of the original description as to do otherwise could prejudice any interested persons who may not have had the opportunity to comment on that change, in the context of this appeal.



Nevertheless, it was highlighted at the Inquiry that the description could remain unchanged without precluding the installation of a tunnel, were that considered to be the most appropriate option in the event that I were to allow the appeal, subject to an appropriately worded condition to leave open the potential for either option. I consider such a condition further in the part of my reasoning concerning conditions and planning obligation.

4. Since the Inquiry, the Council has granted planning permission for another development on the site<sup>1</sup> of the same description as in this case but with the substitution referred to above relating to provision for a new pedestrian tunnel under the railway instead of a footbridge. Although I have determined this appeal on its own merits, due to the extent to which that extant scheme would be similar to it, that permitted scheme represents a realistic fall-back position were I to dismiss this appeal which I have afforded significant weight.
5. I have had regard to a previous appeal decision for housing on this site<sup>2</sup>, for the same description of development but with the omission of reference to the footbridge across the railway. In that case, it was found by the Secretary of State that a failure to provide for a safe rail crossing in that proposal made the development unacceptable in the planning balance and overall conclusion. I note that that decision was also taken in the context of the Council not being able to demonstrate a five-year supply of deliverable housing sites (5 year HLS) at that time, with limited weight therefore attached to adopted policies relating to protection of the countryside and preventing coalescence. The Mid Sussex District Plan (MSDP) was also not adopted then, such that only limited weight was afforded to it. Whilst I have taken that previous decision into account, I have determined the appeal on its merits based on all of the evidence before me.
6. At the Inquiry the appellant no longer sought to dispute the Council's position that it is able to demonstrate a 5 year HLS. As such, no evidence on this matter was presented or tested during the Inquiry and it is common ground between the Council and appellant that the tilted balance relating to paragraph 11(d)(ii) of the National Planning Policy Framework (the Framework) should not be engaged in this case.

### **Main Issues**

7. The main issues are whether or not the proposed development would be in a suitable location for the dwellings concerned, having regard to development plan policies; and the effect of the proposed development on the landscape character of the site and surrounding area.

### **Reasons**

#### *Main issues*

8. The site is located outside of the defined settlement boundary of Hassocks. Policy DP6 of the MSDP sets out, amongst other things, that outside defined built-up area boundaries, the expansion of settlements will be supported where three criteria are met, including the site concerned being allocated as such in the development plan. The appeal site is not one of those allocations and so for that reason the proposal would conflict with that policy. The site is an

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<sup>1</sup> Ref DM/19/1897

<sup>2</sup> Ref APP/D3830/V/17/3166992



allocation in the Council's emerging Site Allocations Development Plan Document (SADPD). This has now been approved by the Council to go forward for consultation and indicates the Council's current position in respect of the site. However, being still at an early stage, it attracts little weight.

9. Notwithstanding that conflict with policy DP6, having regard to the other two criteria of that element of the policy referred to above, the proposed development would be on the edge of and contiguous with the existing settlement. Prospective residents would therefore have fairly good access to the range of facilities and services within that locality to serve their day to day needs, including shops and schools, as well as to local employment premises. This would include scope for walking or cycling. There is also a good level of provision of public transport, with bus stops and a rail station nearby.
10. Furthermore, there is no substantiated evidence before me to indicate that the existing infrastructure and services and facilities, including schools and doctor surgeries, would not be able to cope with the proposed additional development. This would be subject to various mitigating provisions that could be secured through Planning Obligations which I consider further under the heading of conditions and planning obligation below. It is also despite Hassocks already having contributed significantly to the provision of new housing, and taking account of committed, yet to be delivered, new housing. The minimum local housing requirement does not preclude additional provision, regardless of the 5 year HLS position.
11. The proposal would therefore be sustainably located having regard to the accessibility to local facilities, services, employment and public transport in the context of Hassock's position in the settlement hierarchy. In this respect I agree with my colleague from the previous appeal on the site in finding that Hassocks is amongst the District's most sustainable locations, with no compelling reason why it should not be able to accommodate some more housing. I therefore consider that the other criteria of policy DP6, relating to these issues, would be met.
12. The fact that the site is not allocated for housing development in the adopted development plan, and would be within the countryside, would also cause the proposal to conflict with policy DP12 of the MSDP which seeks to protect the countryside in recognition of its intrinsic character and beauty, and with policy DP15 which restricts new homes in the countryside.
13. The site is designated in the emerging Hassocks Neighbourhood Plan (HNP) as a Local Gap (LG) and Local Green Space (LGS). However, the robustness of the evidence relating to those proposed designations, together with outstanding objections from both the Council and appellant relating to them, including in respect of the proposed LGS not meeting the tests set out in the Framework and Planning Practice Guidance (PPG), remains to be Examined. Due to the emerging HNP only being at that stage, and given those outstanding objections, the weight that I can afford it is limited.
14. In terms of the general landscape character, the proposal would inevitably replace existing open countryside on the site. However, there would be a good degree of separation between the proposed houses and London Road together with an intervening retained mature tree belt. From the east, the site would be screened by the railway embankment and mature woodland on it and either side of it. From more distant raised vantage points closer to Burgess Hill and



the hills to the south the proposal would be seen in the context of the existing built up area, still distinctly surrounded by open countryside. It would therefore be reasonably well integrated within the context of the wider landscape.

15. The proposed development would be clearly visible from the existing public footpath running along the southern end of the site, and to a slightly lesser extent from the green space west of the nearest houses to the south albeit softened by intervening boundary trees. However, the path and green space are already experienced in the context of adjacent dwellings, albeit only on their southern and eastern sides respectively and the former having intervening enclosed rear gardens with varying amounts of boundary vegetation. A significant section of the path and that green space would also be separated from the proposed dwellings by an area of Country Open Space (COS), thereby maintaining a good degree of openness.
16. The substantial northern area of proposed COS would also open up an existing overgrown field for public access within a highly open countryside fringe location, linked to the existing settlement to the south by other COS. There would therefore remain a good or even improved level of access to open space on the edge of the settlement, including adjacent to open countryside to the north. As such, this would be likely to maintain good levels of walkers' experience of the local landscape and countryside. Existing individual mature trees and green corridors are also illustrated to be retained within the proposed more developed part of the site. I acknowledge that the emerging HNP seeks to designate most of the site as LGS. However, for the above reasons and given that the HNP attracts limited weight only, there would be insufficient basis to consider the proposal unacceptable in terms of its immediate visual effect and in terms of how the local landscape and countryside would be experienced.
17. Part of the southern end of the proposed development would be clearly visible from London Road via the site access. The initial stretch of the access road would also be at a level higher than that part of the site. However, it would be no higher than London Road to which it would connect, such that it would not be a dominating feature of that road-scape, particularly on the approaches with the existing trees retained either side providing screening. Uninterrupted sight of the proposed development generally via that access point would also be restricted to limited vantage points very close to or opposite it due to that retained mature tree and other vegetation screening either side.
18. The proposed houses would also be likely to be glimpsed from the public footpath to the west of the site on the opposite side of London Road. However, those trees either side of the access alongside London Road, even in winter when the trees are not in leaf, would otherwise be likely to provide a significant screening or softening effect. Together with the significant degree to which the proposed houses would be set away from the road, the predominant verdant character on that side of London Road would therefore be largely retained. The development's visual impact in these respects would therefore be limited and localised.
19. I have also had regard to whether the proposal would cause coalescence by extending the main built up area of Hassocks to the north towards Burgess Hill. In this respect, I have taken account of the extant planning permission for new





housing on land comprising a former golf course on the opposite side of London Road, and the allocation for development in the MSDP, including for a large amount of housing, of a substantial site north of Clayton Mills on the other side of the railway from the site. Whilst there is no planning permission in place for the latter, I have afforded significant weight to its allocation for housing.

20. In that context, the proposal would not significantly extend the settlement as a whole nearer to Burgess Hill, albeit that it would be noticeably separated from those sites either side by open space, trees and the road to the west and the railway embankment and woods to the east. Furthermore, there would remain a substantial area of intervening open fields to the north between the site and Burgess Hill. There would also be a buffer provided by the COS between the developed part of the site and open countryside. My colleague in respect of the previous appeal for the site came to similar conclusions in this respect despite the site's allocation at that time as part of a Strategic Gap, finding that it would not significantly conflict with the relevant policy's main aims with regard to coalescence and preserving settlement identity.
21. For the above reasons, the proposal would be in conflict with policies DP6, DP12 and DP15 of the MSDP. Furthermore, it would inevitably have an urbanising effect and thereby cause some harm in terms of the intrinsic character and beauty of the countryside. However, and whilst taking that into account, the mitigating factors that I have identified cause me to find that the harm caused to the landscape character of the site and surrounding area would be limited. This is consistent with my colleague's report to the Secretary of State concerning the previous appeal on the site where he found that there would be some minor harm to the landscape in respect of the defined Strategic Gap at that time. I have also found that the proposed development would be sustainably located in terms of accessibility and in the context of Hassock's position in the settlement hierarchy. I will consider these factors and the policy conflicts further in the planning balance below.

#### *Other matters*

22. I acknowledge the investment of time and thought by local people that has gone into the emerging HNP and that to grant planning permission for development on a site excluded for such in that document could undermine public confidence in neighbourhood planning. However, the weight that I can afford such an exclusion is limited by the stage at which the emerging HNP is at, not having yet been examined and with outstanding objections, as referred to previously.
23. The proposed pedestrian rail crossing would replace an existing surface level, uncontrolled crossing. I acknowledge the Council's position that it would want the crossing to comprise a tunnel rather than a footbridge, in terms of accessibility. However, either a footbridge or tunnel would provide a safe crossing, albeit that the latter would facilitate the greater accessibility associated with being level. Provision for a safe rail crossing would also address the concerns of my colleague relating to that previous appeal for housing on the site. Furthermore, in terms of accessibility, were a footbridge built, there would remain the existing surface level tunnel a fairly short distance away via Shepherds Walk, albeit not so convenient for direct access to the land opposite the railway to the east of the site compared to the existing crossing proposed to be replaced.



24. It appears, from the evidence before me, that a new safe rail crossing could be considered separately under the provisions for permitted development. Notwithstanding that, I have considered the visual effects of such proposals in the context of their direct association with the appeal proposal. In this respect, it would be inevitable that some trees would have to be removed to enable construction, albeit to varying degrees depending on the option taken. However, I have no substantive basis to consider that this would be to such an extent as to cause significant harm to the existing dense and verdant nature of the woodland generally, on either side of the railway. Furthermore, whilst the designs have not been submitted, based on the submissions relating to necessary specifications for such facilities, the height and density of the trees either side of the railway would be likely to largely screen either a tunnel or a footbridge from surrounding vantage points. For these reasons, I consider that provision for a safe crossing would not cause unacceptable harm to the character and appearance of the area.
25. I have had regard to concerns raised about worsening air pollution due to emissions from the additional traffic generated by the proposal. In particular this is in light of there being an Air Quality Management Area at the Stonepound crossroads to the south of the site. However, the evidence demonstrates that the proposal would have low or imperceptible additional impact in this respect, which in any case could be mitigated through a condition to secure the submission and implementation of an Air Quality Mitigation Scheme.
26. I have also had regard to any effects of vehicle emissions on the Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA). In this respect I note that in relation to that previous very similar appeal scheme on the site, also for up to 130 dwellings, it was screened as having no likely significant effect on the SAC and SPA, thereby not requiring an Appropriate Assessment to be carried out under the Habitats Regulations. During the current appeal process I have not heard or seen anything to suggest that the circumstances have significantly changed in that fairly short intervening period and so have no basis to consider any differently in this case. I also note that the Council has found, following a screening exercise, that the proposal would have no likely significant effect.
27. The appellant has undertaken ecological survey work in relation to bats, reptiles and great crested newts. None of the latter were recorded as being present on the site. With regard to bats, generally only low levels of activity were recorded. Furthermore, most existing trees and hedges on the site would be retained with buffer areas separating them from the houses. Any new tree planting and the creation of the proposed attenuation ponds would add further navigational and foraging opportunities, and lighting on the site could be controlled by a condition.
28. With regard to reptiles, a low population of slow worms was recorded along the field margins. In this respect, where habitat would be lost, relocation methods could be utilised which could be secured by condition, along with measures to create new habitat. Ecological management measures, both during construction and thereafter could also be secured by condition. Furthermore, the Council's ecological consultant considers there to be no biodiversity policy reasons for refusal subject to more thorough assessment at the reserved



matters stage and mitigation measures secured through condition. I have no substantive basis to consider differently.

29. I have had regard to concerns about flooding and note that the submitted illustrative site layout demonstrates how the proposed dwellings could be located outside of flood zones 2 and 3 which are on the western side of the site. The majority of the site lies within flood zone 1 where there would be a low probability of flooding.
30. The proposed access road would cross flood zones 2 and 3 such that, if considering the site as a whole, a sequential test to identify whether there are any alternative sites available that have a lower risk of flooding, and possibly an exceptions test, would need to be conducted. However, I note that my colleague in relation to the previous appeal decision on the site highlighted that it would be an acceptable approach to consider the development in its component parts such that, because all of the dwellings would be within flood zone 1, a sequential test would not be required to be undertaken. He also highlighted that were any sequentially preferential sites available they would already have come to light. The Secretary of State agreed with him that the proposed development could be carried out without giving rise to unacceptable flood risks, either on or off-site. I have no substantive basis to consider differently.
31. I also note that neither the Environment Agency nor the Council's drainage engineer raise objections on flooding grounds, taking account of the appellant's submitted Flood Risk Assessment. This includes in relation to the matter of the proposed access road being within flood zones 2 and 3. I agree that an appropriate condition could ensure mitigation measures are implemented via a detailed Flood Risk Management Scheme.
32. Despite the fairly good accessibility of the site by means other than the car, it is highly likely that there would still be significant car use. In considering the effect of the proposal on traffic flows in the vicinity, I have had particular regard to concerns raised about congestion problems on the approach to the Stonepound crossroads. However, commitments are in place for measures to improve that junction as part of the development of the former golf course on the opposite side of London Road which is now under construction. The submitted Transport Assessment demonstrates that those measures would be sufficient to adequately accommodate the appeal development's traffic also, along with that of other committed developments in the area and background growth.
33. Furthermore, the Council agrees within the submitted Statement of Common Ground that the traffic generated by the proposed development can be accommodated within the local highway network and that there will be no unacceptable impact on highway safety and no severe residual cumulative impact on the road network. From the evidence before me, I have no substantive basis to consider otherwise. The Highway Authority is also satisfied with the proposals for the site access design in respect of highway safety and again I have found there to be no basis to consider otherwise.
34. In respect of any potential pollution of the Herring Stream, measures to secure appropriate surface water and foul drainage for the site could be secured by condition. Furthermore, controls on construction related activities could be secured through a condition requiring adherence to a Construction



Management Plan. I consider that such provisions would prevent the likelihood of pollution of the stream.

35. In respect of concerns raised about the precedent that might be set for other development elsewhere, any other such proposals would be determined on their own merits as I have done in this case.

*Conditions and planning obligation*

36. The submitted Statement of Common Ground between the Council and appellant sets out 23 suggested conditions considered to be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the PPG and amended some of the wording. I have referred to the condition numbers, cross referenced to the attached annex, in brackets for clarity purposes. There are also several pre-commencement conditions which are deemed necessary and which have been agreed by the appellant.
37. The standard condition to ensure the submission of details relating to the reserved matters, and appropriate timescales for this and the subsequent commencement of development, would be necessary (1). In this respect it was agreed by the Council and appellant at the Inquiry that application for approval of reserved matters shall be made before the expiration of 2 years rather than 3. This would be necessary in order to accelerate housing delivery, in the interests of boosting the supply of homes. For certainty, a condition requiring the development to be carried out in accordance with the approved plans (2) would also be necessary.
38. A condition would be necessary to secure the details and implementation of a safe pedestrian railway crossing in the interests of pedestrian safety (3) given the likely significant increase in pedestrians wishing to cross as a result of the proposed development. It would relate to land outside of the appeal site, owned by Network Rail. I have not received detailed designs for such a crossing or details relating to financial costs and feasibility. However, it is evident from the submissions that Network Rail would support such a scheme whether in the form of a footbridge or tunnel. Furthermore, a Basic Services Agreement has been entered into with Network Rail relating to assessment, feasibility, costing, detailed design and securing the necessary planning approval. I also note that pre-application discussions have taken place recently between the Council, the developers concerned and Network Rail indicating continued progression.
39. Additionally, I have received no substantive evidence to indicate that either a footbridge or tunnel would be unfeasible from a practical construction perspective. I have also previously found that they would not cause unacceptable harm to the character and appearance of the area.
40. For these reasons, I consider that it would be reasonable to apply such a condition which, notwithstanding the description of development, could allow for either a footbridge or tunnel. This is on the basis that there is nothing to indicate that there would be no prospect at all of a safe crossing being provided within the timescales of any planning permission relating to the proposed development.
41. Due to the archaeological significance of the site, a condition would be necessary to secure the implementation of a programme of archaeological work





- (4). To ensure the protection of protected species and in the interests of the biodiversity of site, a condition would be necessary to secure the approval and implementation of a scheme of ecological mitigation, including measures to control lighting on the site in respect of bats as referred to previously (5). To prevent flooding of the site, a condition would be necessary to secure the submission and implementation of a flood risk management scheme (6).
42. In the interests of highway safety, conditions would be necessary to secure the implementation of the proposed site access (7) and the estate roads, footways, turning areas and parking spaces (8); and the submission and implementation of a Construction Management Plan (CMP) (23), also in the interests of protecting the living conditions of local residents. In order to promote sustainable transport use, conditions would be necessary to ensure that the Residential Travel Plan comes into effect and is implemented (9) and to secure a footpath link to Shepherds Walk (10). A condition to ensure that the development makes enough provision for accessibility and adaptability housing would also be necessary (22).
43. A condition to secure the submission and implementation of an updated Sustainability Statement would be necessary to ensure the environmental sustainability of the proposal (21). In order to ensure adequate provision for public open space and other areas of open space and play areas on the site, conditions (11 and 18) would be necessary to secure details and implementation of these. Conditions would also be necessary to secure adequate surface water and foul drainage of the site (12 and 13 respectively).
44. So as to protect the living conditions of local residents, as well as that referred to above relating to a CMP, conditions would be necessary to secure the submission and implementation of an Air Quality Mitigation Scheme (14); and restrictions on the hours of construction or demolition (19). A condition to secure noise mitigation relating to passing trains and traffic would also be necessary to ensure adequate living conditions for prospective residents (15).
45. In the interests of the character and appearance of the site and surrounding area, conditions would be necessary to secure a timetable for implementing landscaping and to ensure its establishment (16); and the retention and protection of existing trees and hedgerows unless otherwise specifically approved for removal at the reserved matters stage (17).
46. To ensure improved digital connectivity and the provision of high-speed broadband and 4G to the development, having regard to policy DP23 of the MSDP, a condition would be necessary to secure appropriate ducting to premises infrastructure to enable this (20).
47. A Planning Obligation has been submitted making provision for the following:
- 30% affordable housing, amounting to 39 units, in accordance with policy DP31 of the MSDP.
  - Appropriate payments towards community buildings, formal sport, health, police, local community infrastructure, primary and secondary education and library, in accordance with policy DP20 of the MSDP concerning the securing of infrastructure. These would be necessary in the interests of mitigating for the likely additional demands on such



infrastructure from prospective residents and as provision for the relevant facilities would not be provided on the site.

- Highway works on London Road, necessary in the interests of highway safety.

48. The Council has confirmed that the Obligation would address its second reason for refusal relating to the failure to provide infrastructure contributions necessary to serve the development and the required affordable housing. The Council and West Sussex County Council have also submitted Statements of Compliance with the Community Infrastructure Levy Regulations 2010 (CIL Regulations). Based on that evidence, and relevant development plan policies, I am satisfied that the provisions would meet the tests set out in paragraph 56 of the Framework and Regulation 122(2) of the CIL Regulations.

#### *Planning balance*

49. The provision of a new pedestrian crossing of the railway, even if this were to be a footbridge as opposed to a more accessible tunnel, would provide a safe replacement of the existing uncontrolled surface level facility. Despite a footbridge not being the optimum solution in terms of accessibility, it would address my colleague's concerns in relation to that previous appeal and I have had regard to the presence of the existing tunnel a fairly short distance away via Shepherds Walk as offering a reasonable, level alternative. Furthermore, I have found that it would be reasonable to secure such a crossing by condition, which would enable either a footbridge or a tunnel to be provided. Provision of a safe crossing, even if a footbridge, would also amount to a significant benefit to existing users of the rail crossing in terms of safety. Although it could be provided solely in relation to development on the Clayton Mills site, some weight can still be afforded to such provision in respect of this appeal, particularly whilst it currently remains the case that that neighbouring proposal is yet to receive planning permission.

50. Regardless of the Council's position relating to 5 year HLS, the proposal would have the benefit of supporting the Government's objective of significantly boosting the supply of homes, including locally needed affordable housing, to which I have afforded significant weight. There would be the added economic benefits relating to the provision of construction jobs and the support to the local economy through money spent by prospective residents. Additionally, the proposal would provide a significant area of new public open space which, although serving prospective residents of the appeal scheme, would also be available and therefore of benefit to the wider community.

51. I have found that the proposal would conflict with policies DP6, DP12 and DP15 of the MSDP due to the location outside of the settlement boundary. It would also conflict with the emerging HNP in terms of its proposed designation of the appeal site as a LG and LGS, although I have afforded only limited weight to that document for the reasons outlined above.

52. However, I have also found that the proposed development would be sustainably located in terms of accessibility and in the context of Hassock's position in the settlement hierarchy as identified in the development plan. Furthermore, harm to the landscape character of the site and surrounding area would be limited. The combined benefits referred to above, and taking account of the significant weight I have afforded to the fallback position relating to the



extant planning permission for the similar proposed development mentioned previously, would therefore outweigh that limited harm and the policy conflicts also referred to above.

**Conclusion**

53. For the above reasons, I conclude that the appeal should be allowed.

*Andrew Dawe*

INSPECTOR



## **ANNEX – 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 the 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 shall be begun before the expiration of 1 year from the date of approval of the last of the reserved matters.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 10552-OA-01 Rev D; 10552-OA-02 Rev A; 10552-OA-03 Rev A; 10552-OA-10; JNY8994-05.
3. No development other than works to construct the road bridge over the Herring Stream shall take place until a safe crossing of the railway line has been constructed and is available for use by the public. Prior to any works taking place on the crossing, details of its design and construction shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
4. 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.
5. 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) the relocation of reptiles from within the site
  - (ii) other ecological management measures during construction
  - (iii) a lighting strategy to minimise light pollution to wildlife
  - (iv) new habitat creation and enhancement
  - (v) a Landscape and Environmental Management PlanThe ecological mitigation scheme shall thereafter be implemented in accordance with the approved details.
6. 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.

7. 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.
8. 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.
9. 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.
10. 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.
11. 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 rev A, 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, cycle ways and boundary treatments within the open space areas. 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.
12. 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.
13. 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.

14. 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, 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.
15. 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.
16. 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.
17. 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 becomes 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.



18.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.

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.

20.No dwelling hereby permitted shall be occupied until details, including a timetable for implementation, of ducting to premises infrastructure, to facilitate connection to high speed broadband and 4G, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

21.The development hereby permitted shall not be occupied until an updated Sustainability Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

22.A minimum of 20 percent of the dwellings hereby permitted shall be built to meet national standards for accessibility and adaptability (Category M4(2) of the Building Regulations). These shall be identified in any subsequent reserved matters submissions and be fully implemented prior to completion of the development and thereafter be so maintained and retained. No dwelling shall be occupied until a verification report confirming compliance with Category M4(2) has been submitted to and approved in writing by the Local Planning Authority, unless an exception is otherwise agreed in writing by the Local Planning Authority.

23.No development shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CMP shall be implemented and adhered to throughout the construction period. The CMP shall provide and give details for:

- a timetable for the commencement, construction, occupation and completion of the development;
- the anticipated number, frequency and types of vehicles used during construction;
- the method of access and routing of vehicles during construction and directional signage for the purposes of such;
- the siting and layout of site compounds and welfare facilities for construction workers;
- the provision of parking of vehicles by site operatives and visitors;
- the provision for the loading and unloading of plant, materials and removal of waste;



- the provision for the storage of plant and materials used in construction of the development;
- the design, erection and maintenance of security hoardings and other measures related to site health and safety;
- the provision of wheel washing facilities and other works required to mitigate the impact of construction traffic upon the public highway, including the provision of temporary Traffic Regulation Orders;
- a scheme to protect existing neighbouring properties from dust and noise emissions;
- a noise management plan, to include consideration of vibration from construction work including the compacting of ground;
- measures to deal with surface water run-off from the site during construction;
- a scheme for community liaison and public engagement during construction, including the provision of information to occupiers moving onto the site before the development is complete;
- contact details of site operations manager, contracts manager and any other relevant personnel.





## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Paul Brown QC of Counsel

Instructed by Tom Clark, Solicitor to Council

He called:

Christopher Tunnell

Director of Planning and Planning Group Leader at Arup

### FOR THE APPELLANT:

Christopher Boyle QC of Counsel

Instructed by Nicola Mans, Solicitor at Rydon Homes

He called:

Daniel Leaver

Associate Director at RSK Environment Ltd

Christopher Hough

Sigma Planning Services

### INTERESTED PERSONS:

Robert Brewer

Representing Friars Oak Fields Residents Association (FOFRA)

Benedict Dempsey

District Councillor, Hassocks

Dale Mayhew

On behalf of Hassocks Parish Council

Bill Hatton

Chair of Parish Council Neighbourhood Plan working group and local Councillor

### INQUIRY DOCUMENTS:

1. Appeal decision Ref APP/J2210/W/18/3216104 - submitted by appellant.
2. Affordable Housing Delivery in Mid Sussex (table produced by Lichfields) - submitted by appellant.
3. Briefing note on the provision of a new, safe replacement for Woodside level crossing over the railway – submitted by appellant.
4. Further evidence provided by Lichfields relating to 5 year housing land supply, including Matthew Spry position following the Christopher Tunnell Rebuttal of 30/08/19.
5. Written submission by Robert Brewer in support of verbal presentation of evidence on behalf of FOFRA.



6. Interested Party Statement – Addendum, prepared by Dale Mayhew for Hassocks Parish Council.
7. Closing submissions for the Council.
8. Closing submissions on behalf of the appellant.

