

BATTLE - NETHERFIELD

IDENTIFIED SITES (Existing allocations and sites with planning permission⁵. Sites are assumed to be suitable, available and achievable for development, unless otherwise stated)

| Site ID | Site Address | Site size (hectares) | Summary of Environmental Constraints | Site Identification | Site Assessment | Development Potential | Anticipated Timescale for Development |
|---------|---------------------------------------|----------------------|---|---------------------|---|-----------------------|---------------------------------------|
| BAT0088 | Swallow Barn, Netherfield | 0.43 | The site is within the High Weald National Landscape. Within a Minerals Consultation Area. | Allocated site | The site is allocated for residential development (10 dwellings) in the Battle Neighbourhood Plan. The interim HRA for the new Local Plan has identified that because the site is within the Pevensey Levels Hydrological Catchment Area, mitigation measures to protect against significant effects to the Habitats Site may be required. | 10 dwellings | Within 5-10 years |
| BAT0108 | White House Poultry Farm, Netherfield | 0.98 | The site is within the High Weald National Landscape. Adjacent to protected trees as well as the Pevensey Levels Hydrological Catchment. Two Listed Buildings adjacent to the site. Most of the site is within a Minerals Consultation Area. A Public Right of Way is in close proximity. | Allocated site | The site is allocated in the Battle Neighbourhood Plan for 23 dwellings. It is also subject to a current planning application for 28 dwellings (RR/2023/164/P). The interim HRA for the new Local Plan has identified that because the site is directly adjacent to the Pevensey Levels Hydrological Catchment Area, mitigation measures to protect against significant effects to the Habitats Site may be required. | 23 dwellings | Within 5-10 years |

REJECTED SITES (Sites assessed as Currently Unsuitable/ Unavailable/ Unachievable)

| Site ID | Site Address | Site size (hectares) | Summary of Environmental Constraints | Site Identification | Site Assessment | Availability |
|---------|--|----------------------|---|----------------------|--|--------------|
| BAT0001 | Land east of Darvel Down (Site A), Netherfield | 5.48 | The site is in the High Weald National Landscape. Adjacent to Ancient Woodland. Contains Deciduous Woodland Priority Habitat. Parts of the site at risk from Surface Water Flooding. Within a Minerals Consultation Area. | Planning application | The site comprises a section of open field and a wooded area to the east of residential development at Netherfield. It is a large site, and its development would represent a significant extension to Netherfield. It is sensitive in landscape terms, occupying a highly exposed, ridgetop position. Development would appear prominent and have an urbanising impact, harming the landscape and character of the High Weald National Landscape, an AONB, and the rural setting of Netherfield. Additional constraints include the impact on trees within the site and adjoining ancient woodland, and potential access difficulties, the site being located adjacent to a narrow road with no footways or accessed via a residential cul-de-sac. The site has been subject to two recent dismissed appeals for residential development. | Unknown |

⁵ Or a resolution to grant planning permission subject to the completion of a Section 106 legal agreement.

GENERAL NOTES

ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO COMMENCEMENT OF WORKS - PLEASE REPORT ERRORS OR OMISSIONS TO THE ARCHITECT.

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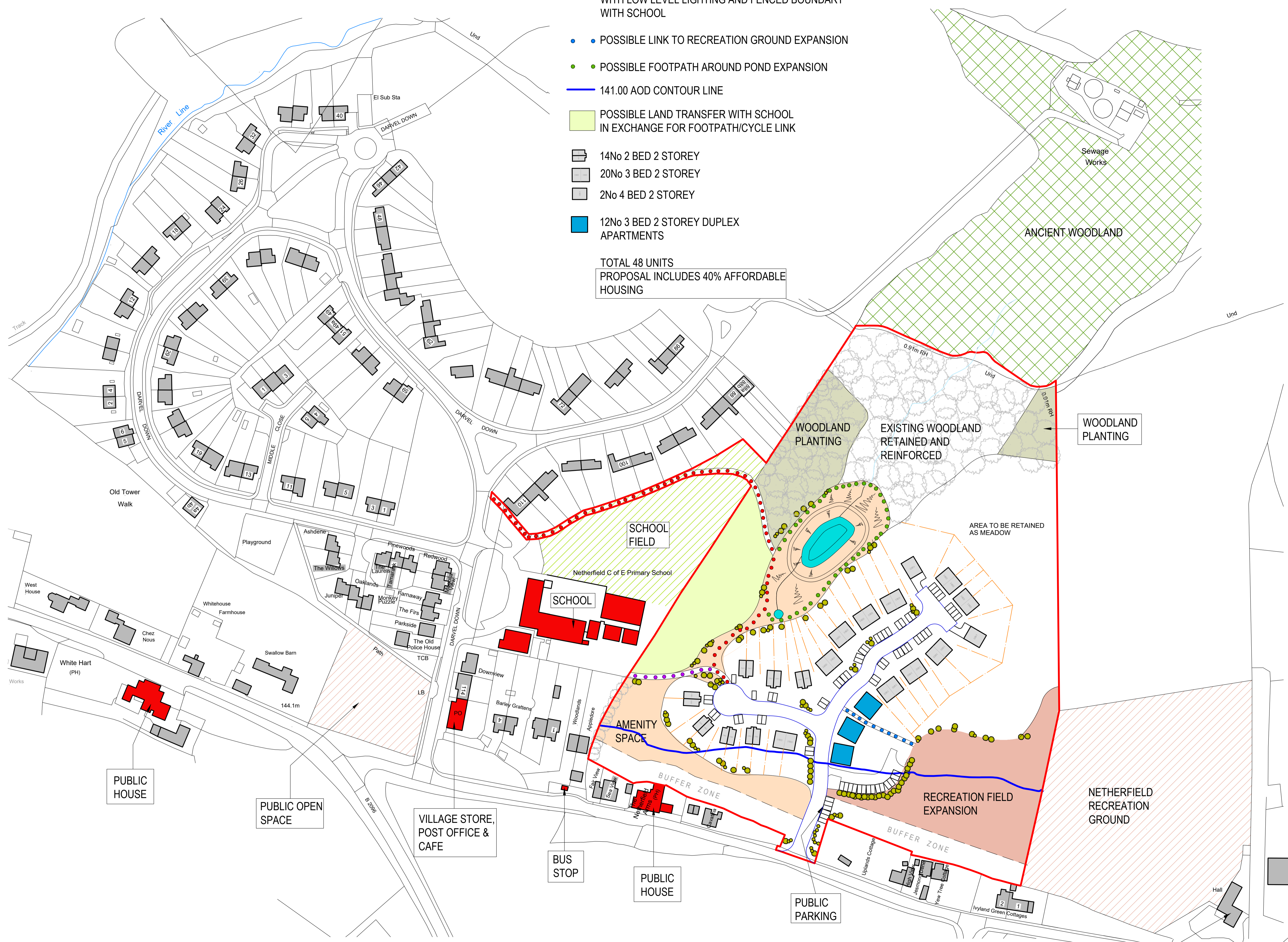
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- LEGEND;**
- POTENTIAL FOOTPATH LINK TO SCHOOL
 - POSSIBLE FOOTPATH/CYCLE LINK TO DARVEL DOWN WITH LOW LEVEL LIGHTING AND FENCED BOUNDARY WITH SCHOOL
 - POSSIBLE LINK TO RECREATION GROUND EXPANSION
 - POSSIBLE FOOTPATH AROUND POND EXPANSION

- 141.00 AOD CONTOUR LINE
- POSSIBLE LAND TRANSFER WITH SCHOOL IN EXCHANGE FOR FOOTPATH/CYCLE LINK
- 14No 2 BED 2 STOREY
- 20No 3 BED 2 STOREY
- 2No 4 BED 2 STOREY
- 12No 3 BED 2 STOREY DUPLEX APARTMENTS

TOTAL 48 UNITS
 PROPOSAL INCLUDES 40% AFFORDABLE HOUSING



PumpHouse
 DESIGNS

Architectural Consultants
 Pump House Yard
 The Green
 Sedlescombe
 East Sussex
 TN33 0QA

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| | | | |
|---|---|----|---------|
| G | ATTENUATION POND AMENDED TO SUIT ENGINEERS DESIGN | MG | SEP 16 |
| F | RED LINE AMENDED TO ACCESS ON NETHERFIELD ROAD | MG | SEP 16 |
| E | Plan has amended to include proposed footpath link to Darvel Down | MG | AUG 16 |
| D | UPDATED | MG | JUL 16 |
| C | UPDATED | MG | JUN 16 |
| B | UPDATED | MG | DEC 14 |
| A | CLIENT AMENDMENTS | SL | SEPT 13 |

**LAND AT NETHERFIELD ROAD
 NETHERFIELD
 EAST SUSSEX
 for The Park Lane Group**

PRELIMINARY SCHEME FOR PROPOSED DEVELOPMENT

DRAWN BY - S LAWRENCE
 DATE - JULY 2013
 SCALE - 1:1000 @ A1

DRAWING No. 4376 / 1 / G

FOR ILLUSTRATIVE PURPOSES ONLY



- Site boundary
- Proposed houses
- Proposed Apartments
- Cycle/pedestrian link through site
- Pedestrian link through site
- Circular ecological exploration trail
- Long distance views over AONB
- Proposed attenuation pond with wetland habitats
- Proposed woodland extension
- Possible extension to school playing fields
- Proposed trees
- Buffer to existing development

- 1** Grass verges and hedgerows to either side of main vehicular access to site
- 2** Site Gateway with strongly vegetated character
- 3** Series of naturalistic play spaces
- 4** Linear tree and hedgerow planting
- 5** Scenic viewing area with seating and AONB interpretation board.
- 6** Possible outdoor classroom
- 7** Additional tree planting to reduce visual effects on views from the east
- 8** Hedgerow reinstated and clipped at a low-medium height to retain views over AONB
- 9** Designed gap in proposed hedgerow to retain views over AONB
- 10** Informal meadow land

PROJECT TITLE
NETHERFIELD ROAD, EAST SUSSEX
DRAWING TITLE
ILLUSTRATIVE MASTERPLAN

ISSUED BY London T: 020 7016 0720
DATE 24.07.2017 **DRAWN** NK
SCALE@A3 1:2000 **CHECKED** JP
STATUS Final **APPROVED** CM

DWG. NO. J0006924_003_REV4

| ILLUSTRATIVE HOUSING MIX | | |
|--------------------------|-------------|-----------|
| House size | % | No |
| 1&2-bed apartment | 25% | 12 |
| 2-bed house | 29% | 14 |
| 3-bed house | 42% | 20 |
| 4-bed house | 4% | 2 |
| Total | 100% | 48 |
| Market | 60% | 29 |
| Affordable | 40% | 19 |





Appeal Decisions

Hearing held on 5 & 6 June 2018

Site visit made on 5 & 6 June 2018

by Louise Phillips MA (Cantab) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2018

Appeal A Ref: APP/U1430/W/17/3177298

Land east of Darvel Down and north of Netherfield Road, Netherfield, Battle TN33 9QB

- 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 Park Lane Homes (South East) Limited against the decision of Rother District Council.
 - The application Ref RR/2016/2722/P, dated 18 October 2016, was refused by notice dated 9 February 2017.
 - The development proposed is residential development including parking, access and open space.
-

Appeal B Ref: APP/U1430/W/17/3188117

Land east of Darvel Down and north of Netherfield Road, Netherfield, Battle TN33 9QB

- 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 Park Lane Homes (South East) Limited against the decision of Rother District Council.
 - The application Ref RR/2017/1146/P, dated 14 May 2017, was refused by notice dated 21 August 2017.
 - The development proposed is residential development including parking, access and open space.
-

Decisions

1. Both Appeal A and Appeal B are dismissed.

Preliminary Matters

2. Both applications were made in outline with all matters reserved except for access. The proposed access arrangements are the same for both schemes, as shown on Drawing No 2016/3287/001 Rev B.
3. The schemes are accompanied by illustrative masterplans, with that submitted with Appeal B (J0006924_003_REV4) seeking to respond to some of the Council's concerns in respect of the Appeal A version (4376/1/G). Both masterplans include 48 dwellings, but they represent different responses to the characteristics of the site and its relationship to the surrounding development. Therefore, notwithstanding their illustrative purpose, my decision is informed by both the quantum of development sought through the masterplans; and by

the separate attempts made to demonstrate that this could be satisfactorily accommodated.

4. Some of the documentation submitted in support of the Appeal A scheme has been updated for the Appeal B scheme, and some additional evidence has been prepared. However, given the outline nature of the proposals, the issues raised by the appeals are very similar and so I have dealt with them in one decision.

Main Issues

5. The main issues are:
 - i. Whether the proposed development would be well-related to the existing village in respect of form and function;
 - ii. The effect of the proposed development upon the character and natural beauty of the High Weald Area of Outstanding Natural Beauty (AONB); and
 - iii. Whether the proposed development would be justified in this location, having regard to Main Issues i & ii; to policies concerning housing development in the countryside; and to other considerations including, in particular, the current shortfall in the Council's housing land supply.

Reasons

Main Issue 1: Relationship to the Existing Village

6. Netherfield Village is comprised of older houses and a couple of other uses strung out in a linear fashion along Netherfield Road, and the relatively large Darvel Down estate which was built in the 1950s to accommodate workers of a nearby gypsum factory. Darvel Down is essentially a cul-de-sac development with multiple spurs, which has one junction in and out on the north side of Netherfield Road. The estate includes a primary school, a shop and café, and an outdoor play area. There is a recreation ground and village hall to the east of Darvel Down along Netherfield Road, which mark the end of the main village area.
7. The development boundary for Netherfield is defined by Policy DS3 of the Rother District Local Plan, 2006 (Local Plan). It is drawn tightly around the Darvel Down estate and its purpose is to differentiate between areas where development would be acceptable in principle and where it would not. The appeal site lies outside but adjacent to the development boundary. It is an open field between and abutting Darvel Down to the west and the recreation ground to the east. The southern boundary is with the properties along Netherfield Road, except for where the vehicular access is proposed to be created; and the northern boundary is with dense woodland, which extends into the north-west corner of the site. The site therefore adjoins important existing components of the village on three sides and is well-contained to the fourth.
8. However, the boundary with Darvel Down is marked by a mature hedgerow/tree belt which the parties agree should be maintained for the contribution it makes to the character of the area and to biodiversity. The hedgerow is, at present, both visually and physically impenetrable and, on both

- sides, it looks and feels like a significant barrier between the estate and the open land beyond. This effect would be difficult to overcome through a landscaping scheme given its position on the boundary of the site.
9. The site has no road frontage apart from the actual point of access and, within the constraints of the highway, it would not be possible to provide a pavement from the site to Darvel Down along the northern edge of Netherfield Road. Whilst some sections of pavement could potentially be constructed along the southern edge, these could not be continuous and so no direct pedestrian route from the proposed development to Darvel Down could be achieved along the road.
 10. The parties agree that it would be essential for a separate pedestrian access to be provided between the existing and new development, and, in light of the narrowness of the carriageway and the absence of verges, this would be necessary for highway safety. Therefore, the masterplans for both Appeal A and Appeal B include a "pupil only" footpath from the site into the school grounds; and a combined pedestrian footway and cycle path running from Darvel Down, into the appeal site by the woodland, and terminating at the eastern boundary of the site with the recreation ground.
 11. In both schemes, the pupil only footpath is shown as a short, straight link between the internal access road serving the proposed new houses and the school playground. It would be a most convenient route for children to get to and from school and thus it would represent a strong functional connection between the existing and proposed development for this specific purpose. However, this footpath would not permit access through the school grounds to the other facilities on Darvel Down and it would be closed outside of school drop-off and pick-up times. Therefore new residents wishing to cross into Darvel Down more generally would need to use the combined foot/cycle path.
 12. The masterplans demonstrate that there would be flexibility over the route and form of the combined path within the site itself, but the western-most section from Darvel Down, through the school field and into the site would be fixed according to land ownership and land use constraints. Skirting along the edge of the school playing field, the path would feel removed from the limited services provided in Netherfield which are all to the south, close to the junction with Netherfield Road. The point of entry to the appeal site itself would also be detached from the housing and access roads shown on the masterplans and, given the location of the woodland and drainage pond within the site, this could not easily be rectified through a different layout.
 13. Whilst the path could be constructed to the highway authority's adoptable standards, users would experience noticeable changes in gradient along its length. It would also be enclosed between the existing fencing and planting along the boundary of the adjacent properties on Darvel Down; and the new, open mesh fencing proposed to separate it from the school. Access between the school grounds and the appeal site would be through a cutting in the mature boundary hedge/tree belt already described. Overall, notwithstanding that the path would be lit and that there would be some natural surveillance when the school was open, this key section would not provide a particularly direct or attractive route between the site and Darvel Down. As a result, residents of the new development would be more likely to try to walk along the road into Darvel Down, or to use their cars to go elsewhere.

14. I return to the potential benefits of the combined foot/cycle path for recreational purposes later. However, for the reasons above, despite the close proximity of the site to both the existing estate and the older ribbon development along Netherfield Road, the proposed development would remain self-contained and separate from them. Thus I conclude that it would not be well-related to the existing village in respect of either form or function. It would therefore conflict with Policy OSS2 of the Rother Local Plan Core Strategy, September 2014 (Core Strategy), which requires that where existing development boundaries around settlements are reviewed, regard will be had to the existing pattern, form and function of settlements.

Main Issue 2: The Effect on the AONB

15. The appeal site lies within the High Weald Area of Outstanding Natural Beauty (AONB). The AONB Management Plan 2014-2019 defines the natural beauty, character and special qualities of the AONB with reference to its dispersed historic settlement pattern; ancient routeways in the form of ridgetop roads and radiating droveways; an abundance of ancient woodland; wooded heaths and shaws; and small, irregularly shaped fields often bounded by, and forming a mosaic with, hedgerows and woodland. The East Sussex County Landscape Assessment 2016 also notes the intricate fabric of small irregular fields, abundant woods, hedges and ridgetop villages which characterise the AONB as a whole; while its specific assessment of the Darwell Valley character area within which the appeal site lies, highlights the significance of bold, heavily wooded ridges and a settlement pattern of small villages, hamlets and historic manor houses.
16. Netherfield Road is a ridgetop road with the land to the north and south falling away from it. Historic maps of the area indicate that most of the development along the road was built between 1858 – 1874, and that with the exception of Darvel Down, the form of the village remains largely the same today. The slopes to the north and south of the ridge are a patchwork of small, open fields and dense woodland precisely as described in the AONB Management Plan and County Landscape Assessment and so, in these fundamental respects, Netherfield is a typical village in the AONB.
17. The deep cul-de-sac arrangement of Darvel Down represents a clear departure from the historic linear form of development in the village. The density and uniformity of the dwellings and the presence of pavements, street lights and the like also affords it an essentially suburban character and appearance which contrasts markedly with that of the surrounding area. However, because the older development along Netherfield Road is well spaced to both the east and west and because the road itself resembles a typical rural lane, the rural character of the main routeway is largely preserved. Moreover, the mature hedgerow on the western boundary of the appeal site and the dense woodland to the north of Darvel Down provide substantial physical and visual containment of the estate relative to the wider landscape. Therefore, while Darvel Down is clearly a significant component of Netherfield Village, it does not define its character.
18. The proposed development on the appeal site would, in both schemes, have a similar suburban form to the Darvel Down estate albeit on a smaller scale. Notwithstanding the lie of the land, the roofs of the new houses would be likely to be seen between the roadside buildings and the perception of depth would

detract from the linear pattern of development along the ridge. The proposed landscaped buffer along the southern edge of the site would diminish the visual effect over time, but the trees would take many years to mature. In any case the development would remain visible through the access onto Netherfield Road which, on account of its width and the need to cut back adjacent hedges, would itself represent a suburbanising feature on the lane.

19. In respect of longer views, the parties agree that the main significant visual effects would be from the north-east. From the nearest public viewpoint at Mountfield Court, the existing development on the ridge at Netherfield can be clearly seen with the open pasture comprising the southernmost part of the appeal site behind it. In fact the view with the naked eye is much clearer than is suggested by either the appellant's photograph shown on drawing No 1165/10, or the Council's photograph in Appendix M of its Statement. The pastureland extends some distance from the ridge and it is one of just a few open areas breaking up the heavily wooded landscape in this view. Thus its contribution to the mosaic described in the AONB Management Plan is most significant.
20. Notwithstanding that the proposed new housing on the appeal site would sit below the buildings on the ridge and that it would, in time, be interspersed by trees and other landscaping, the depth of the development would detract from the linear form along the ridge. This would be even more apparent from Mountfield Court than it would be in Netherfield Road itself. The very presence of development, whether or not screened by trees, would also clearly negate the contribution of the site to the mosaic created by open fields, hedges and woodland. Whilst certain parts of the AONB might be characterised by wooded ridgetop settlements, this is not the case in this particular locality where the only residential development visible in addition to that along the ridge is a few relatively isolated large dwellings. Darvel Down is completely hidden as a result of its topography and relationship with the adjacent woodland.
21. For these reasons, I conclude that the proposed development in both Scheme A and Scheme B would be significantly harmful to the character and natural beauty of the AONB. This is notwithstanding that the affected views would be both few and relatively localised. The appeal schemes would therefore conflict with Policy EN1 of the Core Strategy, which seeks to protect the distinctive landscape character and settlement pattern of the AONB; and with Policy OSS2 which requires regard to be had to the conservation of designated landscapes when reviewing development boundaries. It would also conflict with Policies OSS3 and OSS4 of the Core Strategy, which require development to respect the distinctive character of particular areas; and with Policies RA1 and RA2, which respectively require development in rural villages to respond to their locally distinctive character and landscape, and development in the countryside to conserve its locally distinctive character and landscape features. In respect of the specific harm to the AONB, I give this great weight in my decision as required by paragraph 115 of the National Planning Policy Framework (the Framework).

Main Issue 3: Whether the Proposed Development would be justified by Other Relevant Considerations

22. The appeal site is located outside the development boundary of Netherfield in the countryside where housing is not normally permitted by the development

- plan. I have also found that the proposed development would not be well-related to the existing village and that it would cause significant harm to the character and natural beauty of the AONB. It would conflict with various policies in the development plan for both of these reasons.
23. However, the Council cannot demonstrate a five year supply of specific deliverable sites for housing as expected by paragraph 47 of the Framework and so the Council's policies for the supply of housing are out of date by virtue of paragraph 49. In this context, the appeals should be determined by reference to the fourth bullet point of paragraph 14 of the Framework, which explains that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (the first limb); or specific policies in the Framework indicate that development should be restricted (the second limb).
 24. AONB policy is an example of a specific policy in the Framework (in footnote 9) which could indicate that development should be restricted. Paragraph 115 of the Framework directs that great weight should be given to conserving landscape and scenic beauty in the AONB and, in this case, I have already found that the proposed development would cause significant harm to the character and natural beauty of the AONB. Consequently, in these particular appeals, paragraph 115 does constitute a specific policy in the Framework which indicates that development should be restricted. They therefore fall to be determined by reference to the second limb of the fourth bullet point of paragraph 14 rather than the first.
 25. Of course this does not mean either that planning permission should automatically be refused, or that the presumption in favour of sustainable development in paragraph 14 should inevitably be shut out. The appeals remain subject to the planning balance required by S38(6) of the Planning and Compulsory Purchase Act 2004: that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. I turn to such material considerations below.
 26. The Council's housing land supply amounts to a little over 3 years and so the shortfall against the 5 years expected by the Framework is substantial. Similarly, affordable housing delivery is presently significantly below the annual requirement. Therefore, having regard to the Framework's aim to "boost significantly the supply of housing", the provision of 48 dwellings on the appeal site, of which 40% would be affordable, would be a considerable benefit of either scheme.
 27. Moreover, Policy RA1 of the Core Strategy specifically provides for at least 1,670 dwellings to be delivered in the rural villages during the period 2011-2028, including approximately 48 on new sites in Netherfield (Figure 12). As the existing development boundary for Netherfield is drawn tightly around Darvel Down, the Council concedes that new housing sites are likely to be found outside it in the AONB. The preparation of the Battle Neighbourhood Plan, which is expected to allocate sites for housing here has stalled and, to date, the Council has issued a resolution to grant planning permission for just 25 dwellings on land which would be accessed from Darvel Down, subject to the completion of a satisfactory planning obligation. Therefore, while there has been some progress towards meeting the housing contribution estimated from

Netherfield, it is not at all certain that sufficient land will be found for the remainder in the near future.

28. In principle, these circumstances weigh against the conflict I have found with the development plan policies concerning the development boundary and the protection of the AONB. In practice, however, they neither alter the harm which would be caused, nor indicate that the appeal site is the one around which the development boundary of the settlement should ultimately be redrawn. Against the great weight which I must give to the significant harm to the AONB, they do not prevail. In reaching this conclusion, I accept that it might be difficult to find alternative sites for the full 48 dwellings expected in Netherfield, but Policy RA1 does not commit the Neighbourhood Plan to accommodating at least, or even exactly, this figure. Rather it is clear that the village-specific figures in Figure 12 are subject to refinement as a result of further investigation.
29. In addition to the provision of market and affordable housing, there would be other benefits associated with the appeal schemes. These include woodland management and the creation of wildlife habitats; the provision of publicly accessible open space; and economic benefits arising from the construction of the new development and the financial support that more residents would give to local services. The route provided by the combined foot/cycle path considered under Main Issue 1 would also provide an off-road option for existing residents of Darvel Down to access the recreation ground and village hall at the eastern end of the village. Notwithstanding my findings about the value of this path as a functional link between Darvel Down and the appeal site, this would be of benefit, particularly to those residents without a car. The route might also be attractive for recreational purposes for those wishing to walk in the countryside.
30. Taken together with the significant benefit of the additional housing, these other benefits do much to commend the appeal schemes. Overall however, the benefits of the development do not outweigh the great weight that I give to the conservation of the AONB. I therefore conclude that the proposed development would not be justified in this location.

Other Matters

31. An executed unilateral undertaking (UU) pursuant to S106 of the Town and Country Planning Act was provided at the hearing. The benefits which this would secure in terms of affordable housing and the off-road path have been considered above. However, because I intend to dismiss the appeal, I do not need to reach a finding as to whether the individual obligations contained within the UU meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
32. Similarly, while interested parties have raised concerns including the proximity of abandoned gypsum mines; ecology; archaeology; the presence of natural springs; the discharge of septic tanks onto the site; and the capacity of the relevant wastewater treatment works, my decision does not turn on these matters.

Conclusion

33. On account of its poor relationship to the form and function of the existing settlement, the proposed development would conflict with the development plan in respect of its location outside the development boundary of Netherfield. It would further conflict with the development plan because of the harm it would cause to the character of the area, particularly to that of the AONB.
34. In light of the shortfall in the Council's housing land supply, development plan policies for the supply of housing are out of date and so the fourth bullet point of paragraph 14 of the Framework is engaged. However, paragraph 115 of the Framework indicates that development should be restricted and I have found that the material considerations weighing in favour of the development, including the provision of housing, do not overturn this indication. Consequently, my decision must be taken in accordance with the development plan and so I conclude that both Appeal A and Appeal B should be dismissed.

Louise Phillips

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|-----------|-----------------------------------|
| J Clay | Cornerstone Barristers |
| M Pickup | Town & Country Planning Solutions |
| A Jeffery | Landscape Visual Ltd |
| L Hulkes | Park Lane Group |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|-----------|-----------------------------|
| J Edwards | Rother District Council |
| V Pullan | East Sussex County Council |
| C Tester | High Weald AONB Partnership |

INTERESTED PERSONS:

| | |
|------------|---|
| R Cooper | Representing 51 local residents in opposition |
| M Stepanek | Representing some local residents in favour |
| B Marks | Sussex Area Ramblers |
| J Matthews | Local resident |

DOCUMENTS

1. Planning Obligation by Unilateral Undertaking, certified copy.
2. Appellant's response to Inspector's questions on planning obligation.
3. Planning Obligations – Paragraph 204 NPPF and CIL Compliance Statement.
4. Extracts from East Sussex County Landscape Assessment.
5. 1858 Tithe Map – Land at Netherfield.
6. Zone of Theoretical Visibility Map showing viewpoints.
7. Photographs and map concerning longer distance views.
8. Map showing distance from site to Beachy Head.
9. Appellant's note on paragraph 14 of the NPPF and the tilted balance in AONB applications; and the Council's response.
10. Judgement: Suffolk Coastal DC v Hopkins Homes Ltd; & Richborough Estates v Cheshire East BC, [2017] UKSC 37.
11. Judgement: Barwood Strategic Land II LLP v East Staffordshire BC & SoS CLG, [2017] EWCA Civ 893.
12. Appellant's response to other matters raised by Inspector.
13. 1:200 scale map showing width of proposed foot/cycle path.

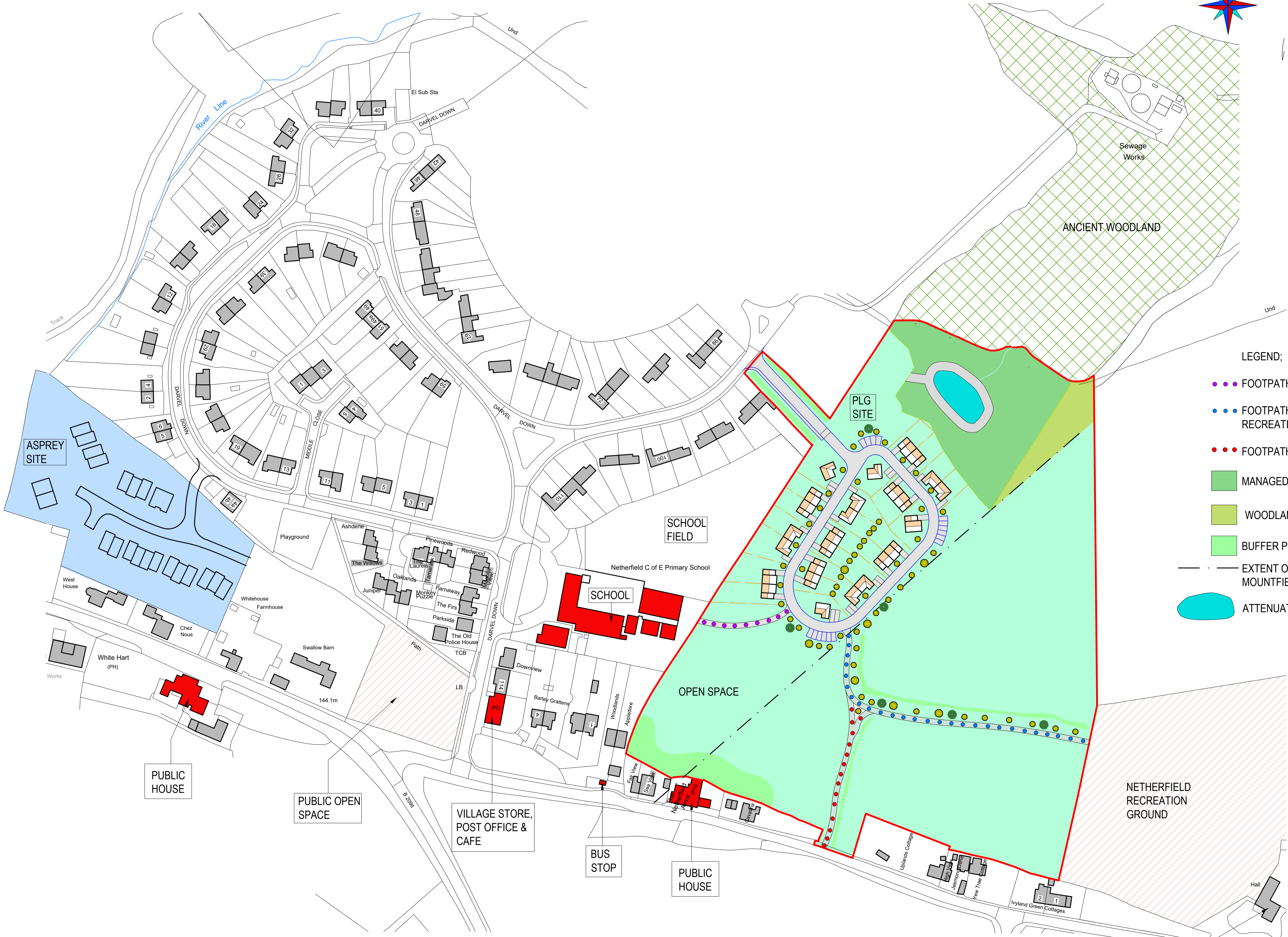
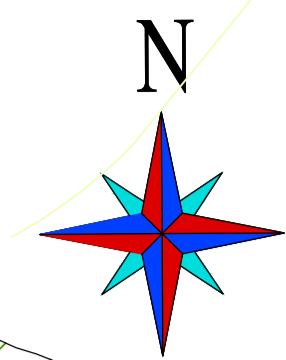
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LEGEND;

- FOOTPATH LINK TO SCHOOL
- FOOTPATH / CYCLE LINK TO RECREATION GROUND
- FOOTPATH / CYCLE LINK TO NETHERFIELD ROAD
- MANAGED RETAINED WOODLAND
- WOODLAND EXTENSION
- BUFFER PLANTING
- EXTENT OF ZTV FROM MOUNTFIELD COURT
- ATTENUATION POND



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**LAND AT NETHERFIELD ROAD
NETHERFIELD
EAST SUSSEX
for The Park Lane Group**

PROPOSED DEVELOPMENT

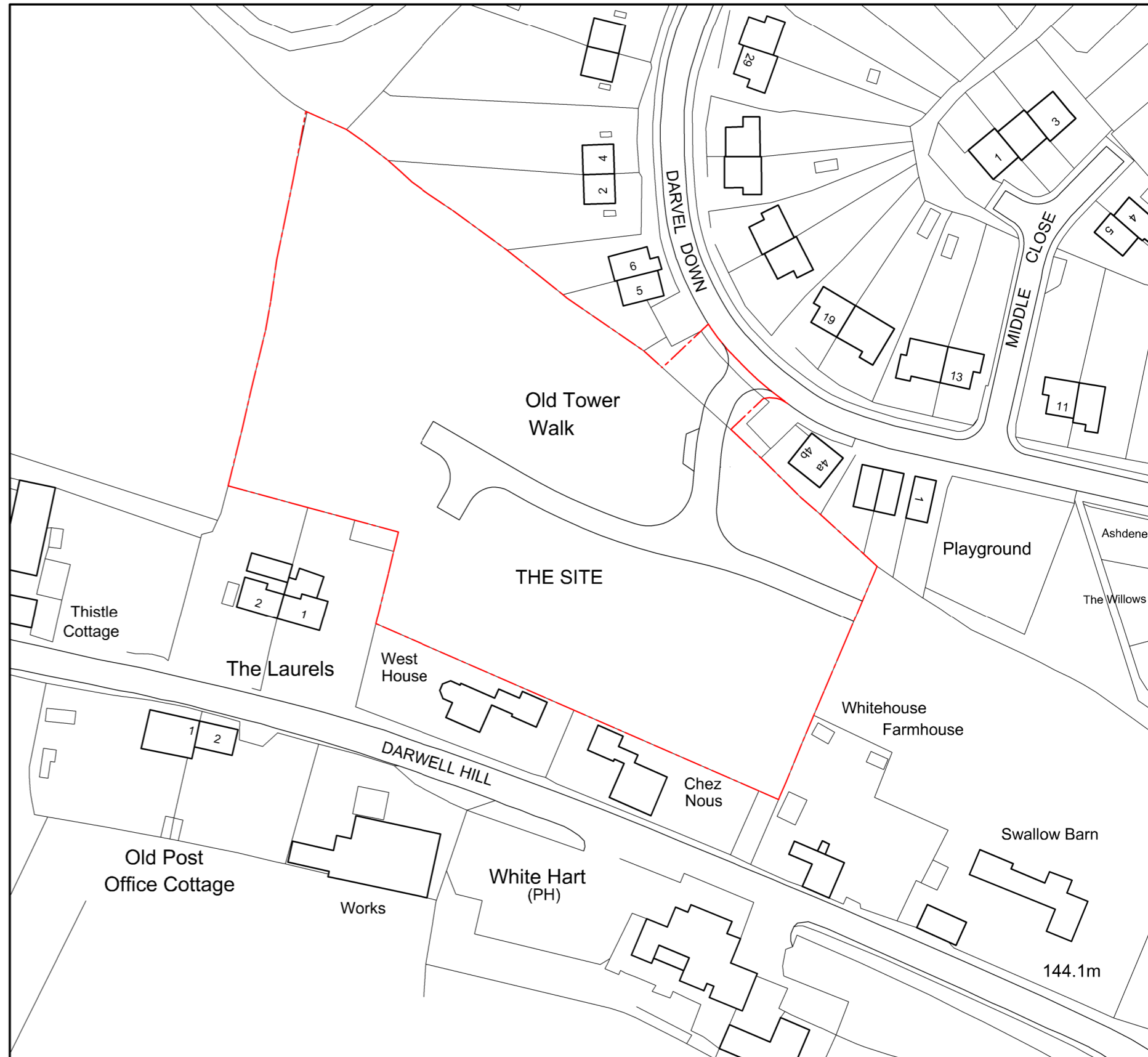
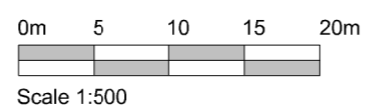
DRAWN BY - MATTHEW GERKEN
 DATE - NOVEMBER 2018
 SCALE - 1:1000 @ A1

DRAWING No. 4376 / 18 / 1000

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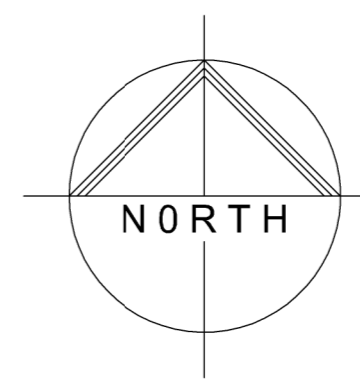
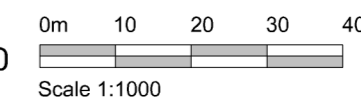


Proposed block plan scale 1:500



Site location plan scale 1:1000

scale 1:1000



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| | | |
|------------|-------------|---|
| 17.10.2017 | Revision C: | site layout revised |
| 05.07.2017 | Revision B: | Plots 11 - 16 & 17 - 20 moved forward footpath to turning head removed |
| 16.06.2017 | Revision A: | access amended to accord with latest highway engineers layout |

Project Address:
**proposed development at:
 Darvel Down
 Netherfield
 East Sussex TN33**

Drawing Title:
**proposed block plan
 site location plan**

| | |
|--|------------------------|
| Scale: as stated @ A2 | Date: April 2017 |
| Drawing Number: DD/522/BP 01 | Revision: C: |

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RR/2017/2308/P

BATTLE Darvel Down – land at, Netherfield

Outline: Erection of 25 dwellings.

Applicant: Asprey Homes (Southern) Limited and Optivo
Agent: Mrs S. Field, WS Planning and Architecture
Case Officer: Ms J. Edwards Email: jo.edwards@rother.gov.uk)
Parish: BATTLE
Ward Members: Councillors Mrs E.M. Kirby-Green and J. Barnes

Reason for Committee consideration: Member referral: Councillor K.M. Field

Statutory 13 week date: 29 January 2018

Extension of time agreed to: 22 March 2018

This application is included in the Committee site inspection list.

BACKGROUND

This application was previously to be considered at the Planning Committee meeting on 18 January 2018 but following a late objection from Wealden District Council (WDC) was withdrawn from the agenda after its publication. The report has now been updated both to take account of the representation received from WDC and further representations received in the intervening period.

1.0 POLICIES

1.1 Saved Policy DS3 of the Rother District Local Plan (2006) remains part of the development plan. It is relevant insofar as the site abuts but lies outside the development boundary for Netherfield. However, as discussed later, the policy is recognised as being out of date because the current boundaries do not allow for the provision of the housing growth now required in the district in accordance with the adopted Core Strategy and will therefore need to be amended.

1.2.1 The following policies of the Rother Local Plan Core Strategy 2014 are relevant to the proposal:

| | |
|------|--|
| PC1 | Presumption in favour of sustainable development |
| OSS1 | Overall spatial development strategy (additional dwellings required) |
| OSS2 | Use of development boundaries |
| OSS3 | Location of development |
| OSS4 | General development considerations |
| RA1 | Villages |
| RA2 | General strategy for the countryside |
| RA3 | Development in the countryside |

| | |
|------|---|
| SRM2 | Water supply and wastewater management |
| CO1 | Community facilities and services |
| CO3 | Improving sports and recreation provision |
| LHN1 | Achieving mixed and balanced communities |
| LHN2 | Affordable housing |
| EN1 | Landscape stewardship |
| EN3 | Design quality |
| EN5 | Biodiversity and green space |
| EN7 | Flood risk and development |
| TR2 | Integrated transport |
| TR3 | Access and new development |
| TR4 | Car parking |
| CO6 | Community Safety |

1.3 The National Planning Policy Framework and Planning Policy Guidance (PPG) are also material considerations, particularly:

- Paragraphs 7-14, 17 – core planning principles for sustainable development.
- Paragraphs 17, 32, 35, and 58 – transport and parking.
- Paragraph 47 – delivering a wide choice of high quality homes via ‘deliverable and developable’ sites.
- Paragraph 49 – five-year supply of deliverable housing sites.
- Paragraph 55 – housing located to enhance or maintain vitality of a rural community.
- Paragraphs 56- 66 – requiring good design.
- Paragraph 109 – planning should contribute to and enhance the natural and local environment, minimise impacts on biodiversity and provide net gains where possible;
- Paragraph 115 – great weight to be given to protecting and enhancing the landscape and scenic beauty of the Area of Outstanding Natural Beauty (AONB).
- Paragraph 118 – conservation and enhancement of biodiversity.

1.4 The Battle Neighbourhood Plan that will also cover Netherfield is in the early stages of preparation with no sites publicly identified. As such no weight can be afforded to it.

2.0 SITE

2.1 The application site comprises a field of 1hectare located to the south side of Darvel Down between residential development fronting onto Darvel Down to the north and onto the B2096 to the south. To the west the site is adjoined by open countryside beyond a line of mature trees and to the east by the large gardens of Whitehouse Farmhouse and Swallow Barn. There is an existing farm gate access into the field across undeveloped land in the ownership of Amicus Horizon (now Optivo) between nos. 4a/4b and 5 Old Tower Walk on Darvel Down.

2.2 A row of mature trees line the northern boundary of the site protected by Tree Preservation Order (TPO), the remainder of the land largely comprises rough grassland. The land is on a slight slope at the top of an east – west ridge and

lies between 142m and 147m AOD with levels falling from south to north-west.

- 2.3 The site lies outside of the limit of the British Gypsum planning consent but is partly underlain by abandoned mine workings.
- 2.4 The site lies outside of the 2006 development boundary of the village and, along with the whole of Netherfield, within the High Weald AONB.

3.0 HISTORY

3.1 RR/2017/941/P – Outline: Erection of up to 30 dwellings REFUSED on 23 August 2017 for the reasons:

- 1. The proposed development lies within the area of Darvel Down, an attractive and historically distinctive mid twentieth century residential estate development within the High Weald area originally built to accommodate the workers of the local gypsum mines and their families. The original estate to which the new development will directly relate is laid out at low density providing generously sized private garden areas and public areas of open space in a green landscaped setting and is of a spacious character that is considered desirable to maintain. In contrast the density of the proposed development is significantly greater and as such would result in a cramped and undesirably dense, overdevelopment of this small site at odds and out of character with the historic core of Darvel Down. The development would therefore be contrary Rother Local Plan Core Strategy policies OSS4 (iii) and (v), EN2 (i), EN3, RA1 (i) and paragraphs 58 and 64 of the National Planning Policy Framework.*
- 2. The proposed vehicular access arrangements submitted for approval at the outline stage are unsatisfactory and would fail to provide adequate and safe manoeuvring space for large vehicles accessing and egressing the site onto the narrow carriageway of Darvel Down. The proposed solution, that would require double yellow lines to be marked out on the north side of the carriageway opposite the access road, would result in the loss of several on street parking spaces and therefore exacerbate the difficult parking conditions already experienced on this part of Darvel Down. The proposal is therefore considered to be contrary to Rother Local Plan Core Strategy policies OSS4 (ii), CO6 (ii) and (iii), TR3, TR4 (i) and paragraphs 17(4), 32 and 64 of the National Planning Policy Framework.*
- 3. The provision of the vehicular and pedestrian access as indicated on drawing no. 17/0305/SK02 Rev A dated June 2017 would harm the future viability of or involve the total loss of a mature oak tree within a row of trees protected by a tree preservation order and of recognised visual amenity value in contributing to the distinctive character and appearance of the area contrary to Rother Local Plan Core Strategy policies OSS4 (iii) and RA2 (viii).*

4.0 PROPOSAL

- 4.1 This is a revised application for residential development following refusal of a more intensive scheme last year (see 3.1 above).
- 4.2 The application is made in outline for 25 dwellings with all matters other than access reserved for future approval. Vehicular access is proposed onto Darvel Down in the same position as the existing farm gate between 4a/4b and 5 Old Tower Walk. The proposed access might require the removal of one mature English Oak tree on the east side of the gate (Ref T1) that is one of the protected trees on the northern boundary. In this respect the application is the same as that proposed under RR/2017/941/P.
- 4.3 The application is accompanied by an indicative layout and indicative street scenes for 25 dwellings that show two storey dwellings arranged in short, staggered terraces along a centrally placed road, having a turning head towards the west end of the site beyond which remaining dwellings are more loosely arranged. At the east boundary of the site provision is shown to continue the internal road into the adjoining land should this be considered appropriate for development in the future. A total of 58 off street parking spaces are indicated including three on the east side of the site access that could be dedicated for use by the residents of 17, 19 and 21 Darvel Down. The indicative layout shows a range of dwelling types and sizes as set out below, 40% of which would be delivered as affordable dwellings.

| Type | No. | Size |
|----------------------|-----|--------|
| 1 bedroom maisonette | 4 | 48sqm |
| 2 bedroom houses | 6 | 82sqm |
| 3 bedroom houses | 15 | 100sqm |
| Total | 25 | |

- 4.4 The indicative layout incorporates a tree planted, 6m 'buffer zone' behind proposed rear gardens to the south that would separate and provide screening to the development on the site from the existing properties – West Ridge and East House that front onto the B2096.
- 4.5 The application is accompanied by a Planning, Design and Access Statement, Arboricultural Survey and Planning Integration Statement, Archaeological Desk-Based Assessment and Detail Magnetometer Survey, Landscape and Visual impact Appraisal, Transport Statement, Flood Risk Assessment and Surface Water Management Strategy and a Preliminary Ecological Appraisal. Detailed tracking plans of the indicative internal road have been submitted at the request of the Highway Authority.

5.0 CONSULTATIONS

5.1 Battle Town Council

- 5.1.1 The Council support a refusal of this application as: an inappropriate site due to access; loss of trees under TPOs; inadequate services e.g. drainage, utilities etc.; and lack of infrastructure availability.

5.2 East Sussex County Council (ESCC) – Highway

- 5.2.1 Full comments of the Highway Authority are available to view on-line and are summarised below. In conclusion as with the previous application no objection to the development is raised on highway grounds subject to the imposition of conditions.

Access

Access would be via a new priority junction from the south side of Darvel Down with the access having a width of 5.5m with a 2m wide footway on the eastern side connecting with existing pedestrian facilities on the south side of Darvel Down and further to the east dropped kerbs will be provided to link to the northern footway. Visibility splays are available either side of the site access in accordance with Manual for Streets guidelines.

On-street parking occurs frequently on Darvel Down and particularly on the stretch of road opposite the site access. This could obstruct larger vehicles (refuse/emergency) from being able to enter and leave the site and as a result parking restrictions are proposed on the north side of Darvel Down immediately opposite the new access. The tracking drawings provided indicate that the removal of on-street parking on this stretch of Darvel Down would enable a large refuse vehicle to enter and leave the site in a safe and convenient manner.

It is acknowledged that the new parking restrictions would result in the loss of some on-street parking spaces (three to four spaces likely); however, whilst on-street parking pressures in this area are higher than would be expected it is noted that there is some spare capacity for on-street parking on Darvel Down. It is also observed that a majority of dwellings on this road are served by private driveways which could be used rather than parking on-street.

In order to address concerns which have been raised regarding the loss of on-street parking spaces as a result of the required double yellow lines, the revised scheme proposes the possible provision of three parking space to the east of the access which could be utilised by residents of Darvel Down for informal car parking. These additional spaces would offset the loss of any on-street parking. I am satisfied that the on-street parking demands in the area could still be met. The provision of new parking restrictions will require a Traffic Regulation Order. Overall I have no major concerns regarding the proposed access; however, this is subject to the access and off-site works being constructed in accordance with ESCC specification under the appropriate license or legal agreement.

Internal Layout

The tracking drawings demonstrate that a refuse vehicle is able to manoeuvre and turn within the site within the indicative layout shown;

however, as this is an outline application only the details of the internal layout and parking provision will be confirmed at Reserved Matters stage.

Parking

Based on the Parking Demand Tool the parking requirement for the mix of houses provided is between 51 and 55 spaces. The 55 parking spaces (plus three additional parking spaces for existing residents on Darvel Down) indicated on the submitted plans therefore acceptable. The distribution of parking throughout the site is also considered to be satisfactory; however, as this is an outline application only further comments will be made when the housing mix and internal layout is finalised.

Secure cycle parking is require at a standard of one space per one and two bedroom dwelling and two spaces for three bedrooms and more.

Trip Generation and Highway Impact

The Transport Assessment is a resubmission of the document prepared for the previous application for 35 dwellings. The trip rates are therefore based in a development of 35 dwellings rather than the 25 now proposed and therefore considered to be robust. The worst case scenario indicates that the proposal will generate approximately one additional vehicle every three minutes during peak hours. Taking into account paragraph 32 in the National Planning Policy Framework which states “developments should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe” a recommendation for refusal based on the impact of the development on the highway network could not be justified.

Accessibility

The closest bus stops to the site are located on Netherfield Road approximately 350m from the site access. Bus services are very limited and do not provide a useable alternative to private car for most residents of the village. The facilities and services available in the area are limited although they do include a primary school, post office/convenience store and two pubs/restaurants. These facilities are within walking distance of the site and a good pedestrian route is available.

Taking the above observations into account the site is not considered to be ideally located from an accessibility perspective; however, with a post office, a primary school and pub/restaurants in relatively close proximity the proposal could not be refused on accessibility grounds.

Construction Traffic Management Plan (CTMP)

A condition is requested that a CTMP is submitted for approval before the commencement of works to include a construction traffic routing agreement, hours of working, wheel washing, and secured compounds for materials storage, machinery and contractor parking.

5.3 ESCC – Archaeology

5.3.1 No objection in principle subject to imposition of conditions.

The proposed development is of archaeological interest due to its location adjacent to the medieval and post-medieval hamlet of Netherfield, a linear settlement formed along an historic routeway. The site has been subject to both desk based assessment and a geophysical survey. The survey has

identified a number of potential archaeological features including a possible ring ditch/prehistoric burial mound site. If this identification is correct, then this may be a site of national significance and should be preserved; clarification would be needed through trial trench excavation.

In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. These recommendations are in line with the requirements given in the NPPF (the Government's planning policies for England):

In furtherance of this recommendation, we shall be available to advise the applicant on how they can best fulfill any archaeological condition that is applied to their planning permission and to provide a brief setting out the scope of the programme of works.

Full comments available to view on-line.

5.4 ESCC – Local Lead Flood Authority

- 5.4.1 No objection, although comment is made that permeable paving in private driveways should not be relied on as part of the surface water drainage strategy. *Nevertheless as this is an outline application we consider the principles of the Flood Risk Assessment are acceptable.* Conditions are proposed. Full comments are available to view on-line.

5.5 ESCC – Landscape

- 5.5.1 Full comments are available to view on-line but in summary it is considered that a sensitively designed scheme which retains and protects the existing trees as far as practicable would have a limited landscape and visual impact. The proposed development would not have an unacceptable impact on the character and views of the wider AONB landscape. It is therefore recommended that the proposed development can be supported subject to the submission of a satisfactory detailed landscape scheme and consideration of the detailed design in relation to impact on existing trees.

5.6 ESCC – Ecology

- 5.6.1 Comments received in relation to application RR/2017/941/P remain relevant and can be viewed in full online: *"...The site is not subject to any nature conservation designation and given the location of the proposed development, there are unlikely to be any significant impacts on any sites designated for their nature conservation interest or on any areas of ancient woodland. The site currently comprises semi-improved neutral grassland which is currently used for hay with treelines and hedgerows around the boundaries. The boundary habitats are of the greatest ecological significance and should be retained and protected.*

Bats

The site, particularly the boundary habitats, offers suitable bat foraging and commuting habitat. All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species. Artificial light can negatively impact on bats through e.g. causing disturbance

at the roost, affecting feeding behaviour, avoidance of lit areas and increasing the chances of bats being preyed upon. It is therefore recommended all lighting design should take account of national guidance, and if the Council is minded to approve, a lighting design strategy for light-sensitive biodiversity should be required by condition.

Badgers

No badger setts were found on site but mammal tracks were seen on the edges of the field. Best practice construction practice should be employed to avoid any badgers or other animals being harmed.

Breeding birds

The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any removal of vegetation that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation. Alternative nesting habitat should be provided. Boxes should target species of conservation concern e.g. house martin which has been recorded in the area, swift and house sparrow.

Reptiles

Although the site itself is currently unsuitable for reptiles, there are records of reptiles from the surrounding area. Slow worms, grass snakes, common lizards and adders are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. As a precautionary measure, prior to development, the site should be regularly mown to prevent colonisation of the site by reptiles moving in from the surrounding area. If current management of the site is not maintained prior to development, further surveys will be required.

Other species

It is considered unlikely that the site supports any other protected species. If protected species are encountered during development, work should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.

Mitigation Measures/Opportunities for enhancement

In addition to the mitigation measures discussed above, the site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and National Planning Policy Framework. Opportunities include the enhancement of boundary habitats through hedgerow enhancement and sensitive planting/seeding, green (biodiverse) roofs and a sustainable urban drainage scheme. The proposed site layout shows all plots extending to the edges of the site and offers little opportunity for retention, enhancement and creation of semi-natural habitats for the enhancement of biodiversity and flood attenuation. It is recommended that the layout is revised to allow wider edge habitats. It is recommended that an Ecological Design Strategy (EDS) should be required by condition, in line with BS 42020:2013. The EDS should take account of the species and

habitats discussed above, and should include provision for long term monitoring and management.”

5.7 ESCC – Minerals and Waste

5.7.1 *“The application falls within the buffer zone of the Mineral Safeguarding Area (MSA) identified to cover the British Gypsum planning permission. The proposal is a category of development on which we would wish to be consulted on in an MSA. However in this case there is no objection to the proposal on mineral sterilisation grounds. I would however advise you to contact British Gypsum directly regarding stability of the land / presence of old mine works”. Full comments available to view on-line.*

5.8 Southern Water

5.8.1 *“Initial investigations indicate that Southern Water can provide foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.”*

It appears there are no public surface water drains in the area to serve the development so alternative means of draining surface water will be required that should not involve disposal to a public foul sewer. Any foul sewage pumping station should be located at least 15m from habitable accommodation. Full comments available to view on-line.

5.9 Environment Agency

5.9.1 No objection subject to all foul sewage going to the mains. If this is not the case please re consult.

5.10 High Weald Unit

5.10.1 Full comments are available to view on-line. In the event that the Council considers the development of the site to be acceptable in principle, it is recommended that the detailed requirements include design that reflects the historic settlement pattern of the High Weald; use of local materials and incorporation of working chimneys and wood fuel storage; the use of the High Weald Colour Study to inform the selection of external materials; drainage proposals that restore the natural functioning of river catchments; protection of heritage feature and ecological habitats and species; the use of native and locally sourced plants for any additional landscaping; and controls over external lighting to protect the intrinsically dark night skies of the High Weald AONB.

5.11 Sussex Police

5.11.1 In general terms the police support the illustrative layout but make a number of detailed comments to inform the working up of details at reserved matters stage. Full comments are available to view on-line.

5.12 Community & Economy – Housing and Asset Development Officer:

5.12.1 Fully support subject to planning permission. The proposal is LHN2 policy compliant proposing 40% (10) affordable units. No commuted sum is required. The indicative plans show a ‘mono’ affordable rented tenure that is

supported in this location although up to three shared ownership units could be agreed at reserved matters stage. The unit size mix proposed is shown in the table below and is supported.

5.12.2 All affordable units are to be built in accordance with the Nationally Described Space Standards (2015) and built in accordance with the Building Regulations 2010 part M4 2 (superseding the former Lifetime Homes Standard). The one bedroom maisonettes are slightly undersized in this regard and must be of 50sqm minimum (currently shown as being 48sqm).

5.12.3 The market housing is considered to be a sustainable mix.

| Bed size | Affordable Rent | Shared Ownership | Total Provision |
|------------------------|-----------------|------------------|-----------------|
| One bed flat/apartment | 4 | 0 | 4 |
| Two bed houses | 4 | 1 | 4 |
| Three bed houses | 2 | 0 | 2 |
| Four bed houses | 0 | 0 | 0 |
| Total | 10 | 0 | 10 |

5.13 Planning Notice

5.13.1 A petition of objection to the proposal signed by 102 individuals has been received. The lead petitioner will have an opportunity to speak at the Planning Committee meeting.

5.13.2 The reasons for objection stated within the petition are: no amended proposals to overcome previous objections; site an important open space separating Darvel Down from the B2096; density still too high at 25 dwellings per hectare and does not reflect style of Darvel Down; access is the same; proposed yellow lines would not be enforced; loss of on street parking; large oak still listed for removal; loss of trees harmful to character of village (AONB); proposed layout is not marked 'illustrative' and still shows houses over former gypsum mines; layout shows building over potentially significant archaeological remains; a bat survey should be carried out before a decision is made; the site is outside of the development boundary and in the AONB; insufficient infrastructure (water supply, electricity and broadband); detrimental to local environment and wildlife; increased danger to current residents through additional volume of traffic on already congested roads; trees protected by TPO; width of access roads insufficient (4.9m not 5.5m); lack of public transport, within AONB; remote locality, lack of connectivity with Battle and surrounding towns.

5.13.3 22 'generic' letters of objection with identical content have been received. The letter raises the following concerns about the development:

- the new application doesn't address the reasons for refusal of the previous proposal;
- 25 dwellings per hectare is still too dense and over-development of this small site;
- the access has not changed and is therefore still an issue;

- the area is already very congested, particularly at school times, which causes danger for school children crossing the road;
- Darvel Down is littered with parked cars including on the pavements, additional vehicles associated with the development will cause further problems for pedestrians especially the elderly, people with buggies, bikes etc.; and more pollution, noise and 'upset to the current residents';
- the trees are covered by a TPO so should not be removed, pruned or disturbed at all. The oak to be removed is over 40 years old and should remain; the loss of important protected trees would be harmful to the character of this part of the AONB;
- the reports supporting the application have not been updated;
- the site is an important open green space separating Darvel Down from the B2096. The development doesn't reflect the character of Darvel Down and would be 'very cramped'.
- the site is within the AONB so should be protected;
- there are many species of wildlife that live and roam on the proposed development site;
- the area cannot cope with 25 extra dwellings – It can't cope now - we suffer inconsistent water supply; poor electricity supply; poor internet connection; poor public transport; poor connectivity to Battle; no local doctor's surgery; the school is full;
- visibility at the site entrance is poor and the roads are narrow and difficult to get through; and
- there is no capacity for this development at this location.

5.13.4 Six individual letters of objection from four individuals or properties have been received. In addition to making the same points set out above, additional matters raised are summarised below, the comments are available to view online in full:

- the supporting documentation hasn't been updated to reflect the amended proposal;
- the application form submitted says that the means of foul sewage is unknown but it is known (Note: an amended form has been submitted that identifies disposal to the public foul sewage system);
- a smaller scheme requires less trees to be removed that isn't reflected in an updated tree report; the report doesn't identify any Grade A trees which it should;
- the road is not a cul-de-sac but the beginnings of a carriageway into adjoining sites that will include the loss of the playground (Note: the illustrative layout retains an option to access adjoining sites to the east but they are in separate ownership and control and there are no current proposals to develop them. The detail of the road could therefore be altered at reserved matters stage to omit that future potential. The relocation of the playground owned by RDC as part of a comprehensive development of this area was previously suggested by the Darvel Down Residents Association and is documented in the 2013 SHLAA. It is not a proposal of this Council at this time);
- the applicant doesn't understand local reliance on private cars with each household normally having two or three or even four. Around twenty households would be affected by the double yellow lines;
- the community wishes all the trees to be retained for visual amenity. The Council is required to take account of the local community's wishes in this regard as evidenced in the Planning Practice Guidance (no further explanation given);

- regarding the applicant's references to the PPG: the development will not make it easier for new jobs to be created; will lead to a net loss of biodiversity; the proposed houses are 'infinitely larger in dimensions' than the vast majority of existing houses within the estate and there is no poor design to replace;
- the proposed development does not meet the requirements of the National Planning Policy Framework read as a whole;
- the Chancellor's Autumn Statement reiterated the need to retain the Green Bel;
- the development is contrary to Core Strategy Policies OSS1, OSS2, OSS3, OSS4, RA1, EN2, EN3. Policy LHN1 is not relevant to Netherfield;
- the development would harm the amenity of existing residents;
- a foul sewage pumping station if required would be an eyesore;
- the site along Tower Walk is liable to flooding; the volume of surface water from the development will be 'colossal'; children will be at risk when out playing near the existing ditches on the west side of the site;
- there are other sites in the area that would have less impact on flora or fauna. It is historic farmland representing some of the last remnants of land attached to the historic properties along the B2096;
- the proposal doesn't meet the housing target for the village;
- the village doesn't need further development;
- the three compensatory parking spaces couldn't be secured and are hidden from the view of the residents so cannot be used and if the road is private so non-residents could not use;
- an full archaeological investigation should be undertaken before any decision is made;
- there are discrepancies between the ecology and arboricultural reports concerning bats. A full emergent bat survey should be carried out between May and August before any decision is made (Note: the arboriculturalist identified that a number of trees on site have bat roost potential though recognising they have no expertise in this matter. The ecologist who is an expert determines that they don't but that the tree lines will be used by bats as commuting routes and foraging and this view has not been disputed by the County Ecologist);
- the tree report identifies T12 and T13 for removal but these are in third party ownership and agreement should have been sought. (Note: according to the land title documents these trees are within the legal ownership of the owner and applicants);
- the archaeology report erroneously states that Darwell Beach a GII listed building is located 560m north of the site but according to the English heritage website is 160m west of the site. An assessment should be made of the impact of the development on its setting. Note: An investigation study of the Council's original paper records shows that the building was originally incorrectly plotted and subsequently corrected. The archaeologist for whatever reason obviously had access to the original incorrect record. Notwithstanding that the site is separated from the listed building by 160m containing a mature hedgerow, large field and the extensive farm building complex of White House Poultry Farm. The development would be unrelated to have no impact on the listed building's setting.
- how can the Local Lead Flood Authority and Southern Water conclude there is no flood risk; there is no indication of where a connection to the

foul sewer will be made and a full noise assessment of the proposed foul sewage pumping station should be carried out;

- the gypsum mine issue isn't address in any of the reports the indicative layout shows 8 of the proposed units sitting over or adjacent to the mines;
- the site is only capable of accommodating around 12 dwellings;
- the ecology report is inaccurate as the site is never cropped for hay and cut only once per annum with the boundary edges never being trimmed;
- the development would harm the privacy of residents on B2096;
- no permissions for residential development in the battle parish should be permitted until the Neighbourhood plan is complete;
- the application hasn't been advertised correctly and should be considered invalid;
- I have an interest in part of the land and haven't been served notice by the applicant. The site location plan is inaccurate and not wholly in control of the applicant. (Note: The Land Register title and plans have been checked again and it is confirmed that although the neighbour has 'claimed' a small section of the eastern part of the land that is now demarked by a close boarded fence that he has no legal ownership of it. The indicative site layout identifies the fence and no proposals are made for that part of the site beyond it. The latter also explains why the length of the southern boundary on the site location plan and layout is different by approximately 1m);
- the dimensions of the lorry used in the swept path diagrams submitted at for information at the request of the highway authority at 11.22m long and 2.53m wide do not meet Council standards and should be redone using the 12.m x 3m dimensions required by the Council's Good Practice Guide despite the Highway Authority being satisfied (Note: it is normal practice for the Highway Authority to accept the largest lorry size used by the particular authority for swept path analysis. The dimensions used by the applicant reflect this); and
- previous objections remain relevant: site a historic farmstead; lack of infrastructure – electricity and water, mobile phone and television; limited bus service; difficult access to Darvel Down in winter; unsympathetic layout; TPO trees affected by houses on Tower Walk built in too close proximity; sewerage; SHLAA 2010 identified development of the site as 'counter to the principles of sustainable development'.

5.13.5 One letter of support for the proposal has been received that makes the following points in summary:

- the lower density is more in keeping with the density of Middle Close and the self-build and should not be compared to the density of the original dwellings;
- the objections on traffic congestion grounds have some validity but breaking it down there would be two phases: construction and end use. Potential problems during construction can be mitigated by controlling construction traffic movements during school drop off and pick up times. Post construction, traffic patterns would settle down to normal levels;
- the potential loss of one protected oak tree would be offset by the planting of new trees as part of the development;

- the opportunity to develop the site with NE5a and NE11 that envisaged the possibility of relocating the playground and utilising that space for access is a lost opportunity;
- the site is not undermined by former mine workings (Note: this is incorrect);
- Netherfield is blessed with fields and woods that provide varied habitats for mammals of all sizes. Obviously there would be some loss of habitat but overtime the gardens and open spaces would provide new habitats. In fact it would be possible to encourage birds by incorporating nesting places in external walls;
- services including water, electricity and broadband are not issues directly related to the proposed development;
- public transport services are affected by supply and demand and may improve if there is are additional residents; and
- the Netherfield Parish Survey 2004 resolutely favoured new homes in Netherfield with the hope that local people would benefit. There was substantial redevelopment at Darvel Down in the early 2000. Tenants and some owner occupiers benefitted at that time. It is curious that the opportunity to provide more housing stock has not attracted more altruistic support.

5.14 Wealden District Council (WDC)

- 5.14.1 In a letter received dated 11 January WDC objected to the development on the grounds that at this stage it is unproven that in combination with other development that impacts on the Ashdown Forest and Lewes Downs SACs (Special Areas of Conservation) will not arise from the proposed development with specific reference to the Conservation of Habitats and Species Regulations 2010. It specifically advises that a likely significant effect from traffic arising from the development could not be ruled out for Lewes Downs SAC and Ashdown Forest SAC/SPA. Therefore, there is a need for an Appropriate Assessment under the Regulations. The full letter is available to read online.

6.0 APPRAISAL

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.2 The site lies outside of the village Development Boundary for Netherfield as defined by the Rother District Local Plan 2006 and shown on the Proposals Map (Inset 24). The current boundary is drawn tightly around the rear gardens of the houses on Darvel Down and the eastern hedge boundary of the primary school. However, the need for additional housing in the district and in the village specifically is recognised by the Core Strategy and therefore it is accepted that development boundaries will need to be reviewed.
- 6.3 As Netherfield comprises part of the Battle Town Council area the amendment of the development boundary will be considered by the Battle Neighbourhood Plan in due course. However that plan is at a very early stage

of production and no weight can be given to it. In the meantime, it is appropriate, taking development plan policies as the starting point, and also having regard to the presumption in favour of sustainable development in the National Planning Policy Framework and the Core Strategy, to consider the specific impacts of proposals such as this one, that are brought forward for sites adjacent to existing settlements.

6.4 The principal issues with this application is considered to be the impact of the proposed development on the village's setting within and on the landscape and natural beauty of this part of the AONB; proposed density, impact on protected trees and local traffic conditions as referred to in the reasons for refusal of RR/2017/941/P. Other issues for consideration include impact on adjoining properties; biodiversity; foul and surface water drainage; land stability; archaeology; layout and design (albeit the plans submitted are indicative only); and affordable housing and other section 106 planning obligation requirements.

6.5 Policy Position

6.5.1 The Government requires that all local planning authorities identify annually a supply of specific deliverable sites sufficient to provide a five year supply of housing against their housing requirements with an additional appropriate buffer to ensure choice and competition in the market for land. Policy OSS1 of the Core Strategy (CS) that sets out the overall spatial development strategy includes a requirement to plan for at least 5,700 additional dwellings (net) in the district over the Plan period. Figure 8 sets out approximate development levels for different parts of the district, including a total of 1,670 dwellings within villages. Policy RA1 (v) sets a target of 55 new dwellings (net) in Netherfield over the CS period 2011-2028. Taking into account 7 completions locally between April 2011 and end March 2013 – but with no existing commitments or outstanding local plan allocations in the village – the remaining requirement is for 48 dwellings. Notwithstanding concerns about the accessibility and sustainability of the village expressed in the public comments, Netherfield is considered a relatively accessible location in the context of the district outside of the towns, having an albeit very limited bus service and locally accessible services, including a primary school, local shop / post office /café, two public houses, a village hall and recreation ground, children's playground and other areas of public open space.

6.5.2 Core Strategy Policy OSS2 states that development boundaries around settlements will continue to differentiate between areas where most forms of new development would be acceptable and where they would not. The Policy goes on to state that existing development boundaries will be reviewed having regard to a number of criteria including, (i) the existing pattern, form and function of settlements; (ii) the character and settings of individual villages; (iv) the amount of land needed to fulfil development needs; (v) availability of local infrastructure and services and (vii) environmental considerations including the need to conserve designated areas of national and local landscape, archaeological, geological, ecological or historic importance.

6.5.3 The suitability of the application site for future development was previously assessed as part of the SHLAA 2010 and SHLAA Review 2013. The SHLAA is an initial assessment to support the Core Strategy and an 'evidence base' document. It does not allocate land for housing nor pre-empt or prejudice any

Council or Neighbourhood Plan decisions about particular sites. It is an aid to plan making and not a statement of Council policy but in the context of this application is of relevance. Within the SHLAA 2010 the site was identified as a 'green site, suitable and available for development and in the 2013 review as an 'amber' site (NE1), considered suitable and developable together with adjoining smaller sites (NE11 and NE5a) to the east for approximately 48 dwellings. The SHLAA noted that the Highway Authority would only accept vehicle access from the north off Darvel Down and that there were two possible access points. The one proposed in this application, the western one was considered less favourably due to there being no public footway to the front of the houses built on the former water tower site or the children's play area. The preferred access that the SHLAA notes was identified by the Town Council would be via the existing children's play area (NE11) that would itself be relocated possibly to the open space opposite the post office. The development of the sites jointly would enable improved cycle and pedestrian linkages with the shop and with bus stops on the B2096, and an enlarged / improved open space incorporating the larger TPO trees on an adjoining site (NE5). The potential for the application site to be developed as part of a larger development was considered in pre-application discussions between the Council and the applicant but the smaller sites are not within the applicants' control or currently available for development. However, the application proposal could leave the potential for an extension into NE5a and NE11 open for future development if that were considered appropriate through the Neighbourhood Plan process or in connection with a subsequent planning application if one were made. That option is illustrated on the submitted indicative drawings.

- 6.5.4 Notwithstanding the SHLAA's consideration, the wider housing need of Netherfield and the district as a whole and the issues raised in the subsequent paragraphs leads to the need to reconsider the site in relation to current policy considerations and national guidance.

Five-year housing land supply

- 6.5.5 Paragraph 49 of the National Planning Policy Framework requires that housing applications should be considered in the context of the presumption in favour of sustainable development; it goes on to say that existing local plan policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. Notwithstanding that, weight can continue to be given to those policies depending on their degree of consistency with the National Planning Policy Framework: the weight to be given to be determined by the decision taker.
- 6.5.6 In respect of the five-year supply issue at October 2017, the latest date for which figures are available, the Council could only demonstrate a 3.2 year supply of available housing sites including a 20% buffer. This means that the 2006 Development Boundaries and other policies that relate to the supply of housing must be viewed at present as being 'out-of-date' for the purposes of paragraph 49 of the National Planning Policy Framework and that, as a consequence, planning applications fall to be considered in the context of paragraph 14 of the National Planning Policy Framework. However that does not mean that housing schemes which are unacceptable for other sound planning grounds must now be allowed; but it does add weight to the benefits that the contribution to boosting housing supply would bring when

determining planning applications 'on balance' and that weight in the specific context of Netherfield would be 'significant' in light of the fact that no recent planning permissions have been granted in the village.

6.5.7 Paragraph 14 states:

"For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted."*

6.5.8 Footnote 9 is relevant here as it explains that this part of the paragraph relates to AONBs amongst other designations. It is taken to mean that the "tilted balance" in the penultimate indentation does not apply where it would be contrary to the National Planning Policy Framework's restrictive policies. This interpretation has been made by Inspectors to several appeals in the district in the last two years. The key paragraph of the National Planning Policy Framework in this respect is 115 which states:

"Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty."

6.6 Village character including density, setting and impact on the landscape and natural beauty of the AONB

6.6.1 Section 85 of the Countryside and Rights of Way Act 2000 provides that, in exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The essential landscape character of the High Weald AONB that makes it special is described within the Statement of Significance within the AONB Management Plan 2014-2019. The plan also sets objectives for the management of the AONB that include: S2 – to protect the historic pattern of development and FH2 to maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands.

6.6.2 Policy OSS2 of the Core Strategy states that development boundaries around settlements will be reviewed including taking account of (i) the existing pattern, form and function of settlements, including of closely 'linked' settlements and important 'gaps' of countryside between them, and (ii) the character and setting of individual towns and villages.

6.6.3 Policy OSS3 of the Core Strategy states that development proposals will be assessed in the context of (i) the spatial strategy for the particular settlement; and (vi) the character and qualities of the landscape.

- 6.6.4 OSS4 (iii) of the Core Strategy requires that all development respects and does not detract from the character and appearance of the locality.
- 6.6.5 RA1 (i) seeks to protect the locally distinctive character of villages.
- 6.6.6 Policy RA2 sets out the overarching strategy for the countryside outside the main confines of villages, including: (viii) generally conserving the intrinsic value, locally distinctive rural character, landscape features, built heritage, and the natural and ecological resources of the countryside.
- 6.6.7 Policy EN1 provides for the protection, and wherever possible enhancement, of the district's nationally designated and locally distinctive landscapes and landscape features including (i) the distinctive identified landscape character, ecological features and settlement pattern of the AONB and (v) open landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes.
- 6.6.8 In addition to paragraph 115 of the National Planning Policy Framework, paragraph 109 requires that the planning system should contribute to and enhance valued landscapes that would include the AONB.
- 6.6.9 The impact of a development proposal on these policy objectives needs to be balanced against the identified need within the Core Strategy to significantly increase the supply and delivery of additional housing across the district, including within the AONB and notably within Netherfield itself. Great weight is to be given to conserving the landscape and scenic beauty of the AONB within that balancing exercise.
- 6.6.10 The application site comprises a single field bounded on three sides by mature tree planting and on two sides by housing. The land that was previously owned by the Mountfield Mine was sold with other land in the 1950s to develop the Darvel Down estate. The land is well related to the existing settlement pattern of the village being sited between Darvel Down to the north and houses on the B2096. The western edge of the site is defined by a strong belt of trees that is to be retained and therefore, the proposed development would not extend the built form beyond the established and defined boundary of the village. Due to the western tree belt, other tree screens and the surrounding built form, there are no long views into the site from the surrounding AONB countryside. Subject to the adequate long term protection and enhancement where necessary of the screening planting and to all other considerations, in terms of the relevant policy considerations set out above the site is considered to be an appropriate location for development that would not harm the existing character of the village, its setting within the AONB, or the landscape and scenic beauty of the wider AONB.
- 6.6.11 In reaching this conclusion, officers have taken into account objections 'in principle' to the development of the site based firstly on its perception as an important open green space separating development on Darvel Down from that on the B2096 and secondly, that the site forms part of the historic farmstead of Whitehouse Farmhouse. Whilst the site does, as a matter of fact, currently provide some degree of separation between the two areas of development it is not identified or designated as open space to be protected. Furthermore, there is no public access to it and the only public view point of the site is from immediately outside the existing access onto Darvel Down.

Therefore it has limited value in that respect that is outweighed by the benefit of it being concealed from the wider AONB landscape. With regard to its relationship to the historic farmstead of Whitehouse Farm it is noted that the latter that is now a single dwellinghouse in a residential curtilage has a far closer relationship with its neighbours, Swallow Barn and the relatively new housing development comprising East House and West Ridge. Whilst historically the farmstead may have been set within in a far larger network of open fields and woodlands its connection with its hinterland has been entirely lost both physically and functionally. The development of the application site would not harm its setting further.

6.6.12 In terms of density, the proposal has been amended since the previous application was refused in August 2017 to give a density of development on the site of 25 dwellings per hectare (dph). This has been assessed by officers as being comparable to the prevailing densities in the area when the extensive areas of common open space in the village that serve to reduce the overall built density and that would also benefit the proposed development are excluded. For example, the development of Middle Close to the north of the site has a density of approximately 28 dph and the cul-de-sac, east of the playground of 35.3dph. The central 'island' of development including Middle Close immediately to the north of the application site has a density of 21dph whilst the parcel to the north west of the site has a lower density of about 18dph. Therefore the density now proposed would sit comfortably towards the mid-range of densities prevailing in the area and, whilst not reflecting the exceptionally low density of the original estate, is considered to be acceptable given other policy objectives to achieve the efficient use of land and the great weight that is to be given to protecting and enhancing the landscape and natural beauty of the AONB. The exact distribution of land within the site between communal and private space would only be determined at reserved matters stage if outline permission is granted.

6.7 Traffic, accessibility and highway safety

6.7.1 Notwithstanding that the highway authority raised no objection to the previous application on highway safety or access grounds, RR/2017/941/P was refused for the reason that the proposed vehicular access arrangements were unsatisfactory and would lead to the loss of several on street parking spaces (3 to 4) on Darvel Down and thus exacerbating the difficult parking conditions that are sometimes experienced on this section of the road. In response the current proposal indicates that three parking spaces for use by the properties affected by yellow lines on Darvel Down could be provided on the east side of the access road within the application site. Those spaces are indicated on the illustrative site layout as visitor spaces but if Committee is minded to grant outline permission it is recommended that their use as dedicated parking for the affected houses should be secured through a section 106 planning obligation.

6.7.2 ESCC Highway Authority has again raised no objection to the proposal and furthermore states in its response that, "*taking into account paragraph 32 in the National Planning Policy Framework which states "development should only be prevented or refused on transport grounds where the cumulative impacts of the development are severe" a recommendation for refusal based on the impact of the development on the highway network could not be justified*". The illustrative proposal shows provision in addition to the three compensatory spaces of 55 off street spaces to serve the 25 dwellings

proposed that is at the upper end of the range required by the ESCC parking demand calculator for this part of the district.

6.7.3 In terms of traffic generated by a development of this scale, in peak hours this is expected by the highway authority to amount to no more than one additional vehicle every three minutes at worse.

6.7.4 In terms of accessibility, whilst noting that access to and from the village is exceptionally limited by public transport it is recognised that the site is located in easy walking distance of local services with good pedestrian routes available.

6.7.5 It is recommended that together, the reduction in overall numbers of dwellings proposed and the provision of dedicated compensatory parking for existing residents overcomes the Committee's previous objection to the development on this ground.

6.8 Impact on protected trees

6.8.1 The third and final reason for refusing the previous proposal was the impact of the widened access on the future viability of a protected oak tree (T1) or its complete removal that would it was considered, be harmful to the visual amenity of the area sufficient in the planning balance to be made, to warrant refusal. The applicant, at the time that the previous application was considered made alternative proposals to investigate the possibility of retaining the tree within the development once construction started but that was not considered adequate by the Committee. The current proposal reinstates the proposal to remove this tree to enable the widening of the vehicular access to the site and the provision of a pedestrian footway however in an email dated 15 January the applicant confirms that it remains committed to exploring whether it can be retained.

6.8.2 As was previously reported in connection with RR/2017/941/P, the impact of the proposed development on the existing trees was discussed with the Council's tree officer on site at the pre-application stage and no objection to the loss of T1 or others proposed was raised. In connection with the current application the officer has given the following advice, that, "*...the large tree (T1) at the access is a reasonable tree which has amenity value and contributes to the character of the area. However, the position of the new access would cause damage to the roots of the tree which is likely to have an impact on its condition. It would not be recommended to have such a tree in this location next to a road in these circumstances where there is a high risk it could cause damage. Moving the access away from T1 would bring it closer to another oak tree (T35) which is considered a better specimen (has more character) on the other side of the access. It is to be expected that it would be considered that the benefits of building the houses would outweigh the loss of this one oak tree and it would not be a reason to refuse permission.*"

6.8.3 The tree officer's advice goes on to say "*...it is also considered that other trees proposed to be felled on the site are not prominent in the landscape or poorer specimens such as T11, T12 T13 T14. Trees such as T20, T21, T22, G24, G4 and G36 are self-sown trees which are growing up within the site due to the lack of management or grazing of the field. Due to the number of trees in the area the loss of these trees would not have a significant impact*

on the landscape of the area. Notwithstanding the loss of the trees, replacement planting should take place to mitigate for the loss.”

6.8.4 The arboricultural report supporting the application is the one submitted with the larger scheme and therefore represents the ‘worst case’ based on an objective assessment of the condition of the trees on site and the volume of development then proposed. The reduction in the number of proposed dwellings now would be expected to have some impact on the number of trees that would require felling however, other than for T1 (subject to further investigation by the applicant) that is affected by the access to be approved at this stage and recommended by the Tree Officer to be removed for safety reasons, subject , the impact of the development on other trees would only be finally determined at reserved matters stage if outline permission is forthcoming.

6.8.5 The reduction in development density not only provides an opportunity to potentially retain more of the existing trees on the site but also presents further opportunities for additional and compensatory planting within the site. In overall terms therefore, the officers’ recommendation remains that the loss of the oak tree T1 is not sufficient grounds in the planning balance to be made to refuse planning permission.

6.9 Impact on adjacent properties

6.9.1 It was determined in connection with the previous application that the indicative site layout for a greater quantum of development retained sufficient separation with existing properties adjoining the site to maintain the privacy and amenity of those neighbours. The further reduction in the number of dwellings now proposed provides an opportunity to improve those relationships still further although the detailed relationships would only be determined at reserved matters stage should outline permission be granted.

6.10 Biodiversity

6.10.1 The application is accompanied by a preliminary ecological appraisal prepared in September 2016 to support the previous application RR/2017/941/P. The site is dominated by semi improved neutral grassland with some good mature trees located on the edges of the site with species including mature oaks on the northern boundary and a hedgerow dominated by oak, hornbeam, holly beech, bramble, bindweed, willow herb, bracken, common nettle and hedge woundwort on the north west portion of the site. A dry ditch line is present along this edge that had in September 2016 been recently cleared. The hedgerow is located on an earth embankment, suggesting that this portion of the hedgerow was of some age. Elsewhere on the site there is a small area of scrub to the north-west and pockets of sparse ruderal vegetation on the southern portion of the site.

6.10.2 In terms of protected species, the appraisal concludes, contrary to the ‘non-expert’ assessment of the arboriculturalist’s report referred to in some public representations, that the mature trees on the boundaries do not provide roosting opportunities for bats but do support foraging and that in that respect also, the site provides some connectivity to offsite habitats largely along the northern and very north western edge. There are no badger setts on the site and no latrines or snuffle holes were identified however, several mammal paths were recorded on the edges of the field though no evidence was found

to establish the species causing these. The edges of the site provide nesting opportunities for birds. The site is not considered to provide suitable habitat for reptiles as the grass is regularly cut. This latter point is now disputed by some local objectors who suggest that the grass is cut no more than once a year. Notwithstanding that, aerial photography held by the Council and also on Google Earth indicates that the grass on site over the last five years or so has been kept relatively short. This matter is returned to below.

6.10.3 The County Ecologist raised concerns about the methodology of the initial ecological assessment but in overall terms was satisfied that subject to appropriate conditions being attached to any grant of planning permission including an ecological design strategy that enhances the site's value for biodiversity that the development would be unlikely to have a significant impact on biodiversity or cause harm to protected species. In that regard the County Ecologist noted that the indicative layout shows plots extending to the edges of the site that offer little opportunity for retention, enhancement and creation of semi natural habitats. It is recommended that the layout is revised to allow wider edge habitats outside of individual plots. This remains largely the case on the amended indicative site layout.

6.10.4 Objections to the re-submission of the preliminary ecological appraisal in support of the current application have been received. However it is recognised that the appraisal only ever provided a 'snapshot' of the condition of the site at the time it was undertaken and in that regard there is no reason to assume that anything more would be found at this time if a similar exercise were to be carried out now, or that the position would thereafter remain static until development of the site (if approved) commenced. Notwithstanding that all protected species are protected under the Wildlife and Countryside Act 1981 and also in the case of bats, by the Conservation of Habitats and Species Regulations 2010. Work would be expected to take a precautionary approach and in the event that any such species are encountered during development all work would be required to stop immediately and advice be sought from a suitably qualified and experienced ecologist to comply with the relevant legislation.

6.11 Foul and Surface Water Drainage

6.11.1 Southern Water has confirmed that its initial assessment is that the foul sewage requirements of the development can be accommodated by the public foul drainage network. There is still a possibility that a pumping station to direct sewage to the public sewer may be required but this would be expected to be an underground facility and a location is indicatively shown for that in the north-west corner of the site. A minimum 15m separation between that any habitable accommodation is required and this is comfortably achieved within the indicative site layout submitted.

6.11.2 ESCC as Local Lead Flood Authority is satisfied that surface water falling on the developed site can be adequately dealt with without increasing off site flood risk.

6.12 Land stability

6.12.1 Part of the western side of the site is affected by abandoned gypsum mines with floor to roof heights of 3 – 4m at a depth of circa 200m. In connection with the previous application RR/2017/941/P and another recent application

for development elsewhere in the village it has been established beyond reasonable doubt that there is no in-principle objection to development occurring above those mines, any potential land movement falling within the normal tolerances of house foundations. Paragraph 120 of the National Planning Policy Framework states that, where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. Whilst the indicative drawings submitted indicate that some very limited development might be being considered over the potentially affected area contrary to what was previously said by the applicant, there is no reason for the Council to maintain an objection to that. It is also the case that the site plan submitted is for indicative purposes only and is not for approval now. The applicant has also provide clarification on this matter stating in an email dated 15 January that, *“unless it can be demonstrated to Asprey through geotechnical investigations and receipt of advice from structural engineers, that there is no potential risk to ground stability and foundations by constructing within such an area, it is not our intention to do so. Clearly if it is demonstrated that there is no risk, then we may be prepared to consider a different approach”*.

6.13 Archaeology

6.13.1 The Council takes its archaeological advice from the County Archaeologist with the expertise in this respect. The applicant has undertaken a desk top assessment and a detailed magnetometer survey of the application site both of which have been assessed by the County Archaeologist. The magnetometry survey has identified a ring of deposits in the northwest corner of the site that might indicate a ring ditch / prehistoric burial mound site that would be of national significance. On the other hand, the deposits may equally be the result of the natural geology. The features are not represented on either modern or historic cartography. A detailed trench investigation would be required to ascertain the significance of the deposits and the County Archaeologist has proposed conditions to secure that and also for those remains if present to be retained in situ or recorded before development.

6.14 Layout and Design

6.14.1 The application is submitted in outline with all matters other than access reserved. The site layout and building elevations are therefore submitted for illustrative purposes only and are not for approval. It should be noted that the amended indicative layout was not discussed with officers prior to submission and remains unacceptable in terms of layout and house design.

6.14.2 Notwithstanding that the reduction in density now proposed allows more scope to address those concerns and also to accommodate enhanced site boundary measures for biodiversity and landscape value and to accommodate any archaeological remains if those are present and of significant importance requiring preservation in situ. These related matters would be fully addressed at reserved matters stage in the event that outline permission is granted.

6.15 Affordable housing provision and other planning obligations

6.15.1 In the event that outline planning permission is granted this would need to be subject to the satisfactory completion of a section 106 planning obligation.

The Community Infrastructure Levy (CIL) Regulations 2010 provide three tests for section 106 Planning Obligations. Obligations should be:

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonably related in scale and kind to the development.

Any matter included with a section 106 Agreement must meet all of these tests.

6.15.2 In this case the following requirements would be necessary under a section 106 agreement being considered to be related to the development, proportionate and necessary:

- Provision of 40% affordable housing including draft nominations agreement, up to 65:35 % tenure split affordable rent to intermediate housing, Nationally Described Space Standards and M4 (2) of the Building Regulations 2010.
- Agreement for any future development of the adjoining site (NE5a) to connect into the internal road in the event that planning permission is granted for that site.
- A new vehicular access into the site from Darvel Down.
- New pedestrian footway to east side of access, dropped kerbs and tactile paving on new access and Darvel Down.
- Traffic Regulation Order to install double yellow lines opposite the vehicular access.
- Dedication of three parking spaces on the site for use by the residents of 17, 19 and 21 Darvel Down.

6.15.3 In addition to the section 106 agreement the off-site highway works will also require a section 278 Highway Agreement with the County Highway Authority.

6.16 Impacts on European sites

6.16.1 With regard to the impact of the proposal on the air quality of Ashdown Forest and Lewes Down Special Areas of Conservation (SAC), and hence on the sites' principal interests: having regard to the conclusions of the Habitat Regulation Assessments (HRAs) undertaken for the adopted Core Strategy, supplemented by available evidence of commuting data for this locality, it is found that there is no discernable prospect of additional traffic from the proposed development impacting on the Ashdown Forest or Lewes Downs SACs in particular.

6.16.2 This is based on consideration of the likely level of non-local (i.e. commuting) trips that can be estimated to be generated by the proposed development and the likely distribution of those trips, having regard to recorded commuting flows from this locality. Assuming two trips from a single vehicle to any destination, the proposal is found likely to generate less than one quarter of a single daily vehicle movement that would have the potential to have impact on the Ashdown Forest SAC. Similarly, the likely trip generation close to the Lewes Downs SAC is less than one half of a single daily vehicle movement.

6.16.3 Of course, the current trip distribution does not necessarily equate to that which will occur in the future. A significant factor affecting future trips will be

the availability of employment opportunities locally. In this respect, it is anticipated that there will be a relative increase in jobs locally, particularly in the “A21 Corridor”, as a consequence of on-going major business development schemes, and associated road access improvements which should lead to a lesser level of net out-commuting from the area for work.

- 6.16.4 Notwithstanding this, the applicant has been invited to submit a site-specific assessment of likely traffic impacts, drawing on the traffic generation information in the Transport Assessment.
- 6.16.5 Hence, while it is anticipated that it may be concluded that any likely significant effects upon European sites, even in combination with other relevant plans and projects, can reasonably be screened out, it is considered prudent to seek external verification of this position, and any evidence that may be submitted by the applicant, before making a final decision.

7.0 COMMUNITY INFRASTRUCTURE LEVY

- 7.1 The proposal is development where CIL will be chargeable. CIL is, however, calculated at the Reserved Matters (rather than the outline) stage, as where CIL is chargeable the amount can only be calculated when precise floor areas of properties are known.

8.0 SUMMARY

- 8.1 The site lies outside of the current development boundary and within the High Weald AONB. However it is recognised within the Rother Local Plan Core Strategy that in order for the district to meet its housing requirement over the plan period that development boundaries will need to be reviewed and that certain villages, including Netherfield will need to accommodate some of that housing growth. The net identified minimum requirement for the village is 48 dwellings.
- 8.2 The National Planning Policy Framework and Policy PC1 of the Core Strategy require that planning decisions are made in accordance with a presumption in favour of sustainable development. Paragraph 7 identifies three dimensions to sustainable development: economic, social and environmental. Paragraph 8 confirms that these should not be pursued in isolation but sought jointly and simultaneously. Paragraph 49 of the National Planning Policy Framework says that where a Local Planning Authority cannot a five year supply of deliverable housing sites including appropriate buffer that its policies for housing supply must be considered out of date. Decisions in that case should be made in accordance with paragraph 14 which requires that proposals for sustainable development are permitted unless *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole* unless, or in accordance with footnote 9, other policies of the National Planning Policy Framework such as paragraph 115 concerning AONBs suggests that development should be restricted. Within the AONB the principal consideration in the planning balance to be made is that *great weight should be given to conserving the landscape and natural beauty* of the

AONB, which has the highest status of protection in relation to landscape and scenic beauty.

- 8.3 The application site is located within the confines of the existing and established built extent of the village and would not extend this any further into the surrounding AONB countryside. Furthermore, the strong mature tree line on the west boundary of the site prevents any long distance views into the site from the AONB. For those reasons it is concluded that the proposed development would not cause harm to the landscape of the AONB or the setting or character of the village within it. Subject to details that would be negotiated and agreed as reserved matters the development of the site can be achieved whilst, notwithstanding the loss of some existing trees including possibly one the subject of a TPO, protecting and enhancing the tree lines that bound the site and its biodiversity value. For these reasons the proposal is considered to meet the environmental dimension.
- 8.4 The proposal by providing 25 dwellings would make a significant contribution towards the additional 48 dwellings that the Rother Local Plan Core Strategy requires are delivered in the village over the plan period and therefore meets the economic dimension. In light of the Council not currently being able to demonstrate a five year supply of deliverable housing sites this consideration weighs heavily in favour of the proposal within the planning balance to be made.
- 8.5 Although the village's sustainability for new development has been questioned it was assessed to be a relatively accessible and sustainable location within the production of the Core Strategy suitable to accommodate additional dwellings of this quantum. In that regard the village has a small range of local facilities and services including a primary school, local shop / post office, two public houses and a children's playground. The application site is located within the most accessible part of the village and those services are all within easy walking distance via good footway connections. Satisfactory vehicular access to the site can be achieved and the proposal is able to meet its assessed off-street parking requirement. For these reasons it is also considered to meet the social dimension.
- 8.6 To conclude therefore, the amended proposal for the development of 25 dwellings on the site and the provision of compensatory off street parking for the properties on Darvel Down affected by the proposed double yellow lines is considered to satisfactorily address reasons 1 and 2 for refusing application RR/2017/941/P. Whilst the possible loss of the TPO tree (T1) is not resolved, and its loss would weigh against the proposal in the planning balance to be made the loss could be mitigated through new compensatory and additional tree planting on the site and would be clearly outweighed by the benefits of developing the site for housing. For that reason, it is recommended that outline planning permission should be granted subject to conditions and a section 106 planning obligation.

RECOMMENDATION: GRANT (OUTLINE PLANNING) DELEGATED (FOR EXTERNAL VERIFICATION OF THE ASSESSMENT OF IMPACTS ON THE EUROPEAN NATURE CONSERVATION SITES AND COMPLETION OF A SECTION 106 AGREEMENT RELATING TO:

- **Provision of 40% affordable housing units and nomination rights.**
- **A new vehicular access into the site.**

- **Agreement for any future development of the adjoining site (NE5a) to be able to connect into the internal road.**
 - **New pedestrian footway to east side of access, dropped kerbs and tactile paving on new access and Darvel Down.**
 - **Traffic Regulation Order to install double yellow lines opposite the vehicular access.**
 - **Dedication of three parking spaces on the site for use by the residents of 17, 19 and 21 Darvel Down).**
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CONDITIONS:

1. Approval of the details of layout, appearance, landscaping and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development commences on the development.
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.
2. Plans and particulars of the reserved matters referred to in condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
Reason: In accordance with the requirements of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.
3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
4. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
Reason: In accordance with section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
5. The development hereby permitted shall be carried out in accordance with the following approved plans and particulars:
Drawing no. 17/0305/SK02 Rev A, Site Access Design dated June 2017
Reason: For the avoidance of doubt and in the interests of proper planning, as advised in Planning Practice Guidance Paragraph: 022 Reference ID: 21a-022-20140306.
6. The landscaping details to be submitted pursuant to condition 1 shall include the following:
 - a) details of all hard landscaping;
 - b) details of all trees to be retained;
 - c) design, layout and appearance of structural and amenity green space, including verges;
 - d) planting plans, including landscape and ecological mitigation (buffer planting and green buffers);

- e) written specifications (including cultivation and other operations associated with plant and grass establishment);
- f) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- g) details for implementation.

The development shall thereafter be carried out in accordance with the details as approved in writing by the Local Planning Authority and in accordance with an agreed implementation programme.

Reason: To ensure the creation of a high quality public realm and landscape setting that enhances the landscape and scenic quality of the High Weald AONB in accordance with Policies EN1 and EN3 of the Rother Local Plan Core Strategy.

7. No development shall commence until details for the protection of existing trees and hedgerows on the site to be retained have been submitted to and approved in writing by the Local Planning Authority. The details shall include indications of all existing trees and hedgerows on the land including details of those to be retained, together with a scheme for protection, which shall include locations for protective fencing, ground protection and no dig surface construction methods in accordance with Appendix E-G of the Arboricultural Survey and Planning Integration Statement by Quaife Woodlands Rev A dated 2 March 2017. The approved scheme shall be put in place prior to the commencement of any development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: These details are required prior to commencement of works to ensure the protection of retained trees and hedgerows during construction and the creation of a high quality public realm and landscape setting in accordance with Policy EN3 of the Rother Local Plan Core Strategy.

8. No works or development shall take place until a full specification of all proposed tree planting has been approved in writing by the Local Planning Authority. The specification shall include the quantity, size, species, and positions or density of all trees to be planted, how they will be protected and the proposed time of planting in accordance with BS5837:2012 Trees in relation to design, demolition and construction – Recommendations. A schedule of maintenance of the trees until successfully established is to be agreed in writing with the Local Planning Authority and implemented. The schedule shall include provision for replacement planting should establishment fail, such measures having regard to BS 8545:2014 Trees: from nursery to independence in the landscape – Recommendations.

Reason: Full details of tree planting and their subsequent protection is required prior to commencement of the development as the trees on the site which are to be planted are required to compensate for the loss of existing trees and enhance the appearance of the development, in accordance with Policies OSS4 (iii), EN1 and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

9. No development shall commence until a scheme for the provision of foul water drainage works has been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water and none of the

dwellings shall be occupied until the drainage works to serve the development have been provided in accordance with the approved details.
 Reason: These details are integral to the whole development and are therefore required prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 100 and 103 of the National Planning Policy Framework with accompanying ministerial statement of December 2014.

10. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Lead Flood Authority: The scheme details shall:

- 1)
 - (a) Carry forward the principles of surface water management outlined in Herrington Consulting's Flood Risk Assessment (March 2017);
 - (b) Provide evidence of (a) in the form of hydraulic calculations to be submitted with the detailed drainage drawings taking into account the connectivity of the different surface water drainage features; and
 - (c) Not include permeable paving constructed in individual private driveways.
- 2)
 - (a) Include a maintenance and management plan for the entire drainage system that clearly identifies who will be responsible for managing all aspects of the surface water drainage system including piped drains, and confirmation that the appropriate authority is satisfied with the submitted details; and
 - (b) Include evidence that these responsibility arrangements will remain in place throughout the lifetime of the development.

Thereafter none of the dwellings shall be occupied until the surface water drainage works to serve the development have been provided in accordance with the approved details and evidence of such provided to and approved in writing by the Local Planning Authority.

Reason: These details are integral to the whole development and are therefore required prior to commencement of works to prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system in accordance with Policies SRM2 (iii) and EN7 (iii) of the Rother Local Plan Core Strategy and paragraphs 100 and 103 of the National Planning Policy Framework with accompanying ministerial statement of December 2014.

11. No development shall be commenced until such time as a Traffic Regulation Order securing the provision of parking restrictions on the north side of Darvel Down has been approved in writing by ESCC and written confirmation of this approval is made available to the Local Planning Authority.

Reason: A pre application condition is required because the works subject to the TRO are required to be carried out prior to any other development commencing to ensure that traffic conditions on Darvel Down maintain the safety of all road users including during the construction period in accordance with Policies TR3 and CO6 of the Rother Local Plan Core Strategy.

12. No development shall commence, including any ground works, until a Construction Management Plan has been submitted to and approved in

writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:

- a) the anticipated number, frequency and types of vehicles used during construction;
- b) the method of access and egress and routing of vehicles during construction;
- c) the parking of vehicles by site operatives and visitors;
- d) the loading and unloading of plant, materials and waste;
- e) the storage of plant and materials used in construction of the development;
- f) the erection and maintenance of security hoarding;
- g) the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary TRO); and
- h) details of public engagement both prior to and during construction works.

Reason: A pre application condition is required because the works need to be managed in all stages of construction to maintain safe traffic conditions on Darvel Down, to maintain the safety of all road users and to maintain the amenities of the locality in accordance with Policies OSS4, TR3 and CO6 of the Rother Local Plan Core Strategy.

13. No development shall commence until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.

14. No development shall commence until details of the foundations, piling configurations, drainage and services, to include a detailed design and method statement, has been submitted to and approved in writing by the Local Planning Authority, such details to show, where necessary, the preservation of surviving archaeological remains which are to remain in situ.

Reason: A pre-commencement condition is required to ensure that the archaeological and historical interest of the site below ground to remain in situ is safeguarded to comply with the National Planning Policy Framework and in accordance with Policy EN2 (vi) of the Rother Local Plan Core Strategy.

15. No development shall commence until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:

- a) purpose and conservation objectives for the proposed works;
- b) review of site potential and constraints;
- c) detailed design(s) and/or working method(s) to achieve stated objectives;
- d) extent and location/area of proposed works on appropriate scale maps and plans;

- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development’;
- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance;
- i) details for monitoring and remedial measures; and
- j) details for disposal of any wastes arising from the works.

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

Reason: A pre-commencement condition is required to enable the local planning authority to properly ensure the protection of protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Rother Local Plan Core Strategy.

16. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include:
- a) creation of escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
 - b) open pipework greater than 150mm outside diameter being blanked off at the end of each working day.

Reason: To properly ensure the protection of rare and protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Rother Local Plan Core Strategy.

17. No other development shall commence until the vehicular access serving the development has been constructed in accordance with the approved drawing no. 17/0305/SK02 Rev A dated June 2017 and construction details, form HT401, attached to this permission.

Reason: In the interests of road safety in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

18. No development above ground level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, height, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.

Reason: To ensure a high quality public realm taking account of the characteristics of the locality in accordance with Policies OSS4 (iii) and EN3 of the Rother Local Plan Core Strategy.

19. Prior to any occupation, a “lighting design strategy for biodiversity” shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, e.g., for foraging; and

- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding site and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To ensure the protection of rare and protected species identified by EU & UK Wildlife Protection Legislation and the UK Biodiversity Action Plan in accordance with Policy EN5(ii), (v) and (viii) of the Rother Local Plan Core Strategy.

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

Reason: To ensure a high quality public realm taking account of the characteristics of the locality and enhancing the landscape character and quality of the High Weald AONB in accordance with Policies OSS4 (iii), EN1 and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

21. The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 13 and that provision for analysis, publication and dissemination of results and archive deposition has been secured, unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

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

22. Unless alternative times are specifically agreed in writing construction activities associated with the development hereby permitted shall not be carried out other than between the hours of 08:00 and 18:00 hours on Mondays to Fridays inclusive and 08:00 and 13.00 on Saturdays and not at any time on Sundays, Bank and Public Holidays.

Reason: So as not to unreasonably harm the amenities of adjoining properties in accordance with Policies OSS4 (ii) and CO6 of the Rother Local Plan Core Strategy and the National Planning Policy Framework.

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

Reason: To enhance the appearance of the development and the landscape of the High Weald AONB in accordance with Policies EN1 and EN3 of the Rother Local Plan Core Strategy.

24. No part of the development shall be occupied until all car parking spaces have been constructed and provided in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority pursuant to condition 1 and the areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To ensure the provision of adequate on-site parking that does not prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6, TR4 and TR3 of the Rother Local Plan Core Strategy.

25. No part of the development shall be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority pursuant to condition 1. The areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: in order that the development site is accessible by non-car modes and to meet the objectives of sustainable development in accordance with Policy TR3 of the Rother Local Plan Core Strategy.

26. No part of the development shall be occupied until a vehicle turning space has been constructed within the site in accordance with details submitted to and approved in writing by the Local Planning Authority pursuant to condition 1 and this space shall thereafter be retained at all times for this use and shall not be obstructed.

Reason: To ensure the provision of adequate turning facilities that do not prejudice the free flow of traffic or conditions of general safety along the highway in accordance with Policies CO6 and TR3 of the Rother Local Plan Core Strategy.

27. No part of the development shall be occupied until the road(s), footways and parking areas serving the development have been constructed, surfaced, drained and lit in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure safe access by pedestrians within the development in accordance with Policies CO6 and TR3 of the Rother Local Plan Core Strategy.

28. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of five years from the date of the occupation of the building for its permitted use.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].

b) If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

- c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
- d) No fire shall be lit within 10m from the outside of the crown spread of any tree which is to be retained.
- e) No equipment, machinery or structure shall be attached to or supported by a retained tree.
- f) No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area.

No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

Reason: To ensure that tree(s) are not damaged or otherwise adversely affected by building operations and soil compaction to enhance the appearance of the development and the High Weald Area of Outstanding Natural Beauty in accordance with Policies OSS4 (iii) and EN3 (ii) (e) of the Rother Local Plan Core Strategy.

NOTES:

1. This permission is the subject of an obligation under section 106 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt, the applicant is advised that the design, layout, and elevational information submitted with the application, are not acceptable and are not approved, namely:
Drawing No. DD/522/SP 10 Rev J – proposed site layout at scale 1:250 which indicates access and circulation arrangements, including parking, disposition of development and broad landscaping,
Drawing No. DD/522/BP 01 Rev D – proposed block plan,
Planning, Design & Access Statement which includes the indicative layout and written explanation,
Drawing No. DD/522/SS 10 Rev A – indicative street scenes for illustrative purposes
For the avoidance of doubt, the site layout, internal circulation arrangements, disposition of development, public realm treatment including car-parking, and internal streetscape and elevational massing and forms of buildings, fail to deliver the high quality design required by the National Planning Policy Framework and by the Rother Local Plan Core Strategy.
3. The applicant is reminded of the need to enter into section 38 and section 278 agreements with the Highway Authority.
4. The Highway Authority would wish to see the roads within the site that are not to be offered for adoption laid out and constructed to standards at, or at least close to, adoption standards.

5. The applicant is advised to contact the Transport Development Control Team (01273 482254) to commence the process associated with the proposed TRO. The applicant would be responsible for meeting all costs associated with this process which is a minimum of £5,000. The applicant should note that the outcome of this process cannot be guaranteed as it is open to public objection.
6. In relation to condition 13, the written scheme of investigation, ensuing works and production of reports should accord with the relevant portions of the ESCC document "Recommended Standard Conditions for Archaeological Fieldwork, Recording and Post-Excavation in East Sussex" (2008), including Annexe B, and should be undertaken only by a suitably qualified archaeologist. For assistance and advice in seeking compliance with the requirements of the condition, please contact the County Archaeologist at ESCC, Transport & Environment, County Hall, Lewes, BN7 1UE, telephone 01273 481608 or email County.Archaeology@eastsussex.gov.uk.
7. The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.
8. The applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning permission for a development does not provide a defence against prosecution under European and UK wildlife protection legislation. The presence of protected species cannot be discounted on this site given its character and location and a precautionary approach must be taken to all site clearance and construction works. Should any protected species be encountered during these works all work on site should cease and advice sought on how to proceed from a suitably qualified and experienced ecologist. Separate licences and consents may be required to undertake work on the site where protected species are found.
9. This development will be subject to the CIL and all interested parties are referred to <http://www.rother.gov.uk/CIL> for further information and the charging schedule.

NATIONAL PLANNING POLICY FRAMEWORK:

In accordance with the requirements of the Framework (paragraphs 186 and 187) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that 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.

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