

<b>Application Number:</b>	23/1326/FH
<b>Location</b>	Land At Hurricane Way, Hawkinge, CT18 7SS
<b>Application Description</b>	Variation of condition 12 (details of CCRC) for plot 1 of planning permission Y14/0341/SH to allow for amendment to wording of condition 12.
<b>Applicant</b>	Pentland Properties Ltd
<b>Agent</b>	Ian Bull Consultancy Ltd
<b>Officer Contact:</b>	Robert Allan

## **Recommendation**

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### **1. Reason for consideration by the Committee**

- 1.1. The application is reported to Committee at the request of Councillor Godfrey.

### **2. Site and Surroundings**

- 2.1 The application site is immediately adjacent to, but outside of the Hawkinge retirement village, which extends away to the southeast, and is located within the defined settlement boundary of Hawkinge. To the northeast is Hawkinge House, a residential care home, and to the northwest is further residential development. The application property and grounds are separated from the retirement village by a wall and gated access, marking the transition to a privately maintained road.
- 2.2 The application property is a two-storey detached dwelling in a neo-Georgian style, finished in buff bricks and cream render, with a faux-slate roof and uPVC sliding sash windows. The frontage of the property is given over to block-paving, which wraps around the side of the dwelling. It has previously been occupied for use as the sales and marketing suite for Terlingham Gardens – the retirement village. The properties within the immediate area of the adjacent retirement village are semi-detached bungalows.
- 2.3 The application site is within the Kent Downs National Landscape and North Downs Special Landscape Area.

2.4 The site plan can be seen in figure 1 below.

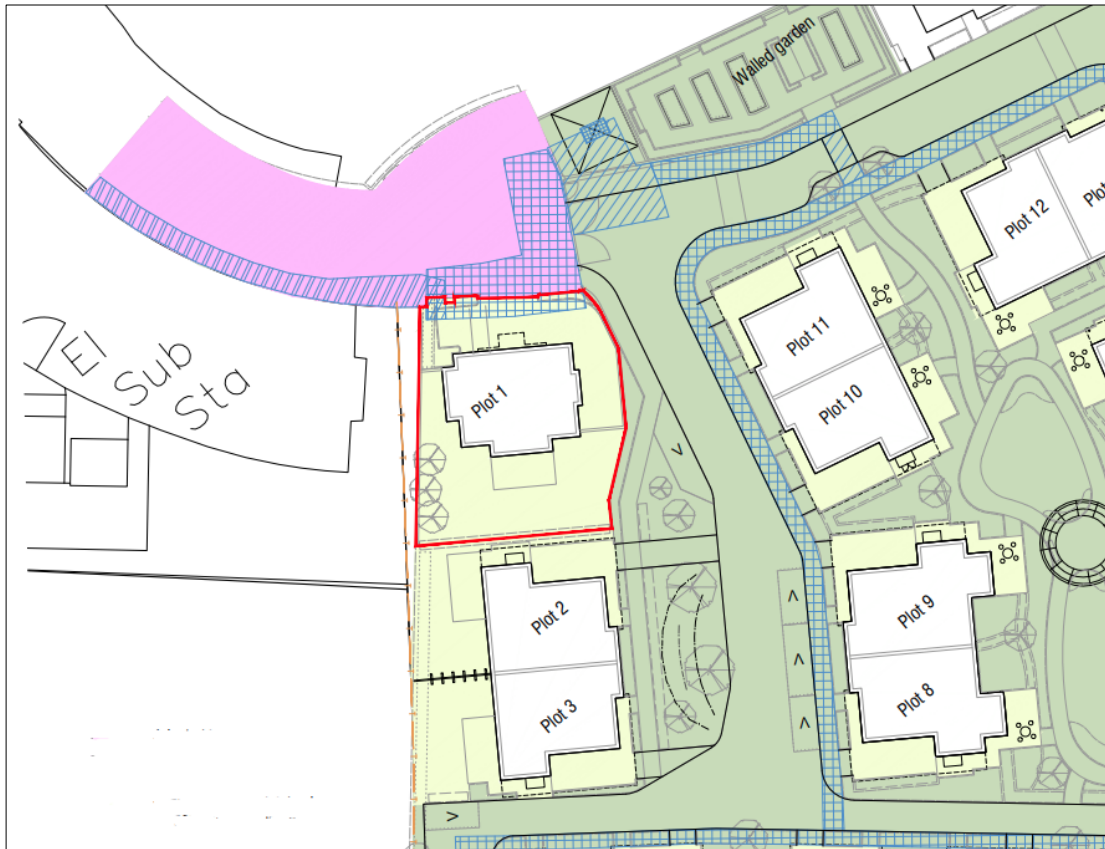


Figure 1: Site plan

2.5 A site location plan is attached to this report as **Appendix 1**.

## 3. Proposal

- 3.1. Full planning permission for the erection of 21 dwellings (C3 use) together with associated access and landscaping, was granted under planning application reference Y14/0341/SH. The application comprised 20 pairs of semi-detached properties, in a semi-detached bungalow form and rooms in the roof together with a single, detached, two-storey neo-Georgian gatehouse at the entrance to the site, giving a total of 21 units. At the entrance to the retirement village is an 'arrival square', providing a turning area for large vehicles, with a secure gated access to the development beyond.
- 3.2. At the time of the outline permission, Y10/0738/SH, it was set out that Retirement Communities were considered as C2 (residential institution) uses, with appropriate restrictions on occupancy and a package of care required via s.106 legal agreement.
- 3.3. Policy CSD2 of the Shepway Core Strategy Local Plan 2013 (now superseded) required the provision of 20% of homes to meet lifetime homes standards in developments of 10 dwellings or more. For Y14/0341/SH, all 21 of the proposed dwellings were designed to such standards, to ensure that the needs of ageing residents could be met in their homes, whilst services for residents were provided alongside those houses within the approved retirement village. In all matters other than specific use class (C3 rather than C2) the 2014 application was considered as an extension to the approved retirement village, as a consequence of the condition.
- 3.4. Additionally, the provision and delivery of specialist accommodation, via this site and the delivery of the wider retirement village, was considered to contribute significantly to meeting the strategic needs of the district by providing accommodation that specifically catered for the identified ageing population in a sustainable location.
- 3.5. However, unlike the outline permission, the s.106 planning obligation associated with Y14/0341/SH does not require a package of care, instead relying upon a condition (condition 12) to restrict the occupancy as below:

*In accordance with the details of the application and to ensure the development forms an integral part of the CCRC\* adjoining the development shall meet with the following requirements:*

- 1. All dwellings hereby approved shall be built to Lifetime Homes Standards.*
- 2. The development hereby approved shall be built to Secure by Design standard.*
- 3. The development shall be occupied by at least one person who has attained the age of 55 years.*

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*4. Before occupation of the first dwelling in the development hereby approved details of the care package to be provided and administered via a CSCI registered domiciliary care operator (or any successor organisation) (including home help and personal help) shall be submitted to the Council for approval.*

*5. Each property shall be occupied by at least one person who has reached the age of 55 with a contract for a minimum of 2 hours per week care provision in accordance with the approved care package referred to above.*

\* Continuing Care Retirement Community

- 3.6. At the time of the application, the provision of lifetime homes with a C3 use class alongside the specialist C2 accommodation of the retirement village was considered a material consideration carrying considerable weight and the proposal was approved.
- 3.7. The current proposal seeks to disapply condition 12 from the application property, which would allow it to be occupied as a residential dwelling in use class C3, which it already falls within, without the controls that extend to cover the rest of the retirement village. There are no external physical changes proposed.
- 3.8. The following reports were submitted by the applicant in support of the proposals:

## Consultancy Report

This document concludes that although demand for senior housing exists, the application plot is not optimally suited to senior living use, being located outside the gates of the existing senior living development, resulting in accessibility issues to the communal grounds, potential exclusion from the community and activities within the development, as well as potential compromise of perception of safety and security.

The document also states that senior housing demand is driven by 1 - and 2 - bed units, whilst the application property is a four-bedroom unit, currently arranged over two floors without any lifts installed, which does not allow residents to age in place, and limits demand and affordability.

Wider demand for the retirement community has fallen, with no reservations between October 2022 and December 2023 despite price reductions. Plot 1 is better suited for unrestricted C3 use and would receive considerable interest as family housing.

## **4. Relevant Planning History**

- 4.1. The relevant planning history for the site is as follows:

Y14/0341/SH Erection of 21 dwellings (class C3) Approved with  
together with associated access and conditions  
landscaping

## 5. Consultation

Ward Members: Councillor James Butcher, Councillor David Godfrey and Councillor Stephen Scoffham are the ward members for North Downs East Ward. None are members of the Planning & Licensing Committee.

5.1 The key consultation responses are summarised below.

### Consultees

**Hawkinge Town Council:** Object – do not accept that the property is outside the gated community, still near housing with strict conditions; do not agree that the property is unsuited to restricted use, as it could be split into smaller units; do not accept that that the preferred layout for senior living is one storey as there are a number of two storey properties on the Terlingham Estate; removal of condition would compromise security of residents.

**KCC Highways & Transportation:** Outside of consultation protocol.

**Southern Water:** No comments

**Affinity Water:** No comments.

**Environment Agency:** No comments.

### Public/Neighbour Consultation

5.2 14 neighbours directly consulted. 25 letters of objection, 0 letters of support received and 0 letters neither supporting nor objecting to the application.

5.3 I have read all the correspondence received. The key issues are summarised below:

### Objections

#### *Material planning considerations*

- Inadequate neighbour consultation
- House could be let for multiple occupation – HMO – with noise and trespass issues

- Change would allow access to gated community
- No provision for increased parking
- Danger to children playing outside unrestricted property
- Increased traffic from HMO
- Inadequate parking
- Tailgating through secure gates
- Terlingham Village Demographics Consultancy Report is ageist and inaccurate
- Poor location for family dwelling
- Plot could be two self-contained flats for over 55s
- Lift could be installed
- Secure gates should be moved
- Removal of condition will create an isolated plot
- Recent fence erection blocks path
- Security concerns
- Loss of 'peace and tranquillity'
- Location to facilities and services is good
- Access to train, road and bus services is good
- Retention of condition 12 would ensure long term aesthetic and security provision.

### *Non-material considerations*

- [Concern facilities will be lost if condition removed](#)
- [No consultation from Pentland Homes](#)
- [Condition removal would allow house to be sold to family with noisy children](#)
- [Sets a precedent for remaining estate](#)
- [Size of house is Pentland's problem](#)
- [Unsuitability of house is unfounded](#)
- [Many other properties have stairs](#)
- [Housing market / mortgage rates are primary issue](#)
- [Should be demolished and landscaped / replaced with a bungalow](#)
- [Property has not been built in accordance with the planning permission](#)
- [Commercial considerations have little regard to residents of Terlingham Gardens](#)

5.4 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## 6. Planning Policy

- 6.1 The Development Plan comprises the Core Strategy Review (2022) and the Places and Policies Local Plan (2020).
- 6.2 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

- HB1 Quality Places Through Design
- T2 Parking Standards
- T5 Cycle Parking
- NE2 Biodiversity
- NE3 Protecting the District's Landscapes and Countryside

### Core Strategy Local Plan (2013)

- SS1 District Spatial Strategy
- SS2 Housing and the Economy Growth Strategy
- SS3 Place-Shaping & Sustainable Settlements Strategy
- CSD1 Balanced Neighbourhoods
- CDS2 District Residential Needs
- CSD4 Green Infrastructure of Natural Networks, Open Spaces and Recreation

- 6.3 The following are also material considerations to the determination of this application.

## **Government Advice**

### National Planning Policy Framework (NPPF) 2023

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

#### Paragraph:

- 11 Presumption in favour of sustainable development
- 47 Applications determined in accordance with the development plan
- 60 Delivering a sufficient supply of homes

131	Achieving well-designed and beautiful places
135	Achieving well-designed and beautiful places
180	Conserving and enhancing the natural environment
182	Conserving and enhancing the natural environment – designated landscapes

## National Planning Policy Guidance (NPPG)

### **7. Appraisal**

7.1 In light of the above the main issues for consideration are:

- a) Is the Principle of development acceptable?
- b) Is the visual impact of the development acceptable?
- c) Would the proposal harm residential amenity?
- d) Would the proposals result in harm to highway safety?
- e) Other issues

#### **a) Is the principle of development acceptable?**

- 7.2 The Core Strategy Review Policy SS2 'Housing and the Economy Growth Strategy' establishes a long-term requirement to deliver 738 Class C2/C3 houses a year on average from 2019/2020 to 2036/37, a total requirement of 13,284 new homes over the plan period. It is not specific about locations, or the type of dwelling house, and in this regard, the removal of the condition, for this plot, would not affect the requirements of this policy.
- 7.3 Core Strategy Review policy CSD2 'District Residential Needs' states that 'Specialist units for older people .... will be delivered primarily through strategic allocations as part of a new garden settlement in the North Downs Area (Policies SS6-SS9) and expansion at Sellindge (Policy CSD9)'.
- 7.4 The removal of the tenure restrictions for the application property alone would have a negligible effect on the number of properties available for retirement living within the development and would have no significant impact on the numbers of dwellings required within the plan. The proposal is therefore not considered to be contrary to the objectives of policy CSD2.
- 7.5 The application property is within the defined settlement boundary of Hawkinge and in a sustainable location within walking distance of shops and services. This accords with the principles of Core Strategy Review policies SS1 and SS3, which direct development toward existing sustainable settlements.



## **b) Is the visual impact of the development acceptable ?**

- 7.6 The application site is within the Kent Downs National Landscape (AONB) and North Downs Special Landscape Area (SLA), within an existing built-up residential land use area, with extensive areas of hardstanding, boundary features, and a suburban character.
- 7.7 No external alterations are proposed to the property, or the landscaping surrounding it, with the removal of the occupation tenure unlikely to alter this. The parent permission, Y14/0341/SH, removed permitted development rights to alter the property, and so no subsequent changes can be made without approval from the Local Planning Authority. In this regard, the proposed development would have no impact on the character or appearance of the Kent Downs National Landscape (AONB) or North Downs SLA and would have no impact upon the character or appearance of the building or the street scene.

## **c) Would the proposal harm residential amenity?**

- 7.8 Concern has been raised regarding the location of a family home immediately adjacent to a retirement community. It is noted that the terms of the condition require only one resident to be over the age of 55, which is well below the national retirement age, with a potential for all occupants to be of working age. Consequently, there would be movements associated with the economic activity, of the occupants, irrespective of the condition.
- 7.9 It is acknowledged that there could be a greater likelihood of young children occupying the property as part of a family, with a potential increase in associated noise and activity also. However, this is considered unlikely to be of significant detriment to result in any significant detrimental impact upon neighbouring amenity as to warrant a ground of refusal.
- 7.10 In respect of security, the existing gates would remain, and the application property would have its own boundary treatment securing the rear garden and preventing access to the wider community, which is considered reasonable to safeguard the wider security concerns of adjacent residents.
- 7.11 Overall, there would be no likely detrimental impact upon the residential amenity of neighbouring occupiers.

## **d) Would the proposal result in harm to highway safety?**

- 7.12 KCC Highways & Transportation have reviewed the proposal but declined to offer a response as Hurricane Way is a privately maintained road and falls outside of the consultation protocol.

- 7.13 The original scheme showed sufficient parking and cycle parking to serve the development, and the layout was secured in the approved plans, with permitted development rights removed to safeguard this. The proposal is in consideration of the restricted tenure only, with no evidence to suggest that the proposed derestriction of tenure would affect the level of car ownership associated with the future occupants. Consequently, with this aspect of the scheme considered unaltered and unaffected by the proposal, which would retain all previous parking associated with the plot, as intended, the proposal would have no impact upon the parking and cycle storage provision for the property.

## **e) Other issues**

- 7.14 Concern has been raised regarding the potential change of use to a house of multiple occupation (HMO). For the sake of clarity, the permitted change to an HMO from a C3 (dwellinghouse) is a permitted development right that would be possible with condition 12 in place, as long as the property was occupied by at least one person who had reached the age of 55 with a contract for a minimum of 2 hours per week care provision in accordance with the approved care package. The removal of the condition, as proposed, would not alter that position.
- 7.15 All other material representations are considered to have been addressed within the body of the report.

## **Environmental Impact Assessment**

- 7.16 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

- 7.17 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development as a new dwelling is not being created.

## **Human Rights**

7.18 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

7.19 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

7.20 It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

7.21 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner. In this instance the proposal was considered acceptable following the receipt of additional information from the applicant.

## **8. CONCLUSION**

8.1. The proposal is for the removal of a condition that restricts occupancy of the existing dwellinghouse (use class C3). The removal of this would not conflict with adopted policy that seeks to ensure a sufficient supply of specialist units for older people across the local plan period, with all other material planning considerations relating to visual impact, neighbour amenity, and highways, considered to be acceptable.

## 9. BACKGROUND DOCUMENTS

- 9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council ([www.folkestone-hythe.gov.uk](http://www.folkestone-hythe.gov.uk)). Those papers relating specifically to this application may be found on the View applications online pages under planning application reference 23/1798/FH.

## 10. RECOMMENDATIONS

**That planning permission be granted subject to the following condition and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

**That planning permission be approved subject to the following conditions:**

Conditions:

1. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

Site location plan: 21088A-001 F  
Phase 1 site masterplan: 22081A 004 A  
Site layout retirement village masterplan: 21088A 010 L & 21088A 007E  
Site layout cluster 1 and 2: 21088A-011G

Section drawing to boundary: S116.713 rev A  
Planting strategy 1 of 5: INCLA S116-707  
Outline planting schedule INCLA S116.X01A  
Illustrative landscape masterplan: INCLA S116 108 (02)  
Landscape general arrangement plan INLCA S116 110 (02)  
Surface finish details 31027/2001/700/001C surface finish details  
External level details 31027/200/500/001 rev C  
Surface & Foul Water Drainage Strategy 31027/2001/500/015  
Lighting layout 22566/030/1300/001

Elevations house type 5 Gate Lodge: 21088A 027C  
Plans house type 5 Gate Lodge: 21088A 026B  
Elevations house type 1: 21088A 021B  
Plans and sections house type 1: 21088A 020B  
Elevations house type 2: 21088A 023B  
Plans and sections house type 2: 21088A 022B

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Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

2. The biodiversity and ecology enhancements shall be maintained in accordance with approved document PJC Ecology Extended Phase 1 Habitat Survey December 2014.

Reason: In order to enhance the biodiversity of the area.

3. The surface water drainage scheme (inclusive of 'lifetime' management and maintenance) shall be maintained in accordance with approved documents:

1027/2001/SK003 Rev. E Hawkinge Employment Land, Phase 2 exceedance flow routes

Borehole soakage test results dated 01/02/16

Cover letter from Peter Brett Associates ref:

31027/2001/A/TAA/TH/AH/6403 dated 13 July 2016

FRA and Surface Water Management Plan

Performance of soakaway dated 14/07/16

Private surface water sheet 1 of 2 – 22566/023/500/007 Rev. D

Private surface water sheet 2 of 2 – 22566/023/500/008 Rev. C

Sheet 1 of 3 Surface Water Drainage 31027/2001/500/001 Rev. D

Source control calculations dated 06/05/16

Surface water drainage maintenance schedule dated 11/11/15

Surface Water Drainage sheet 1 of 3 31027/2001/500/001 Rev. E

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure future maintenance of the surface water drainage system.

4. The garden areas and public realm, including details of signage, street furniture, gates (including the access gates to the development, opening arrangements and measures to ensure access is available to and from the development), railings, fencing, lighting, litter bins and footpaths within the site shall be retained and maintained in accordance with the agreed plans and maintenance schedule:

Details submitted on 24/03/16 and as shown on drawings:

(94)001

Street lighting plan – OP34700LD6176-B

Boundary Walls 21088A\_008 Rev. C

(20)001 Rev. B Landscaping General Arrangement Plan

Site furniture location plan (94)001

Reason: In order to protect and enhance the appearance of the area.

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5. To ensure the development forms an integral part of the CCRC (Continuing Care Retirement Community) adjoining, the development, excluding plot 1, shall meet with the following requirements:
  1. Each property, excluding plot 1, shall be occupied by at least one person who has attained the age of 55 years.
  2. The care package to be provided and administered to all the dwellings hereby permitted, excluding plot 1, via a CSCI registered domiciliary care operator (or any successor organisation) (including home help and personal help) is as approved in the document 'Care Package for 21 Units granted under planning permission Y14/0341/SH' received 10/11/2015.
  3. Each property, excluding plot 1, shall be occupied by at least one person who has reached the age of 55 with a contract for a minimum of 2 hours per week care provision in accordance with the approved care package referred to above.

Reason: So as to ensure the development meets the specific needs of its residents and the district.

6. Infiltration of surface water drainage into the ground is permitted in accordance with the approved details:

Surface water drainage sheet 1 31027/2001/500/001 Rev. C and letter from Environment Agency 24 June 2016

No additional infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

7. The approved landscaping shall be retained and maintained in accordance with the approved schedule of landscape maintenance, for a minimum period of 15 years, as set out in Landscape Management Plan Hawkinge Retirement Village – Phase 1 Date: April 2016 S175.R01.

Reason: In order to protect and enhance the appearance of the area.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) no development falling within Classes A, B, D, E and F of Part 1 and Class A of Part 2 of Schedule 2 to the said Order shall be carried out without the prior consent in writing of the Local Planning Authority.

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Reason: To enable the Local Planning Authority to retain control over future development given the open layout and cluster design of the development.