

Committee: **Regulatory
Planning Committee**

Date: **10 July 2013**

Report by: **Head of Planning**

Proposal: **Non-Material Change Applications to the Bexhill to Hastings
Link Road Scheme**

Site Address: **A259 Belle Hill, Bexhill-on-Sea to B2092 Queensway, St
Leonards-on-Sea, East Sussex – Known as the Bexhill-
Hastings Link Road**

Applicant: **Assistant Director (Economy) of Economy, Transport and
Environment**

Application Nos. **RR/2474/CC(EIA)NM/1-7**

Contact Officer: **Sarah Iles – 01273 481631**

Local Members: **Councillors Ensor, Field, Phillips, Pragnell and Scott**

SUMMARY OF RECOMMENDATIONS

1. To approve the Non-Material Change Applications to the Bexhill-Hastings Link Road scheme, as indicated in paragraphs 8.1 – 8.7 of this report.

CONSIDERATION BY THE HEAD OF PLANNING

1. Introduction

1.1 The Planning Act 2008 inserted a new section 96A into the Town and Country Planning Act 1990. Section 96A allows non-material changes to be made to an existing planning permission. An application under s.96A is not an application for planning permission and therefore statutory consultations and publicity do not apply and any consultation is at the discretion of the Local Planning Authority.

1.2 In determining non-material change applications, the Local Planning Authority must have regard to the effect of the change, singly and cumulatively, and any representations received. The Local Planning Authority must satisfy itself that the change sought is non-material before granting any S96A applications. In deciding whether a change is material the Local Planning Authority must have regard to the effect of the change, together with any previous changes made under s.96A applications, on the planning permission as originally granted. This needs to be considered in each case and cumulatively in multiple application cases.

1.3 Seven non-material change applications have been submitted regarding the Bexhill-Hastings Link Road planning permission.

2. The Site and Surroundings

2.1 The Bexhill - Hastings Link Road is currently under construction. The most westward section is urban in character and the remainder of the scheme passes through open countryside between Bexhill and Hastings. The road will partly run along the route of the former Bexhill – Crowhurst railway line in the built up area of Bexhill, then pass around the northern side of the Combe Haven Site of Special Scientific Interest (SSSI) in the countryside. From there it will pass the southern edge of the Marline Valley Woods SSSI crossing the Hastings to London railway line to join Queensway just north of Crowhurst Road.

3. The Proposals

3.1 The proposals are seeking changes to the planning permission (RR/2474/CC(EIA)) for the Link Road approved in July 2009. The proposals will amend details that were approved by Condition 2 of the existing planning permission RR/2474/CC(EIA). There are no proposals to change the wording of the conditions attached to RR/2474/CC(EIA). The Non Material Change Applications comprise:

NM/1

- a) Omission of the proposed flood storage tank and pumping station and instead provide open channels (surface storage) and oversized pipes, as a result of revised flood modelling and the reduction in the volume of flood storage at Egerton stream (S1 and S1A).
- b) Reduce the verge width between the urban area of Belle Hill (west of the Link Road) and Glovers Farm from 3.5 metres to 2.5 metres, which will allow the road width to be minimised and avoid the need to carry out unnecessary excavation on existing railway embankments (H23).
- c) An updated Flood Risk Assessment has been submitted to supplement the 'Bexhill to Hastings Link Road Flood Risk Assessment, April 2008`.

NM/2

- a) Omission of the proposed overbridge at Glovers Farm with retention and refurbishment of the existing bridge. This carries a right of way over the former railway line and will require consequential amendment to the layout of proposed Greenways that would have crossed the new bridge but which will now use the retained bridge (S9).
- b) A reduction in width of parts of these Greenways as they will no longer be required to carry vehicular traffic to the new bridge (H25).

NM/3

- a) The alteration of the alignment of the Greenway as it passes to the north of the gas valve compound that is located to the west of Crowhurst Road (Chainage 5000-5150). (S20). The revised alignment will negate the need for retaining walls to be constructed and will result in the Greenway joining the existing Crowhurst Road slightly further north than proposed.
- b) The deletion of the dedicated bus lane at the Queensway junction. (H12)

NM/4

a) Omission of the approved foot/cycle Greenway crossing the Watermill Stream immediately downstream of the existing crossing which carries a bridleway. This amendment also includes re-alignment of the proposed foot/cycle Greenway on either side of the Stream (S24) and will result in the realigned Greenway utilising an existing bridleway bridge.

b) Combining into a single Greenway the approved separate Greenways for equestrians and for pedestrians/cyclists between the eastern bank of the Watermill Stream and a point approximately 450 metres further eastwards corresponding to chainage 3700 on the Link Road itself. The eastern link between the Greenway and the approved Hillcroft Farm overbridge will be designated as a pedestrian only route. Equestrian users and cyclists will use the link on the western side (H36).

NM/5

The change comprises the deletion of a proposed bridge over the Combe Haven stream along the northern Greenway route and its replacement with a forded crossing. The crossing would be constructed in accordance with The British Horse Society standards for Fords (S25).

NM/6

The change comprises the deletion of a proposed bridge across the Combe Haven on the Greenway route to the south of the Link Road. The Greenway route would be diverted some 12 metres further to the east so that it links with an existing footbridge over the Combe Haven (S26).

NM/7

The amended proposal seeks to reduce the verge width at the eastern end of the Link Road from 3.5 metres as previously approved to 2.5 metres, which will be along the length of the road (approximately 310 metres) from Crowhurst Road underbridge to the Queensway junction. (H26)

3.2 Copies of the Non Material Change Applications showing how it is proposed that the existing planning permission is changed are available in the Members' Room.

4. Main Site History

4.1 2009 – Planning permission granted – RR/2474/CC(EIA). Construction of a new road, including environmental treatment with earthworks, planting, flood and noise attenuation, wildlife compensation and facilities for non-motorised users (Known as the Bexhill – Hastings Link Road).

4.2 No other Non Material Change applications have previously been granted.

5. Consultations and representations

5.1 Rother District Council: No response has been sent directly to the County Planning Authority. However, a letter was sent to the applicant regarding NM/2

stating: In respect of the retention of the bridge at Glover's Farm it is noted there is no significant alteration proposed to the cyclist/pedestrian route northwards from the Farm. The District Council would ask that this route follows a line as close to the new road as possible to the point where it crosses the disused railway line in order that there is the minimum incursion into the land allocated for business use.

5.2 Hastings Borough Council – No comments have been received

5.3 Local Representations;

5.4 No local representations were received during the period for comments between 17 December 2012 and 9 January 2013. However, since 8 April 2013 a total of 50 representations have been received objecting to the applications for Non-Material changes to the Bexhill-Hastings Link Road planning permission.

5.5 In general, the majority of representations received cover the points below. In addition to outlining objections to each individual NMA, most representations also suggest the changes were not minor and should be subject to a full application and were purely the result of a cost-cutting exercise.

NM/1: Flood Storage

- Eliminating flood storage capacity at a time when we face increased flooding as a result of climate change is shortsighted. Flood risk will be further increased by the increase in hard standing – the road itself, and the huge industrial and residential developments around NE Bexhill, which will cause the loss of a huge area of greenfield land and its capacity to soak up excess water.

NM/2: Elimination of Glover's Farm bridge, reduction of width of Greenway.

- ESCC has claimed that the Link Road will improve access not just for drivers but also for pedestrians and cyclists. This amendment will reduce the width of the Greenway, and make it less attractive to cyclists.

NM/3: Deletion of dedicated bus lane

- ESCC also promised an improved public transport service. Deleting a dedicated bus lane will make bus journeys longer and encourage people to use private cars instead.

NM/4: Deletion of crossing of Watermill stream for pedestrians and cyclists, combining Greenway north of watermill stream as bridleway, cycleway and footway.

- Forcing pedestrians, cyclists and horse riders to share the same path is dangerous and will make the Greenway a less attractive option for all three groups, and again may encourage people to use private cars instead.

NM/5: Deletion of equestrian bridge and replacement with a ford.

- Given the heavy flooding in the area in the winter, there are almost certain to be times when a ford is impassable by horse riders, thereby further reducing the amenity value of the Greenway.

NM/6: Deletion of the cyclist/pedestrian crossing of Combe Haven and diversion of the Greenway towards the existing crossing.

- Diversions of the Greenway will make the walking/cycling journey between Hastings and Bexhill longer and further encourage people to make the journey in private cars instead.

NM/7: Reduction of the verge width from Crowhurst Road underbridge to Queensway junction from 3.5m to 2.5m.

- This will further increase the flood risk

5.6 Other points raised are summarised below:

- Loss of underground flood storage will increase flood risk
- Proposed swales have not been subject to ecological assessment
- Safety of using Glovers Farm bridge has not been assessed
- Question on how the proposed amendments are going to reduce traffic congestion
- Question as to how the proposed amendments would save almost £22million
- Proposed amendments have not been subject to Environmental Assessment
- Concern expressed that environmental changes proposed by NMAs are seeking to avoid legitimate public debate about the road
- Questions why no consideration given to new railway station at Glyne Gap
- Flood projections used in NMA 1 based on old survey data and does not take climate change into account
- Removing a bus lane facility shows ESCC to be obsessively car focused
- Changes to Greenway likely to place obstacles in the way of alternative modes of transport, especially cycling
- The Combe Haven Valley is well known for flooding and these flood events are likely to become more extreme in future. Given more concrete will also be laid across the scheme, reducing flood storage makes no sense
- Road width in the sections of road that run through a cutting shouldn't be reduced given they may be needed for emergency access
- Alterations may not take noise impact and air quality into account
- Proposed Swales will alter the landscape and are certainly material changes
- The area below the proposed flood storage system has a history of flooding
- Removing the dedicated bus lane at Queensway will likely result in tailbacks
- Combined use of a bridge for pedestrians and bridleway is a safety risk
- Losing the underground storage tank is wasteful
- What measures are in place to stop contamination of the swales at high temperatures or refuse dumping in the channels
- Is the Greenway bridge over the watermill stream safe for joint use
- Amendments to the Greenway will not encourage alternative modes of transport
- Reducing the width of the Greenway will deter cyclists

5.7 The Hastings Alliance also submitted its own objections to the s.96A applications which are briefly summarised below:

- NM/1 – A change to Swales from flood storage tanks is a material change. Reduced capacity may cause flooding through increased severity of storms above those predicted by Jacobs. Tide locking may also cause a back up of storm surge run-off in future due to sea level rise. It is unclear how the proposed Swales would fit into the existing ecology and landscape of the effected area. Swales would also make it harder to put in cycle/bus lanes at a later date.
- NM/3 – Objections to this amendment founded on the lack of information on levels of bus service and proposed routes. ESCC anticipate bus movements to be very low which Hastings Alliance consider a dangerous assumption.
- NM/2,4,5,6 – Amendments could cause conflict between equestrians, cyclists and possibly pedestrians.
- NM/7 – Reducing width of the junction may compromise ability to adjust approaches to the junction in the future.
- The Hastings Alliance further submits the amendments are all of material interest.

5.8 The Campaign to Protect Rural England (CPRE) (Rother and Hastings branch) has also submitted objections to and comments on the s. 96A applications as follows:

- As far as your authority is concerned how many 'non-material ' amendments would you have to propose for them to become material? Twenty? Fifty?
- How many more similar such 'non-material' amendments might we expect in the future?
- What other reasons for these proposals are there than reducing costs?
- Given that environmental and social measures were highlighted by ESCC as a serious aspect of the justification for the total package of the BHLR, how can you now chip away at officer level with what was the proposal which originally ESCC made to the public?
- Other people have commented in detail on the specifics of these individual amendments all of which are significant and mark a dramatic diminution of the relatively few ameliorating measures which had been proposed to compensate for significant environmental and social losses caused by the harmful and simply iniquitous overall proposal for this road to nowhere.
- We believe that these proposals are so significant that they should require you to bring back the whole proposal to ESCC Planning Committee for further consideration, particularly in light of the fact that the proposals may breach the terms of the funding arrangement with DfT.

6. The Development Plan and other policies of relevance to this decision are:

6.1 Rother District Local Plan 2006: Policies DS1 (Development Principles) (ix) and GD1 (General Development Considerations) (iv), (vi) and (vii)

In July 2012, Rother District Council determined that virtually all its 2006 Rother District Local Plan policies were compliant with the National Planning Policy Framework. Only Policy DS6 (Managing Housing Release) was considered partially compliant. Policies in the Rother District Local Plan 2006 will continue to be used to determine applications alongside the NPPF.

6.2 Hastings Local Plan 2004: Policy DG1 (Development Form) (b)

Hastings Borough Council has not formally determined whether its Saved Policies in the Hastings Local Plan are in general conformity with the NPPF. Saved Policy DG1 is considered by the County Planning Authority to be in general conformity with the overarching principles of the NPPF.

6.3 National Planning Policy Framework March 2012

The National Planning Policy Framework (NPPF) does not change the status of the development plan as the starting point for decision making but it does constitute guidance as a material consideration in determining planning applications. At the heart of the NPPF is a presumption in favour of sustainable development. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF development.

7. **Considerations**

7.1 Non-Material change applications are not applications for planning permission and in determining such applications the Government's guidance document entitled "Greater Flexibility for Planning Permissions" is taken into account. The guidance indicates that there is no definition as to what amounts to a "non-material" change because the judgment is dependent on the context of the overall development – what may be non-material in one context may be material in another. The main consideration for an application for approval of non-material changes (or amendments as they are usually called in this authority (NMAs)) is the effect of the changes proposed on the planning permission for the approved development and the surrounding area.

7.2 Consideration of each NMA is detailed below:

NM/1

7.3 Policies DS1(ix) and GD1(iv) of the Rother District Local Plan seek to ensure that development is safe from flooding and for development to respect, and not detract from the character and appearance of the locality.

7.4 In 2008 a Flood Risk Assessment (FRA) was undertaken in support of the planning application for the Link Road, which indicated that extensive flooding would occur in the existing railway cutting through which the new road would pass. To compensate for this it was proposed that an underground storage tank (7,250 cubic metres) would be provided adjacent to London Road. In 2009 a further study was undertaken to update the FRA and included the remodelling of the flood risk at Egerton Stream. In consultation with the Environment Agency it was confirmed that the original estimates required for flood water storage were too high and, therefore,

the compensatory storage could be reduced. The volume of water needed to be stored being 2,000 cubic metres rather than the previously approved underground storage of 7,250 cubic metres. Accordingly, to compensate for the reduction in the volume of water and the need to ensure that the proposed Link Road will be safe from flooding, it is proposed to provide surface water swales and oversized drainage pipes, on the western side of the new road in the London Road area.

7.5 It is considered that whilst the changes proposed as part of the NMA will alter the appearance on the ground, within the London Road area, the proposed planting (amenity trees, shrub planting, shaws, woodland, copses etc.) in the vicinity of the swales will not result in significant harm to the visual appearance of the locality. Furthermore, the proposed NMA would result in less landscape impact. The underground tanks would be a constraint to tree planting in the proposed public open space adjacent to London Road and therefore there would be a long term landscape benefit with the proposed NMA as the trees will be a significant beneficial feature in the urban area. A sustainable urban drainage solution as proposed in the NMA is considered preferable to the traditional use of tanks, pipes and pumps.

7.6 The Published Scheme had an earth mound along the edge of the Link Road which has been removed to accommodate the swales. This bund and associated planting would have provided some visual screening to the road from the day of opening. The change to the visual impact of the Scheme with the NMA would therefore be a difference compared to the Published Scheme in the first few years following completion of the development due to the introduction of swales as opposed to underground storage tanks, but the change would not be significant by 15 years after construction when the trees adjacent to the swales have matured. It is not considered that this change represents a significant material change to landscape and visual impacts compared to the Published Scheme. The overall 'Slight Adverse' Landscape and Visual impacts identified in Chapter 13 of the Environmental Statement would be unaffected by this change.

7.7 The applicant has undertaken a re-examination of the detailed road design through the urban area and the NMA application concerns a reduction in the verge width from 3.5 metres to 2.5 metres between Belle Hill and Glovers Farm. The applicant has outlined the importance of the verge width in that it provides safety from the carriageway itself whilst accommodating footways, services and drainage, taking into consideration the initial costs, ongoing maintenance and operating costs. The applicant considers that the proposed 2.5 metres verge width will provide sufficient accommodation and will not compromise the sight lines required by highway standards, plus the narrower verge will minimise the extent of the highway and visually support the requirement for a 40mph speed limit along this section of the road. The reduction in width of the verges would reduce the construction footprint and does not represent a significant change to the landscape and visual impacts compared to the original proposal.

7.8 The vegetation on the verges is to be kept low to discourage use by small mammals, which should also have the effect of discouraging hunting by barn owls on the verges. A reduction in width will therefore not have a negative impact on barn owls. A reduction in the verge width could lead to a slight reduction in reptile foraging habitat. However, given the extent of suitable reptile habitat throughout the whole of the scheme and the proposed management regime for the verges the likelihood of reptiles using the verges rather than the embankments is low. The proposed change is therefore unlikely to have any detrimental impacts on ecology over and above those identified through the Environmental Statement. In addition,

less land will be lost as a result of the reduced width of the verge. This will avoid the need to carry out unnecessary excavation on existing railway embankments, thereby allowing more land to be available for wildlife and vegetation.

7.9 The public representations received are noted. The main concerns raised with regard to NM/1 relate to an increase in flood risk. As detailed in Paragraph 6.4, the flood risk at Egerton Stream was remodelled and, in consultation with the Environment Agency, it was confirmed that only 2,000 cubic metres of flood water storage was required and this could be achieved through the provision of swales and oversized drainage pipes. Furthermore, surface water drainage is controlled through a condition on the original planning permission. Consequently, it is not considered that the proposed changes will increase the risk of flooding. A number of the representations also refer to flooding in the Combe Haven Valley. The deletion of the underground storage tanks relates only to the urban, southern section of the Link Road and seeks to continue to provide sufficient capacity for flood water. In addition, as part of the overall scheme, flood attenuation measures will be provided in the Combe Haven Valley and that area is, therefore, unaffected by the deletion of the storage tanks.

7.10 It is considered that the proposed changes in NM/1 are not material. The effect of the changes are not material in terms of the development preventing any increased risk of flooding, protecting water quality, improving habitat and amenity and ensuring future maintenance of surface water drainage systems. The proposals are acceptable and in accordance with Policies DS1 (Development Principles)(ix) and GD1 (General Development Considerations)(iv) of the Rother District Local Plan 2006.

NM/2

7.11 Policies DS1(ix) and GD1(iv) of the Rother District Local Plan require development to respect the importance of the countryside in terms of its landscape character, and for development to respect, and not detract from the character and appearance of the locality.

7.12 The main part of the proposed amendment application is the omission of the approved overbridge and to refurbish the existing bridge at Glover's Farm instead. In effect this will reduce the visual impact of the scheme on the immediate area. The existing brick faced and arched bridge will be refurbished and this is to be welcomed. The retention of Glovers Farm Bridge will be an improvement over the published scheme for both the visual amenity of the area and landscape character and will have a beneficial impact resulting from its conservation and enhancement. The omission of a new bridge in this area will reduce the construction footprint and avoid the need for a modern feature in the rural landscape. The retention of the bridge and the omission of the new bridge will enhance views from the new road and utilising the existing bridge will provide a gateway between town and countryside for users of the Link Road. The overall 'Slight Adverse' Landscape and Visual impacts identified in Chapter 13 of the Environmental Statement would be unaffected by this change and the proposal is considered acceptable.

7.13 The subsequent changes to the alignment of the Greenways to take account of the retention of the existing bridge, and their reduction in width to be consistent with the lengths of Greenway unaffected by the changes, are also supported. These changes will provide a slight enhancement compared to the Published Scheme as recreational users of the Greenway will be able to cross via the historic bridge. This

overall change would not represent a significant change to landscape and visual effects compared to the Published Scheme. The overall 'Slight Adverse' Landscape and Visual impacts ratings identified in Chapter 13 of the Environmental Statement would still be the same. The proposed changes are considered acceptable.

7.14 The comments received from Rother District Council are noted. However the comments, and the reasons for them, are related to a length of Greenway and area of land between Glover's Farm and the line of the former railway which is not proposed to be amended. In that context the comments are not relevant to this application but have nevertheless been drawn to the applicant's attention.

7.15 The public representations received are noted, and these mostly relate to the reduction in width of the Greenway. Concerns have been raised that reducing the width will give rise to conflict between users of the Greenway and that it would also make the route less attractive. The proposed changes are as a result of the retention of the existing bridge at Glovers Farm, which removes the need to provide vehicular access along this part of the Greenway to what would have been the new bridge. The reduction in the width along this section will bring it in line with the remainder of the Greenway, which is considered to be of a suitable width. No concerns have been raised regarding the width of the remainder of the Greenway and it is not considered that reducing the width as proposed in NM/2 will detract from the enjoyment of using the route, nor will it increase the likelihood of conflict between equestrians, cyclists and pedestrians. The other concern raised relates to whether the existing bridge is structurally sound. The proposal includes the refurbishment of the bridge and it is unlikely that there will be any change to the volume of private traffic using the bridge to access Glovers Farm. The structural integrity of the existing bridge is therefore considered to be acceptable and, in any event, will be addressed when it is refurbished should any issues be identified.

7.16 It is considered that the proposed changes in NM/2 are not material. The effect of the changes are not material in terms of the development effectively integrating into the surrounding environment. There are no additional structures introduced into the development as there will only be one bridge at Glovers Farm, as originally proposed, and the Greenway provision is not materially altered in the context of the overall Scheme. The proposed changes are acceptable and in accordance with Policies DS1 (Development Principles)(ix) and GD1 (General Development Considerations)(iv) of the Rother District Local Plan 2006.

NM/3

7.17 Policies DS1 (ix) and GD1 (iv, vi and vii) of the Rother District Local Plan and Policy DG1 (b) of the Hastings Local Plan requires that proposed development respects the importance of the countryside in terms of its landscape character, natural resources, woodland and agriculture and does not detract from the character and appearance of the locality.

7.18 A re-examination of the detailed design for the road in this section has proposed revisions to the approved scheme, in particular the gas valve compound west of Crowhurst Road (Ch.5000 – 5150). It is proposed to re-align the Greenway as it passes to the north of the gas valve by re-locating it slightly northwards. It will remove the need for the construction of a retaining wall as previously approved and instead it is proposed to allow for an earthworks slope that will offer a softer, more appropriate appearance, especially given its rural location. This change will provide a slight visual and landscape enhancement compared to the Published Scheme as

the retaining wall would not be required. The proposed change does not represent a significant change to landscape and visual effects compared to the Published Scheme. The overall 'Slight Adverse' Landscape and Visual impacts identified in Chapter 13 of the Environmental Statement would be unaffected by this change, which is considered to be acceptable.

7.19 In addition, NM/3 seeks the deletion of the dedicated bus lane at the Queensway junction to the eastern end of the Link Road. The applicant has advised that traffic modelling has shown that a dedicated bus lane in the approach to the Queensway junction would not prove to be beneficial for buses using the junction. The anticipated bus movements are low and it is considered that they will not warrant a dedicated bus running lane, which would be from the Link Road to Queensway North. Instead, it is proposed that the bus route would be on a demand basis whereby an approaching bus triggers the traffic signals to turn green.

7.20 The revised layout of the junction will reduce the excavation into the eastern verge of the Queensway thereby reducing the quantity of new carriageway construction. There will be a reduction in the number of traffic islands and a smaller junction would have a reduced footprint and would be less visually intrusive than the Published Scheme. The change would represent fewer disturbances to existing ground levels and established vegetation and the overall landscape and visual effects in this part of the scheme would be reduced with this change. The preferential signalling for buses indicates that public transport remains a priority and the proposed change is considered acceptable.

7.21 The public representations received are noted, and these relate to the deletion of the dedicated bus lane at the Queensway junction. The representations raise concerns that not having a bus lane will have a negative affect on the use of public transport, cause tailbacks making bus journeys longer and deter people from using public transport. As indicated in Paragraphs 6.19 and 6.20, whilst it is proposed to no longer have a dedicated bus lane for buses turning south onto the Queensway from the Link Road, it is proposed that preferential signalling for buses is provided which will facilitate swift movement of buses through the junction. Therefore, it is considered that the changes proposed by NM/3 are acceptable and will not have an adverse impact on the use of public transport, as suggested in the representations.

7.22 It is considered that the proposed changes in NM/3 are not material. The effect of the changes are not material in terms of the development providing appropriate access in the interests of amenity, or facilitating public transport access. The alignment of the Greenway is only altered marginally and continues to join Crowhurst Road, just slightly further to the north. Provision of a Greenway in this location is maintained and the proposed change does not alter this or the objectives of the Scheme as originally permitted. The proposed change through the deletion of a dedicated bus lane will be dealt with by the installation of preferential signalling for buses, which maintains public transport having priority. The proposed changes are acceptable and are in accordance with and Policies DS1 (Development Principles)(ix) and GD1 (General Development Considerations)(iv, vi and vii) of the Rother District Local Plan 2006 and Policy DG1 (b) of the Hastings Local Plan.

NM/4

7.23 Policies DS1(ix) and GD1(iv) of the Rother District Local Plan require development to respect the importance of the countryside in terms of its landscape

character, and for development to respect, and not detract from the character and appearance of the locality.

7.24 The proposed combined Greenway to the east of Watermill Stream will be similar in dimensions and construction to the remainder of Greenway unaffected by these changes and therefore is considered to be acceptable in its ability to meet the combined demands of equestrians, cyclists and walkers that might be placed on it. The existing Watermill Stream crossing carries a bridleway and the changes applied for in this area will not change that arrangement for non-motorised users

7.25 The main part of these proposed changes are the omissions of the proposed bridge and combining the approved separate Greenways for equestrians and for pedestrians/cyclists into a single Greenway, between the eastern bank of the Watermill Stream and a point approximately 450 metres further eastwards.

7.26 An existing bridleway bridge would be utilised for pedestrians and cyclists using the Greenway, thereby avoiding the need to construct a new bridge as originally proposed. This change will reduce the amount of built development in the countryside and is considered to be a positive change. To facilitate the use of the existing bridge, this change also includes the re-alignment of the proposed foot/cycle Greenway on either side of the Watermill Stream.

7.27 The eastern link between the Greenway and the approved Hillcroft Farm overbridge will be retained. However, it is proposed to designate it as a pedestrian only route. This pedestrian only portion will not be surfaced and will therefore result in less formal development in the countryside. Access to/from the Hillcroft Farm overbridge and the Greenway for equestrians and cyclists will be maintained via the approved western section of the Greenway.

7.28 These proposed changes will reduce the amount of built development in the countryside. The overall landscape and visual effects would be slightly reduced with these changes, which would not represent a significant change to landscape and visual effects compared to the Published Scheme. The overall 'Slight Adverse' Landscape and Visual impacts identified in Chapter 13 of the Environmental Statement would be unaffected by these changes, and are considered to be acceptable.

7.29 The public representations received are noted. Their main concerns raised with regard to NM/4 are that the proposed changes will be dangerous for all Greenway users, thereby reducing its attractiveness and, because of this, will also encourage people to use private cars. As noted in Paragraph 6.24, the width of the proposed combined Greenway will be the same as the width of the combined Greenway approved as part of the approved details elsewhere along the route and unaffected by the non-material changes. Furthermore the proposal to not construct a new, additional, crossing of the Watermill Stream but to use the existing crossing which carries the bridleway will retain the 'status quo'. It is not therefore considered that the changes sought would increase any danger for walkers, cyclists, horses or their riders compared to either the current situation or the approved proposals.

7.30 It is considered that the proposed changes in NM/4 are not material. The effect of the changes are not material in terms of the development providing appropriate access in the interests of amenity. The changes will have less impact upon the surroundings than the approved scheme. The provision of a Greenway is maintained, albeit that a short section is being combined. The proposed changes do

not detract from the overall intention of the originally permitted scheme to provide a Greenway for non-motorised users. The proposed changes are considered to be acceptable and in accordance with Policies DS1 (Development Principles)(ix) and GD1 (General Development Considerations)(iv) of the Rother District Local Plan 2006.

NM/5

7.31 Policies DS1(ix) and GD1(iv) of the Rother District Local Plan require development to respect the importance of the countryside in terms of its landscape character, and for development to respect, and not detract from the character and appearance of the locality.

7.32 The change proposed as part of this NMA application is for a forded crossing of the Combe Haven on the equestrian only part of the Greenway, north of the Link Road, instead of constructing a bridge as originally proposed. The deletion of the bridge structure would reduce the amount of built development in the countryside, and will therefore lessen the visual impact in this locality compared to the approved scheme, thereby preserving the natural flat landscape character along this part of the route. The applicant has agreed the principle of a forded crossing at this point of the Greenway with the Environment Agency and ESCC Public Rights of Way.

7.33 The ford shall be constructed in accordance with standards provided in the British Horse Society Standards on Bridleways and Byways (April 2010) and will be clearly signposted to indicate a ford is present on the route. The applicant will provide the County Planning Authority with details of the ford's construction methods and proposed signage once they are known. The overall 'Slight Adverse' Landscape and Visual impacts identified in Chapter 13 of the Environmental Statement would be unaffected by this change, which is considered to be acceptable.

7.34 The public representations are noted. Their main concerns with regard to NM/5 are that there will almost certainly be times when a ford is impassable bearing in mind current heavy flooding in winter and the amenity value of the Greenway for equestrians will be diminished in such instances. As stated in Paragraph 6.32 the principle of a ford has been agreed with the Environment Agency and the County Council Rights of Way Officer and will be designed to British Horse Society Standards. It is not therefore considered unacceptable by these organisations and can be accepted as a non-material change.

7.35 It is considered that the proposed change in NM/5 is not material. The effect of the changes are not material in terms of the development providing appropriate access in the interests of amenity.. The provision of an equestrian Greenway in this location is maintained and a crossing of the stream will still be provided. The proposed change is acceptable and is in accordance with Policies DS1 (Development Principles)(ix) and GD1 (General Development Considerations)(iv) of the Rother District Local Plan 2006. It is recommended the grant of this change be delegated to the Head of Planning to approve following the submission by the applicant of appropriate full details of the proposed signage and ford's construction methods.

NM/6

7.36 Policies DS1(ix) and GD1(iv) of the Rother District Local Plan require development to respect the importance of the countryside in terms of its landscape character, and for development to respect, and not detract from the character and appearance of the locality.

7.37 The change proposed as part of this NMA is to delete the proposed footbridge crossing of the Combe Haven on the Greenway route south of the Link Road. It is proposed to divert the Greenway some 12 metres to the east to join up with an adjoining public footpath to utilise an existing footbridge over the Combe Haven. The proposed change would avoid the need for another structure in the landscape and therefore would enhance the existing character and landscape appearance of this part of the Greenway route. This change would reduce the amount of built development in the countryside, and would not represent a significant change to landscape and visual effects compared to the Published Scheme. The overall 'Slight Adverse' Landscape and Visual impacts identified in Chapter 13 of the Environmental Statement would be unaffected by this changes. The proposed changes are considered to be acceptable.

7.38 The public representations received are noted. The main concerns raised with regard to NM/6 are that the proposed changes will lengthen the Greenway and thereby reduce its attractiveness to walkers and cyclists and encourage car use instead. It could also increase conflict between users. It is estimated the increased length of this part of the Greenway as a result of the proposed change will be approximately 25 metres. Such a distance is not considered to be significant for walkers or cyclists in its own right or in the context of the whole Greenway.

7.39 It is considered that the proposed change in NM/6 is not material. The effects of the changes are not material in terms of the development providing appropriate access in the interests of amenity. The realignment of the Greenway in this location is marginal and only affects a short section of the route compared to the overall length of the Greenway. This change does not detract from the intention to provide a Greenway for non-motorised users. The proposed change is therefore non-material and is acceptable and in accordance with Policies DS1 (Development Principles)(ix) and GD1 (General Development Considerations)(iv) of the Rother District Local Plan 2006.

7.40 The existing public footpath and bridge across the Combe Haven are, however, located outside the red line boundary of the original planning application. This NMA application therefore relates only to the land within the planning application boundary required to make this diversion. Should the proposed works outside the planning application boundary not be possible to achieve, the County Planning Authority expects the original proposal of a bridge structure across the Combe Haven to be implemented. In order to address this, it is recommended that the grant of this change be delegated to the Head of Planning to approve following confirmation that the works outside the planning boundary have been secured.

NM/7

7.41 Policies DS1 (ix) and GD1 (iv,vi and vii) of the Rother District Local Plan and Policy DG1 (b) of the Hastings Local Plan, require that proposed development respects the importance of the countryside in terms of its landscape character, natural resources, woodland and agriculture and does not detract from the character and appearance of the locality.

7.42 A re-examination by the applicant of the detailed design for the rural section of the road has resulted in revisions to the width of the verge, from 3.5 metres as previously approved to 2.5 metres between the Crowhurst Road underbridge to the Queensway junction. The decrease in the overall width of the highway will result in a reduction in the amount of land required for physical works and, therefore, will result in less disturbance to existing land, vegetation, habitats and woodland. This proposal may also have some benefit to Marline Wood SSSI given the reduced verge widths would allow a reduction in width of the bridges in this area, thereby reducing any overshadowing of the SSSI. It is considered that the proposed reduction in width to this section of the Link Road will reduce the visual impact of the Scheme on the immediate area and surrounding countryside. Consequently, this change would have positive effects on the landscape and visual impact of the Scheme when compared to the Published Scheme as the physical works would have a smaller footprint. This change would not represent a significant change to the landscape and visual effects compared to the Published Scheme. The overall 'Slight Adverse' Landscape and Visual impacts identified in Chapter 13 of the Environmental Statement would be unaffected by this change. The proposed changes are considered to be acceptable.

7.43 The vegetation on the verges is to be kept low to discourage use by small mammals, which should also have the effect of discouraging hunting by barn owls. A reduction in width will therefore not have a negative impact on barn owls. Dormice are known to be unlikely to cross gaps wider than approximately 10m. A reduction in verge width will therefore reduce the overall width of the physical works, and reduce the impact on dormice. A reduction in the verge width could lead to a slight reduction in reptile foraging habitat. However, given the extent of suitable reptile habitat throughout the whole of the scheme and the proposed management regime for the verges, the likelihood of reptiles using the verges rather than the embankments is low. The proposed change is therefore unlikely to have any detrimental impacts on ecology over and above those identified through the Environmental Statement.

7.44 The public representations received are noted, the majority of which suggest that the reduction in the width of the verge will increase flood risk. Other representations raise concerns regarding the ability to adjust approaches to the junction in the future being compromised and also an increase in the risk of accidents. In terms of an increased flood risk, despite the reduction in the width of the verge, there is still considered to be sufficient verge to accommodate services and drainage. Furthermore, surface water drainage is controlled by a condition attached to the planning permission, which seeks to ensure adequate and sustainable drainage measures are put in place. Overall, and taking into account that the reduced width still has sufficient capacity for drainage, it is not considered that this proposed change along this section of the Link Road will increase flood risk. With regard to the proposed changes potentially compromising the ability for adjustments to the junction in the future, any such changes are not proposed or known at the current time and in these circumstances it would not be appropriate to determine the current proposal based on unknowns. In terms of safety, these comments are noted, but as sight lines are maintained, it is not considered that there will be an increased risk of accidents as a result of the changes proposed to the width of the verge.

7.45 It is considered that the proposed change in NM/7 is not material. The effect of the changes are not material in terms of the development effectively integrating into the surrounding environment. A verge is continuing to be provided, albeit that in

this location it is reduced by one metre. . The change is acceptable and in accordance with Policies DS1 (Development Principles) and GD1 (General Development Considerations) of the Rother District Local Plan 2006 and Policy DG1 (Development Form) of the Hastings Local Plan 2004.

Considerations relating to all the Non-Material Change Applications

7.46 All of the NMA applications would, to a greater or lesser extent, lead to a reduction in the amount of construction work required, compared with the approved scheme. Consequently there would be fewer construction impacts overall and greater retention and re-use of existing structures and land. Each separate NMA is considered likely to lead to marginally less overall impact of the development when compared with the approved Scheme. There is no unacceptable cumulative impact arising from the NMAs.

7.47 Given the reduction in construction work, each separate NMA is likely to contribute to a minor positive change to construction noise, air quality and CO₂ and, additionally, the cumulative effect of the NMAs will remain as a minor positive change to construction noise, air quality and CO₂ when compared with the approved scheme.

7.48 The Environmental Statement (2007) and the Addendum to the Environmental Statement (2008) conclude that on balance, the Scheme would result in an overall minor adverse impact on nature conservation and biodiversity and a slight adverse impact in terms of landscape and visual impact. The cumulative effect of the NMAs would not result in any net change to these ratings, nor would they change the conclusions relating to the overall landscape and visual impacts.

7.49 Provision for non-motorised users is maintained and many of the proposed changes will result in a positive change through the reduction of built development in the countryside and urban area. The overall scheme will continue to provide access where it currently doesn't exist for pedestrians, equestrians and cyclists. It is not considered there will be conflict between users of the Greenway where combining the route has been proposed, this will be no different from an existing bridleway which combines pedestrians, equestrians and cyclists.

7.50 The representations received have been taken into account and all the proposed changes have been assessed for ecological, archaeological, landscape, noise and air quality impacts. For the reasons detailed above it is considered that the proposed changes are non-material and that when considered in the context of the whole Scheme, they are acceptable.

8. Conclusion and reasons for approval

8.1 These applications have been considered in accordance with Section 96A of the Town and Country Planning Act 1990 and Government guidance on that section.. It is considered that the proposed changes are not material. The proposed changes will continue to provide a development which is not materially different from that permitted by the existing planning permission and considered cumulatively and against the scheme as a whole, including any implications on the environmental appraisal in the Environmental Statement and Addendum, the proposals are considered to be not material. The effects of the changes both individually and cumulatively are not material in altering the planning permission as originally granted. There remains provision for non-motorised users, albeit that there

are slight changes from the originally published scheme. The proposals NM/1, NM/2, NM/3, NM/4 and NM/7 as submitted are considered appropriate for approval as non-material changes to planning permission RR/2474/CC(EIA). Proposals NM/5 and NM/6 are appropriate for approval after satisfactory further details are submitted. Approval of NM/5 and NM/6 should be delegated to the Head of Planning following satisfactory receipt of these further details. If it is not possible to achieve the connection to the public footpath Bexhill 33, the NM/6 application should be refused.

9. Recommendation

9.1 To **grant** the application **NM/1** for approval of non-material amendments S1 and S1A - Reduce the volume of flood storage at Egerton Stream following revised flood modelling and agreement with the Environment Agency. Together with the elimination of the proposed Egerton flood storage tank and pumping station. To use open channels (surface storage) and oversized pipes in lieu of Egerton storage tank. H23 - Reduction of the verge width from 3.5M to 2.5M between Belle Hill and Glovers Farm. Submission of Flood Risk update supplement to 'Bexhill to Hastings Link Road Flood Risk Assessment, April 2008', to planning permission RR/2474/CC(EIA) approved on 29 July 2009, as shown on the plans in the Schedule below.

9.2 To **grant** the application **NM/2** for approval of non-material amendments S9 - delete the proposed Glovers Farm overbridge, retain existing Glovers Farm bridge and public right of way across. H25 - amendments to the Greenway approaches to Glovers Farm Bridge and reduction of width, to planning permission RR/2474/CC(EIA) approved on 29 July 2009, as shown on the plans in the Schedule below.

9.3 To **grant** the application **NM/3** for approval of non-material amendments S20 - Realign the Greenway west of Crowhurst Road adjacent to the gas valves (between CH5000 to CH5150) to avoid a need for a retaining wall. H12 - Deletion of the dedicated bus lane to provide a smaller, improved Queensway junction, to planning permission RR/2474/CC(EIA) approved on 29 July 2009, as shown on the plans in the Schedule below.

9.4 To **grant** the application **NM/4** for approval of non-material amendments S24 - Delete the proposed crossing of Watermill Stream for pedestrians and cyclists and use existing bridleway bridge. H36 - To combine Greenway north of Watermill Stream as a bridleway, cycleway and footway through to approximate mainline chainage 3700, to planning permission RR/2474/CC(EIA) approved on 29 July 2009, as shown on the plans in the Schedule below.

9.5 To **authorise** the Head of Planning to approve the application **NM/5** for approval of non-material amendment S25 - Delete Combe Haven Bridge North (Equestrian Bridge) and replace with a ford, to planning permission RR/2474/CC(EIA) approved on 29 July 2009, as shown on the plans in the Schedule below **subject to** satisfactory full details of the ford's construction and signage to be installed indicating a ford is present, being submitted by the applicant to the Head of Planning.

9.6 To **authorise** the Head of Planning to approve the application **NM/6** for approval of non-material amendment S26 - Delete the cyclist/pedestrian greenway

crossing of Combe Haven. Divert the greenway towards the existing crossing of the Combe Haven Stream, to planning permission RR/2474/CC(EIA) approved on 29 July 2009, as shown on the plans in the Schedule below **subject to** the applicant securing a connection to Public Footpath Bexhill 33 to the satisfaction of the Head of Planning. Should it not be possible to achieve this, the Head of Planning is authorised to refuse the application NM/6 and this will require the original proposal of a bridge structure across the Combe Haven to be implemented.

9.7 To **grant** the application **NM/7** for approval of non-material amendment H26 Reduction of the verge width from Crowhurst Road underbridge to Queensway junction from 3.5m to 2.5m, to planning permission RR/2474/CC(EIA) approved on 29 July 2009, as shown on the plans in the Schedule below.

Schedule of Approved Plans

NM/1 – B1297000-PH2/0100.01a/0040 R3 – Scheme Layout, NMA Application Sheet 1 of 2; B1297000-PH2/0100.01a/0046 R3 – Overall Scheme Layout, NMA Application; B1297000-PH2/0100.01a/0042 R0 – Environmental Design, NMA Application Sheet 1 of 4.

NM/2 – B1297000-PH2/0100.01a/0046 R3 – Overall Scheme Layout, NMA Application; B1297000-PH2/0100.01a/0040 R3 – Scheme Layout, NMA Application Sheet 1 of 2; B1297000-PH2/0100.01a/0042 R0 – Environmental Design, NMA Application Sheet 1 of 4; B1297000-PH2/0100.01a/0043 R2 - Environmental Design, NMA Application Sheet 2 of 4.

NM/3 – B1297000-PH2/0100.01a/0046 R3 – Overall Scheme Layout, NMA Application; B1297000-PH2/0100.01a/0041 R4 - Scheme Layout, NMA Application Sheet 2 of 2; B1297000-PH2/0100.01a/0045 R0 - Environmental Design, NMA Application Sheet 4 of 4.

NM/4 – B1297000-PH2/0100.01a/0046 R3 – Overall Scheme Layout, NMA Application; B1297000-PH2/0100.01a/0041 R4 - Scheme Layout, NMA Application Sheet 2 of 2; B1297000-PH2/0100.01a/0044 R2 - Environmental Design, NMA Application Sheet 3 of 4.

NM/5 – B1297000-PH2/0100.01a/0046 R3 – Overall Scheme Layout, NMA Application; B1297000-PH2/0100.01a/0040 R3 – Scheme Layout, NMA Application Sheet 1 of 2; B1297000-PH2/0100.01a/0043 R2 - Environmental Design, NMA Application Sheet 2 of 4.

NM/6 – B1297000-PH2/0100.01a/0046 R3 – Overall Scheme Layout, NMA Application; B1297000-PH2/0100.01a/0040 R3 – Scheme Layout, NMA Application Sheet 1 of 2; B1297000-PH2/0100.01a/0043 R2 - Environmental Design, NMA Application Sheet 2 of 4.

NM/7 – B1297000-PH2/0100.01a/0046 R3 – Overall Scheme Layout, NMA Application; B1297000-PH2/0100.01a/0041 R4 - Scheme Layout, NMA Application Sheet 2 of 2; B1297000-PH2/0100.01a/0045 R0 - Environmental Design, NMA Application Sheet 4 of 4.

Head of Planning
Economy, Transport and Environment
04 July 2013

BACKGROUND DOCUMENTS

NMA Application Files RR/2474/CC(EIA)NM/1-7

Main planning application file RR/2474/CC(EIA)

Rother District Local Plan 2006

Hastings Local Plan 2004

National Planning Policy Framework 2012

Government guidance "Greater Flexibility for Planning Permissions" November 2009