# Wealden District (Incorporating part of the South Downs National Park) Representation on the Proposed Modifications to the Core Strategy

Wealden District Council

Working in Partnership

South Downs National Park Authority

| This response relates to the proposed modification | |
|---|---|
| **MM** 33 | **WS** 35 |
| **(Please add numeric reference e.g. MM22 or Wealden District Council/ South Downs National Park Authority modification WS e.g. WS 23)** | |

| | |
|---|---|
| **Declaration:** | I consider the proposed modification will assist the submitted Core Strategy to be found sound/unsound (*delete as applicable) for the following reasons: |
| **Reasons Given:** | Please see attached Response Statement |

| **If this is a new matter that you have raised please complete the following** |
|---|
| I wish/ ~~do not wish~~ (*delete as applicable) for this matter to be heard in front of the Inspector |

| | |
|---|---|
| **Signed:** | |

| | |
|---|---|
| **Name and Address:** | Town and Country Planning Solutions |
| **E-Mail Address:** | |
| **If on behalf of a company, please state:** | MJ Gleeson Group |
| **Date:** | 12.06.2012 |

| **Please delete as appropriate** | |
|---|---|
| I would wish to be notified of the publication of the recommendations of any person appointed to carry out an independent examination of the Core Strategy | Yes / ~~No~~ |
| I would wish to be notified of the adoption of the Core Strategy | Yes / ~~No~~ |

**Note:** If completing this in hardcopy form, please use additional sheets if necessary.

Please return this form by **5pm on Wednesday 23rd May 2012**:

**By post to: Head of Planning and Environmental Policy, Wealden District Council, Freepost SEA 10959, Crowborough, East Sussex, TN6 1BR**

**By email to: ldf@wealden.gov.uk**

Data Protection Act 1998 and Freedom of Information Act 2000
Representations cannot be treated in confidence. Regulation 30 of the Town and Country Planning (Local Development) (England) Regulations 2004, as amended, requires copies of all representations to be made publicly available. The Council will also provide names and associated representations on its website but will not publish personal information such as telephone numbers, e-mails or private addresses. By submitting a representation on the Proposed Modifications you confirm that you agree to this and accept responsibility for your comments.

Please telephone 01892 602007 or e-mail ldf@wealden.gov.uk if you require assistance in submitting your representation or if further information is required. If you, or somebody you know, would like the information (guidance notes, forms etc) in large print, braille, audio tape/CD or in another language please let us know.

Town & Country Planning Solutions

PLANNING & DEVELOPMENT CONSULTANTS

**Wealden District (incorporating part of the South Downs National Park)**

**Local Development Framework**

**Proposed Modifications to the Core Strategy Development Plan Document**

# Representations and a Response Statement on behalf of the MJ Gleeson Group

Town and Country Planning Solutions Ref No: TCPS 463F
June 2012


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**Appendices**


1. Minutes of Wealden District Council's Planning Committee North meeting held on 5th April 2012.

2. Natural England's second consultation response for planning application no. WD/2011/2085/MAO dated 14th February 2012.

3. Wealden District Council's decision notice for planning application no. WD/2011/2085/MAO dated 25th April 2012.

4. Wealden District Council's correspondence circulated to Planning Agents dated 13th April 2012.

5. Wealden District Council's correspondence circulated to Planning Agents dated 1st May 2012 and SPA 7 km Zone Map.

## 1 Introduction

1.1 In April 2012, Wealden District Council (in conjunction with The South Downs National Park Authority) published 'Proposed Modifications to the Core Strategy Development Plan Document'. This publication contains the Council's (and Park Authority's) schedule of Proposed Modifications (on pages 5 – 15) and also contains a schedule of the Core Strategy Planning Inspector's Main Modifications nos. MM1 – MM34 (on pages 19 – 22) to be read in conjunction with those proposed by the Council and Park Authority. The public consultation and response period extends to 13 June 2012.

1.2 This Statement contains a response to the Proposed Modifications on behalf of the MJ Gleeson Group, who, as Wealden District Council [1] and the appointed Planning Inspector will be aware from previous representations, has housing land interest within the south western part of Crowborough. The previous representations made the case that the absence of a clear planning policy strategy to mitigate against the cumulative impact of the housing development upon the Ashdown Forest SPA/SAC, would be likely to have a serious impact on the future delivery of new housing development within 7km of the designated area. Indeed, the case was made that without an appropriate mitigation strategy in place, this would be likely to lead to a moratorium on all such housing development affecting both housing allocations and windfall housing development.

1.3 It is acknowledged that the publication of the Proposed Modifications to the Council's draft Core Strategy should not be taken as an opportunity to pursue representations that have already been made previously, but since the publication of the appointed Inspector's interim findings on 5th March 2012, there has been a very significant change in circumstance that has had exactly the consequence anticipated in MJ Gleeson Group's previously submitted representations. The draft Core Strategy

*[1] Reference to Wealden District Council should also be taken to mean joint reference to include The South Downs National Park Authority.

is now unsound in that it has no mechanism in place to be able to deliver new housing development within the northern part of the District for the foreseeable future.

## 2. Changed Circumstances

2.1 On 5th April 2012, the Council's Head of Planning and Building Control made an announcement at the start of the Planning Committee North meeting about the weight that should be attached to local planning policies as a result of the publication of the National Planning Policy Framework (NPPF) on 27th March 2012 and the Inspector's interim findings on the Council's draft Core Strategy on 5th March 2012. The announcement was that for all planning applications within 7km of Ashdown Forest, the provision of Suitable Alternative Natural Green Space (SANGS) would need to be considered along with *"new considerations in terms of the harm caused by nitrogen emissions from traffic routed across the Forest"* (see the Planning Committee North minutes contained in appendix 1 attached). Planning Committee Members were urged to consider deferral of those planning applications that would be affected by the policy change.

2.2 The first item on the Planning Committee agenda was the Gleeson outline planning application (no. WD/2011/2085/MAO) for up to 74 dwellings on land at Alderbrook the subject of Policy CR4 of the Non-Statutory Wealden Local Plan published in December 2005. Notwithstanding that Natural England had previously confirmed to the Council (on 14th February 2012) that the proposed housing development would not have any adverse impact upon Ashdown Forest (see consultation response contained in appendix 2), the Planning Committee proceeded to refuse planning permission for reasons that included an alleged adverse impact upon Ashdown Forest, both in terms of increased nitrogen deposition and the lack of any provision of SANGS (see reasons 1 and 2 of the Council's decision notice subsequently issued on 24th April 2012 contained in appendix 3).

2.3 On 13th April 2012, the Council's Head of Planning and Building Control circulated a letter to 'Planning Agents' (see appendix 4) formalising the announcement made at the Planning Committee meeting. This confirms that there is now effectively a moratorium upon all new housing development within 7km of Ashdown Forest until such time as the means

of delivery of a mitigation strategy has been formulated by the Council. The circulated correspondence states *"The means of delivery for the mitigation strategy would be by S106 Planning Agreement, as it is likely to involve developing a scheme 'off-site' (either a new or improved SANG), and by encouraging effective visitor management on the Forest. It would be inappropriate and challengeable under the Habitat Regulations to allow development in advance of providing these mitigation measures. It is anticipated there would be a delay of at least 3 months in devising the interim strategy for mitigation".*

2.4 It should be noted that in the two page 'summary of issues' paper that was also circulated with the Council's letter, a generic reason for refusal has been put forward by the Council for all applications likely to create an impact through intensification of development.

2.5 On 1st May 2012, this letter was followed by a further letter to Planning Agents by the Head of Planning and Building Control (see appendix 5). This further correspondence provides clarification of the Council's position. This states that even if SANGS can be delivered by planning agreement, *"...this approach can only realistically be pursued provided that any proposal has first met the sterner test identified above in respect of the impacts of nitrogen deposition caused by increased traffic".* The letter adds;

> *"The position which the Council is now following is that all development within 7km of the Special Area of Conservation/Special Protection Area which would, either individually, or in combination with other development (this is the wording of the duty that we have under the Regulations), increase recreational and traffic pressures upon these European habitats must mitigate its own impact".*

2.6 The apparent moratorium on housing development covers a substantial part of the District including Crowborough, Uckfield, Maresfield, Buxted,

Hadlow Down, Framfield, Rotherfield, Groombridge, Hartfield, Forest Row, Danehill, Nutley and Fletching.

2.7 The Council's letter also indicates that the Council would place a map extract *"purely for guidance purposed only, on the Development Management pages of the Wealden website which will give a guide to the 7kn area…."*. The map extract is also contained in appendix 5 attached.

## 3. Response to the Proposed Modifications

3.1 Although the potential impact of housing development within 7km of Ashdown Forest was a major consideration at the Core Strategy Examination both in terms of nitrogen deposition and recreational impact, the Council's subsequent response to these issues has now had far greater significance in relation to the future delivery of housing development within the northern part of the District. In particular, the Council's more recent approach of imposing a moratorium on all housing development within (and potentially beyond) the 7km zone is not consistent with the Core Strategy Inspector's interim findings.

3.2 As regards nitrogen deposition, the Inspector has not reached the conclusion that there should be a moratorium on all housing development (including windfall housing sites) but recommends that as part of an early review of the Core Strategy, the Council undertakes work to establish more accurately the current extent and impact of nitrogen deposition on the Ashdown Forest SAC (paragraph 16 of the Inspector's interim findings).

3.3 The fact is that, for any site (including any allocated site) the Applicant will need to demonstrate that the development (in combination with other development) is not likely to have any adverse effect upon the integrity of the SAC. If (as in the case of the Gleeson's application site at Alderbrook in Crowborough) Natural England is satisfied that the development would not have an adverse effect, it is perverse for the Council to impose a moratorium that now prevents housing development coming forward that is otherwise acceptable. This approach is not consistent with the last paragraph of the Inspector's Main Modifications no. MM33.

3.4 Turning to the recreational impact upon the Ashdown Forest SPA, the Inspector appears to be satisfied that there is evidence of a reasonable expectation that SANGS can be provided in relation to the proposed Strategic Development Areas (SDA's) in the towns of Crowborough and Uckfield. Through the Inspector's Main Modification no.MM33, the Council

would work with appropriate partners to identify SANGS. In order to be compliant with provisions 102(4) and 102(5) of the Conservation of Habitats and Species Regulations 2010 however, SANGS should be agreed and identified clearly (on a plan) within the Core Strategy. It is not appropriate to 'tier-down' or defer this legal requirement. There is, at present, no guarantee that SANGS could be delivered and, therefore, it cannot be concluded that the Core Strategy would not affect the integrity of the Ashdown Forest SPA.

3.5 The Inspector mentions that for 'windfall' planning applications where SANGS cannot be provided on site, there is a possibility that otherwise acceptable development might be delayed, while off-site SANGS provision is identified and brought forward (paragraph 23 of the Inspector's interim findings). This is reflected by the addition of the last sentence in the first paragraph of the Inspector's Main Modifications no. MM33.

3.6 Although both the Council's Proposed Modifications and the Inspector's Main Modifications include additions to draft Policy WCS12, these merely confirm the Council's intention to introduce SPA mitigation policies in the Delivery and Sites Allocations DPD and in the Strategic Sites DPD, and to undertake a review of the impacts of nitrogen deposition on the Ashdown Forest SAC in the first review of the Core Strategy. The Council has now stated in correspondence to Planning Agents there will be at least a three month delay while a recreational mitigation strategy is developed but even then, there will be a further delay before any detailed measures and proposals could come forward as a formal planning policy. There will be an even longer delay in the actual implementation of off-site mitigation measures that need to be in place prior to the occupation of any new dwellings.

3.7 The Strategic Sites DPD is not expected to be adopted until March 2014 and the Delivery and Site Allocations DPD is not expected to be adopted until March 2015 (as confirmed in paragraph 24 of the Inspector's report dated 5th March 2012). Furthermore, even an early review of the Core

Strategy would not be until at least 2015 (paragraph 14 of the Inspector's interim findings).

3.8 On the other hand, the Inspector's Main Modifications include increasing housing provision from 400 to 450 dwellings per annum by shortening the Plan's timescale from 2030 to 2027 (MM1). With a moratorium on housing development within the majority of the northern part of the District for the foreseeable future (coupled with waste water treatment constraints on housing development within the southern part of the District), there is however, no clear strategy as to how 450 dwellings per annum can be delivered during (at the very least) the early part of the plan period.

3.9 Paragraph 154 of the National Planning Policy Framework (NPPF) states that *"Local Plans should be aspirational but realistic"* and that *"only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan"*. Paragraph 173 adds that *"Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision making. Plans should be deliverable"*.

3.10 Paragraph 182 of the NPPF sets out the criteria for finding a Core Strategy sound at the public examination stage. It should be positively prepared, justified, effective and consistent with national policy. As it stands, the Council's new moratorium on all housing development within 7km of the Ashdown Forest SPA/SAC is inconsistent with the Inspector's interim findings and Main Modifications to the draft Core Strategy and as such, is contrary to NPPF paragraph 182.

3.11 In addition, although the Council has recently produced a map extract on its website indicating the 7km policy zone and this policy zone is referred to in the Inspector's MM33, there is no proposed modification to the Key Diagram in this respect leaving unclear as to the extent to which this policy actually applies on the ground.

## 4. Conclusions

4.1 The Council's housing land supply strategy within the Core Strategy (even with the Council Proposed Modifications and the Inspector's Main Modifications) is unsound, as there is no policy mechanism in place to ensure the delivery of 450 new dwellings per year. Put another way, it cannot be sound to identify a need for 450 dwellings per annum only for an adopted Core Strategy to place a moratorium on housing development in the northern part of the District for the foreseeable future (perhaps until at least 2015 when the Core Strategy becomes due for its First Review).

# APPENDIX 1

Wealden
District Council

Meeting PCN12/04
Date Thursday, 5th April, 2012

Minutes of meeting of the PLANNING COMMITTEE NORTH held on Thursday, 5th April, 2012 in The Council Chamber, Council Offices, Pine Grove, CROWBOROUGH (10.00 a.m. to 2.20 p.m.).

PRESENT: Councillor C Hardy (Chairman), Councillors S Isted, J Carvey, Mrs H Firth, Mrs R Moore, K Ogden, J Padfield, Maj A Quin RM, Mrs C Reynolds and N Waller.

Also present in accordance with the Access to Information Procedure Rules Councillors: R Galley, J Hollins and D Larkin.

In attendance were the Head of Planning and Building Control (K Williams), Solicitor (V Scarpa), Team Leader Major Applications (C McIntyre), Team Leader North (D Moss), S 106 & Planning Applications Officer (C Bending), Democratic Services Administrator (N Peeters) and Lawrence Stringer (East Sussex County Highways)

APOLOGIES: Apologies for absence were received from Councillor Mrs A Newton.

## 12/48 DECLARATION OF SUBSTITUTE MEMBERS

Councillor N Waller declared that he was substituting for Councillor Mrs A Newton.

## 12/49 DECLARATIONS OF INTEREST

Minute 53 - WD/2011/2085/MAO - Councillor N Waller declared a personal interest arising from being a member of the National Playing Fields Association and he remained in the meeting during consideration of the item.

Minute 54 - WD/2011/1361/F - Councillor John Carvey declared a personal interest arising from living in the same road as the application site and he remained in the meeting during consideration of the item.

## 12/50 MINUTES

**RESOLVED** that the minutes of the meeting held on 8th March 2012 as printed and circulated be taken as read, approved as a correct record and signed by the Chairman.

## 12/51 APPOINTMENT OF DEPUTY CHAIRMAN

**RESOLVED** to appoint Councillor S Isted as Deputy Chairman for the meeting.

**ANNOUNCEMENT BY HEAD OF PLANNING AND BUILDING CONTROL ON PLANNING POLICY CHANGES**

Prior to consideration of the first application on the agenda, the Head of the Planning and Building Control updated Members on the significant changes to the weight attached to local planning policies as a result of the publication of the National Planning Policy Framework (NPPF) on 27th March 2012, coupled with the interim findings of the Planning Inspector on the Council's Core Strategy. The Committee was advised that, along with emerging policies from the Council's Core Strategy, a number of applications on the agenda would be affected in terms of the recommendations. One of the key considerations that now had to be taken in to account in the North of the district was whether an application was within 7Km of the Ashdown Forest. If this was the case, the provision of Suitable Alternative Natural Green Space (SANGS) would need to be considered to mitigate the impact of applications on the Ashdown Forest. There were also new considerations in terms of the harm caused by nitrogen emissions from traffic routed across the Forest.

The Planning & Development Portfolio Holder added that the Planning Inspector had judged the Council's Core Strategy as being broadly sound. The importance of a sound Core Strategy or Local Plan was highlighted as this would ensure the Council maintained control of development in Wealden. The Committee was urged to consider deferral for the applications that would be affected by the policy changes.

**12/52 APPLICATIONS SUBJECT TO PUBLIC SPEAKING**

| | | | |
|---|---|---|---|
| WD/2011/2085/MAO | Minute 53 | Agenda Item 5 | 10:20a.m. |
| WD/2011/2361/F | Minute 54 | Agenda Item 7 | 11:45a.m. |
| WD/2011/2476/F | Minute 55 | Agenda Item 8 | 12.15a.m. |
| WD/2011/2813/F | Minute 56 | Agenda Item 9 | 12:40a.m. |
| WD/2012/0200/F | Minute 57 | Agenda Item 10 | 13:00a.m. |
| WD/2012/0280/F | Minute 58 | Agenda Item 11 | 13:30a.m. |

**12/53 WD/2011/2085/MAO - LAND NORTH OF STONE CROSS ROAD, ALDERBROOK, CROWBOROUGH**

Summary of Proposal

Major Application - Outline application for:-
**PROPOSED DEVELOPMENT OF UP TO 74 DWELLINGS (INCLUDING 30% AFFORDABLE HOMES) TOGETHER WITH ASSOCIATED GARAGES, PARKING SPACES, OPEN SPACES AND MEANS OF ACCESS.**

**Received date:** 26 September 2011
**Parish:** Crowborough
**Ward:** Crowborough East

**RESOLVED** that, contrary to officer recomendation, planning permission BE REFUSED for the following reasons:

The proposed development of the site does not accord with the Council's Submission Core Strategy and Strategic Sites Development Plan DPD in that the emerging settlement strategy has had careful regard to significant environmental constraints affecting the environs of Crowborough. The Submission Core Strategy has reached an advanced stage of preparation and now takes precedence regarding the strategic distribution of housing within the District, having regard to the up to date evidence base which underpins the Submission Core Strategy. Development of this site on the scale envisaged would prejudice and harm the strategic and environmental objectives of the Submission Core Strategy.

The proposed development would therefore be contrary to the National Planning Policy Framework and specifically Paragraphs 196 and 216, Policies SP3 and NRM5 of the South East Plan, Policies SPO1, SPO3, WCS1, WCS2, WCS4 of the Submission Core Strategy.

The application site lies in close proximity to the Ashdown Forest Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Together with the nearby Wealden Heaths SPA and Thames Basin Heath SPA, Ashdown Forest forms part of a complex of heathlands in Southern England that support breeding bird populations of European importance. It was classified in 1996 under EU Directive 79/409, known as the Birds Directive. As such, the SPA is a European site to which Part IV of the Conservation (Natural Habitats & c) Regulations 1994 (the Regulations) apply. The designation is principally concerned with the protection of two rare and vulnerable bird species, the nightjar and the Dartford warbler; these are identified in Annex 1 of the Directive.

The development proposals, both alone and in combination with other plans and proposals would have an adverse effect on the integrity of the SPA and SSSI including the deterioration in the quality of the habitat and increased disturbance to birds. There are no proposals to mitigate this adverse effect through the provision of Suitable Alternative Natural Green Spaces (SANGS) either on or off-site. The proposals would also conflict with the emerging policy of Wealden District Council's Submission Core Strategy, which has reached an advanced stage of preparation, as the development has not demonstrated adequate mitigation for the cumulative impacts caused to the biodiversity interests.

The proposed development would therefore be contrary to Policies CC1, NRM5 of the South East Plan 2009, coupled with advice within the National Planning Policy Framework in Section 11 Paragraphs 109, 117, 118 and 119 (Conserving and Enhancing the Natural Environment) Circular 06/05 "Biodiversity and Geological Conversation - Statutory Obligations and Their

Impact within the Planning System" and "Planning for Biodiversity and Geological Conservation: A Guide to Good Practice" (March 2006); Saved Policies EN7 and EN15 of the Wealden Local Plan, Policies NE10, NE11 and NE14 of the Non Statutory Wealden Local Plan and Policies SPO1 and WS12 of the Submission Core Strategy

Whilst the development of the site to meet previous identified housing needs was supported by Policy CR4 of the Non Statutory Wealden Local Plan (2005) (to which limited material weight can now be afforded) it still fails to meet the criteria within that Non Statutory policy. The application is contrary to Policy CR4 of the Non Statutory Wealden Local Plan with the proposed access located outside of the development boundary, and not in the location as required by Policy CR4. The proposal is therefore considered to be contrary to Saved Policies GD2 and DC17 of the Wealden Local Plan; Policies GD2, DC15 and CR4 of the Non Statutory Wealden Local Plan.

The development would result in a material change in the volume of traffic using Stone Cross Road and existing hazards, including pedestrian movements, would be increased by the additional slowing, stopping, turning traffic and pedestrian activity which would be generated, compromising highway safety on the local highway network and is therefore contrary to Policies T1 and T2 of the South East Plan coupled with National Planning Policy Framework Section 4 Paragraph 32 (Promoting Sustainable Transport), Saved Policies EN1 and TR3 of the Wealden Local Plan and Policies TR1, TR2 and HG8(6) of the Wealden Non Statutory Local Plan

The development site accesses are poorly placed in terms of connectivity to local services and sustainable transport modes due to uncertainty of delivering safe passage for non-car travel choices for residents and the wider network and would therefore be contrary to Policies T1 and T2 of the South East Plan coupled with National Planning Policy Framework Section 4 Paragraph 32 (Promoting Sustainable Transport), Saved Policies EN1 and TR3 of the Wealden Local Plan and Policies TR1, TR2 and HG8(6) of the Wealden Non Statutory Local Plan and Policy SPO7 of the Submission Core Strategy

The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that they can secure the proper provision and delivery of the necessary infrastructure improvements to meet the additional demands generated by the proposed development and to ensure there would be no adverse impacts on the local infrastructure, environment and the surrounding highway network. Therefore the proposal is considered contrary to Policy CC7 of the South East Plan, Saved Policies CS1 and TR3 of the Wealden Local Plan 1998, Policies CS1, TR1 and TR2 of the Non Statutory Wealden Local Plan 2005 and Policy WCS7 of the Submission Core Strategy and this issue remains unresolved in terms of any planning obligation mechanism to secure delivery as outlined in Paragraph 203 of the National Planning Policy Framework.

Mr F Best, Chairman of Alderbrook Community Association and Ms E Vincent, a neighbour, both spoke against the application.

Mr M Pickup, the planning consultant, Mr J Bevis, the highways consultant and Mr M Richardson, the applicant, all spoke in favour of the application.

The Committee adjourned for ten minutes at the end of this item.

**12/54 WD/2011/2361/F - LAND ADJOINING 1 FARRIERS WAY, UCKFIELD**

## Summary of Proposal

Full application for:-
**RESIDENTIAL DEVELOPMENT CONSISTING OF ONE 3 BEDROOM SEMI DETACHED HOUSE WITH TWO PARKING SPACES BELOW TWO 1 BEDROOM FLATS OVER WITHOUT PARKING**

**Received date:** 14 November 2011
**Parish:** Uckfield
**Ward:** Uckfield New Town

**RESOLVED**, contrary to officer recommendation, that planning permission BE REFUSED, for the following reasons.

- The proposal involves the development of a tightly constrained parcel of land, located in a highly prominent location on the High Street at the entrance to the Bridge Farm Road Estate. Whilst the site lies close to the town centre where in-filling development may be supported in principle, it is considered that the restricted size and shape of the site, when combined with the detailed design proposed, would result in a development which would cause unacceptable harm to the character and visual amenities of the locality. In particular, the proposal would be discordant and out of keeping in the street scene. The proposal would, in overall terms, be harmful to the character of this attractive part of the High Street, and result in a form of building which is contrary to policy and guidance.

- The application site lies in close proximity (about 5km) to the Ashdown Forest Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The development proposal, both alone and in combination with other plans and proposals, would have an adverse effect on the integrity of the SPA and SSSI. There are no proposals to mitigate this adverse effect. As a result, there are concerns with regard to the adverse effect on the integrity of the SPA, including the deterioration of the quality of the habitat; and an increased disturbance to birds.

- The proposed development would therefore be contrary to Policy NRM5 of the South East Plan 2009, coupled with advice within National Planning Policy Statement at 11. 'Conserving and enhancing the natural environment' (paragraphs 109, 117, 118 and 119), Circular 06/05: "Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within The Planning System" and "Planning for Biodiversity and Geological Conservation: A Guide to Good Practice" (March 2006).

Mr S Green, a neighbour and Councillor T Rumbelow, representing the Town Council, both spoke against the application.

**12/55 WD/201/2476/F - CHARNWOOD, MIDDLE DRIVE, MARESFIELD PARK**

Summary of Proposal

Full application for:-
**ERECTION OF 2 DETACHED DWELLINGS EACH WITH DETACHED GARAGE AND ATTIC ACCOMMODATION.**

**Received date:** 2 March 2012
**Parish:** Maresfield
**Ward:** Buxted & Maresfield

**RESOLVED** that planning permission BE DEFERRED with authority given to the Head of Planning and Building Control to grant full planning permission, subject to the completion of a Section 106 Planning Obligation to adequately secure mitigation of the adverse affect of the development on the Ashdown Forest SAC/SPA.

Mr M Adams, a neighbour, spoke against the application.

Mr s Baynes-Clarke, the applicant and Mr D Dawson, the sales director, both spoke in favour of the application.

**12/56 WD/2011/2813/F - LAND AT HOMEVALE, FIGG LANE, CROWBOROUGH**

Summary of Proposal

Full application for:-
**ERECTION OF A DWELLING WITH ACCESS AND PARKING**

**Received date:** 23 December 2011
**Parish:** Crowborough
**Ward:** Crowborough East

**RESOLVED** that Full planning permission BE GRANTED, subject to the conditions detailed in the report.

*Response to Town Council: The Town Council comments are noted. The scheme is the same as permitted in 2008 and 2009, which although expired, remains a material consideration. Although the dwelling is closer to the boundary with neighbours on Figg Lane, the separation distance to houses is sufficient for a site in an urban area. It is not possible to attach a condition requiring materials and construction vehicles to be kept on site. A Code of Construction Practice has been submitted with the application which explains measures to be undertaken by developer during construction. There are other powers available to the Council under Environmental Protection Act to remedy nuisance activity and this includes unreasonable noise/disturbance form construction sites.*

Mr C George, an adjoining neighbour, spoke against the application.

**12/57 WD/2012/0200/F - LAND AT OWLSBURY PARK, HADLOW DOWN ROAD, CROWBOROUGH**

## Summary of Proposal

Full application for:-
**EXTENSION TO EXISTING CAMPSITE TO ACCOMMODATE 15 TENT PITCHES AND 10 CARAVAN PITCHES. WORKS TO INCLUDE IMPROVED LAYOUT AND LANDSCAPING.**

**Received date:** 27 January 2012
**Parish:** Rotherfield
**Ward:** Rotherfield

**RESOLVED,** contrary to officer recomendation, that, subject to the submission of a section 106 Planning Obligation to adequately secure the mitigation of the adverse affect of the development on the Ashdown Forest and confirmation of an appropriate mechanism to secure delivery, that full planning permission be granted, subject to the following conditions:

- Details of the proposed surfacing material for the hardstands and roads;
- Landscaping provision (including tree and hedge retention)
- A limit on the number of pitches allowed
- Improvements to the site access to be made as per the Highway Authority
- Retention of fencing around the boundary of the site
- Details of opening times of site to be submitted and appropriate seasonal/permanent controls to avoid longer term storage of caravans at the site.
- A scheme of mitigation to protect the local Ancient Woodland form the effects of public access

Ms L Caney, the agent and Ms G Pring, the applicant, both spoke in favour of the application,

**12/58 WD/2012/0280/F - HERMITAGE FARM, HURSTWOOD ROAD, HIGH HURSTWOOD**

## Summary of Proposal

Full application for:-
**ERECTION OF A REPLACEMENT DWELLING AND ANNEXE MUSIC STUDIO. DEMOLITION OF THE EXISTING DWELLING, A WORKSHOP, A TIMBER CAR SHED AND A TIMBER GAZEBO.**

**Received date:** 3 February 2012

**Parish:** Buxted
**Ward:** Buxted & Maresfield

**RESOLVED** that Full planning permission BE GRANTED, subject to the conditions detailed in the report.

Mrs C Letts, a neighbour, spoke against the application.

M R Cooper, the owner and Mr R Nightingale, the applicants agent, both spoke in favour of the application.

**12/59 WD/2012/0552/MAJ - TALL TREES. NEVIN, TREE VIEW, ORCHARD VIEW, CROWBOROUGH HILL, CROWBOROUGH**

Summary of Proposal

Major Application - Full application for:-
**ERECTION OF 44 RETIREMENT APARTMENTS (CATEGORY II TYPE) WITH COMMUNAL FACILITIES, CAR PARKING AND VEHICULAR ACCESS FROM CROWBOROUGH HILL**

**Received date:** 12 March 2012
**Parish:** Crowborough
**Ward:** Crowborough North

**RESOLVED** that, subject to no further material planning issues being received before the consultation expiry date of 13 April 2012 and the completion of a Section 106 Agreement with the provisions detailed in the report, Full planning permission BE GRANTED, subject to the conditions detailed in the report.

**12/60 WD/2012/0364/F - HOMELEA, 131 & 129 THE DRIVE, UCKFIELD**

Summary of Proposal

Full application for:-
**CHANGE OF USE FROM C2 RESIDENTIAL INSTITUTIONS TO TWO NO. C3 DWELLINGHOUSES AND ASSOCIATED CAR PARKING**

**Received date:** 15 February 2012
**Parish:** Uckfield
**Ward:** Uckfield North

**RESOLVED** that Full planning permission BE GRANTED.

**12/61 DELEGATED TREE MATTERS**

The Committee noted the delegated decisions to approve the tree matters set out in Item 13 of the agenda.

# APPENDIX 2

**From:** Claire McIntyre
**To:** Planning
**Date:** Tue, Apr 17, 2012 3:07 pm
**Subject:** Fwd: RE: FW: WD/2011/2085/MAO

Natural England 2nd consultation response for datwright and web

>>> "Ashdown, Marian (NE)" <Marian.Ashdown@naturalengland.org.uk> 16/02/12 15:31:39 >>>
Hi Claire I can confirm that Natural England concurs with the conclusion that the proposals will not have a likely significant impact on the Ashdown Forest SPA/SAC so Natural England is happy to withdraw its objection to the development. If you require any further information, please do not hesitate to contact me. Kind regards Marian From: Claire McIntyre [mailto:claire.mcintyre@wealden.gov.uk]
Sent: 14 February 2012 14:53
To: Ashdown, Marian (NE)
Subject: Fwd: FW: WD/2011/2085/MAO

Marian

I attach a revised submission from Gleesons regarding the impact of the development on Ashdown Forest and I also attach the Council's Screening for an Appropriate Assessment which concludes there is no significant impact on the Ashdown Forest and no need for the provision of additional SANGS for this allocated site in the Non Statutory Plan. I would be grateful for your comments.

Regards

Claire

**APPENDIX 3**

Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2011/2085/MAO**

Wealden
District Council

Town & Country Planning Solutions
Sandhills Farmhouse
Bodle Street Green
Hailsham
East Sussex
BN27 4QU

Council Offices
Pine Grove
Crowborough
East Sussex
TN6 1DH

**DESCRIPTION AND LOCATION OF DEVELOPMENT**
**PROPOSED DEVELOPMENT OF UP TO 74 DWELLINGS (INCLUDING 30% AFFORDABLE HOMES) TOGETHER WITH ASSOCIATED GARAGES, PARKING SPACES, OPEN SPACES AND MEANS OF ACCESS.**
**LAND NORTH OF STONE CROSS ROAD, ALDERBROOK, CROWBOROUGH TN6 3SQ**

With reference to the proposals set out in the application numbered as above and shown on the plans submitted therewith, Wealden District Council, in pursuance of powers under the Town and Country Planning Act 1990 and the Town and Country Planning General Permitted Development Order 1995 (as amended), hereby **REFUSES TO GRANT PLANNING PERMISSION** for the said proposals, for the reasons stated below:-

1. It cannot be concluded that the proposed development in combination and in addition to the strategic housing distribution contained within the Core Strategy and prior to the emergence of the Strategic Sites Development Plan Document will not adversely affect the integrity of the Ashdown Forest Special Area of Conservation with regards to increased nitrogen deposition.

   The emerging housing distribution contained within the submitted Core Strategy has had careful regard to the environmental constraints affecting the environs of Crowborough. In order to avoid the adverse effect on the integrity of the Ashdown Forest Special Area of Conservation with regards to increased nitrogen deposition it will be necessary for the allocations in South East Crowbrough to be reduced to take into account the proposed development. This would therefore prejudice the due process of the consideration of alternative sites through the Sites Allocations Development Plan Document and the consideration of cumulative impact of development and necessary mitigation which would be afforded through the Plan making process.

   In the absence of mitigation the proposed development would therefore be contrary to the Conservation (Natural Habitats & c) Regulations 1994 as amended, National Planning Policy Framework and specifically Paragraph 196 and 216, Policies SP3 and NRM5 of the South East Plan, Strategic Planning Objectives SPO1, SPO3 and Polices WCS1, WCS2, WCS4 of the Submission Core Strategy.

2. The application site lies in close proximity to the Ashdown Forest Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Together with the nearby Wealden Heaths SPA and Thames Basin Heath SPA, Ashdown Forest forms part of a complex of heathlands in Southern England that support breeding bird populations of European importance. It was classified in 1996 under EU Directive 79/409, known as the Birds Directive. As such, the SPA is a European site to which Part IV of the Conservation (Natural Habitats & c) Regulations 1994 (the Regulations) apply. The designation is principally concerned with the protection of two rare and vulnerable bird

species, the nightjar and the Dartford warbler; these are identified in Annex 1 of the Directive.

The development proposals, both alone and in combination with other plans and proposals would have an adverse effect on the integrity of the SPA and SSSI including the deterioration in the quality of the habitat and increased disturbance to birds. There are no proposals to mitigate this adverse effect through the provision of Suitable Alternative Natural Green Spaces (SANGS) either on or off-site. The proposals would also conflict with the emerging policy of Wealden District Council's Submission Core Strategy, which has reached an advanced stage of preparation, as the development has not demonstrated adequate mitigation for the cumulative impacts caused to the biodiversity interests. In the absence of mitigation the proposed development would therefore be contrary to the Conservation (Natural Habitats & c) Regulations 1994 as amended

The proposed development would therefore be contrary to Policies CC1, NRM5 of the South East Plan 2009, coupled with advice within the National Planning Policy Framework in Section 11 Paragraphs 109, 117, 118 and 119 (Conserving and Enhancing the Natural Environment) Circular 06/05 `Biodiversity and Geological Conversation - Statutory Obligations and Their Impact within the Planning System` and `Planning for Biodiversity and Geological Conservation: A Guide to Good Practice` (March 2006); Saved Policies EN7 and EN15 of the Wealden Local Plan, Policies NE10, NE11 and NE14 of the Non Statutory Wealden Local Plan and Policies SPO1 and WS12 of the Submission Core Strategy.

3. Whilst the development of the site to meet previous identified housing needs was supported by Policy CR4 of the Non Statutory Wealden Local Plan (2005) (to which limited material weight can now be afforded) it still fails to meet the criteria within that Non Statutory policy. The application is contrary to Policy CR4 of the Non Statutory Wealden Local Plan with the proposed access located outside of the development boundary, and not in the location as required by Policy CR4. The proposal is therefore considered to be contrary to Saved Policies GD2 and DC17 of the Wealden Local Plan; Policies GD2, DC15 and CR4 of the Non Statutory Wealden Local Plan.

4. The development would result in a material change in the volume of traffic using Stone Cross Road and existing hazards, including pedestrian movements, would be increased by the additional slowing, stopping, turning traffic and pedestrian activity which would be generated, compromising highway safety on the local highway network and is therefore contrary to Policies T1 and T2 of the South East Plan coupled with National Planning Policy Framework Section 4 Paragraph 32 (Promoting Sustainable Transport), Saved Policies EN1 and TR3 of the Wealden Local Plan and Policies TR1, TR2 and HG8(6) of the Wealden Non Statutory Local Plan.

5. The development site accesses are poorly placed in terms of connectivity to local services and sustainable transport modes due to uncertainty of delivering safe passage for non-car travel choices for residents and the wider network and would therefore be contrary to Policies T1 and T2 of the South East Plan coupled with National Planning Policy Framework Section 4 Paragraph 32 (Promoting Sustainable Transport), Saved Policies EN1 and TR3 of the Wealden Local Plan and Policies TR1, TR2 and HG8(6) of the Wealden Non Statutory Local Plan and Policy SPO7 of the Submission Core Strategy.

6. The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that they can secure the proper provision and delivery of the necessary infrastructure improvements to meet the additional demands generated by the proposed development and to ensure there would be no adverse impacts on the local infrastructure, environment and the surrounding highway network. Therefore the proposal is considered contrary to Policy CC7 of the South East Plan, Saved Policies CS1 and TR3 of the Wealden Local Plan 1998, Policies CS1, TR1 and TR2 of the Non Statutory Wealden Local Plan 2005 and

species, the nightjar and the Dartford warbler; these are identified in Annex 1 of the Directive.

The development proposals, both alone and in combination with other plans and proposals would have an adverse effect on the integrity of the SPA and SSSI including the deterioration in the quality of the habitat and increased disturbance to birds. There are no proposals to mitigate this adverse effect through the provision of Suitable Alternative Natural Green Spaces (SANGS) either on or off-site. The proposals would also conflict with the emerging policy of Wealden District Council's Submission Core Strategy, which has reached an advanced stage of preparation, as the development has not demonstrated adequate mitigation for the cumulative impacts caused to the biodiversity interests. In the absence of mitigation the proposed development would therefore be contrary to the Conservation (Natural Habitats & c) Regulations 1994 as amended

The proposed development would therefore be contrary to Policies CC1, NRM5 of the South East Plan 2009, coupled with advice within the National Planning Policy Framework in Section 11 Paragraphs 109, 117, 118 and 119 (Conserving and Enhancing the Natural Environment) Circular 06/05 `Biodiversity and Geological Conversation - Statutory Obligations and Their Impact within the Planning System` and `Planning for Biodiversity and Geological Conservation: A Guide to Good Practice` (March 2006); Saved Policies EN7 and EN15 of the Wealden Local Plan, Policies NE10, NE11 and NE14 of the Non Statutory Wealden Local Plan and Policies SPO1 and WS12 of the Submission Core Strategy.

3. Whilst the development of the site to meet previous identified housing needs was supported by Policy CR4 of the Non Statutory Wealden Local Plan (2005) (to which limited material weight can now be afforded) it still fails to meet the criteria within that Non Statutory policy. The application is contrary to Policy CR4 of the Non Statutory Wealden Local Plan with the proposed access located outside of the development boundary, and not in the location as required by Policy CR4. The proposal is therefore considered to be contrary to Saved Policies GD2 and DC17 of the Wealden Local Plan; Policies GD2, DC15 and CR4 of the Non Statutory Wealden Local Plan.

4. The development would result in a material change in the volume of traffic using Stone Cross Road and existing hazards, including pedestrian movements, would be increased by the additional slowing, stopping, turning traffic and pedestrian activity which would be generated, compromising highway safety on the local highway network and is therefore contrary to Policies T1 and T2 of the South East Plan coupled with National Planning Policy Framework Section 4 Paragraph 32 (Promoting Sustainable Transport), Saved Policies EN1 and TR3 of the Wealden Local Plan and Policies TR1, TR2 and HG8(6) of the Wealden Non Statutory Local Plan.

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6. The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that they can secure the proper provision and delivery of the necessary infrastructure improvements to meet the additional demands generated by the proposed development and to ensure there would be no adverse impacts on the local infrastructure, environment and the surrounding highway network. Therefore the proposal is considered contrary to Policy CC7 of the South East Plan, Saved Policies CS1 and TR3 of the Wealden Local Plan 1998, Policies CS1, TR1 and TR2 of the Non Statutory Wealden Local Plan 2005 and

Policy WCS7 of the Submission Core Strategy and this issue remains unresolved in terms of any planning obligation mechanism to secure delivery as outlined in Paragraph 203 of the National Planning Policy Framework.

7. This planning decision relates solely to the following documents and plan(s):

| Ref. | Date Stamped. STN4R |
|---|---|
| P449/102 Location Plan | 26 September 2011 |
| P449/101 Illustrative Purposes Planning Layout | 26 September 2011 |
| P449/HT/001 Illustrative Footprint Plans No 1 | 26 September 2011 |
| P449/HT/002 Illustrative Footprint Plans No 2 | 26 September 2011 |
| P449/HT/003 Illustrative Footprint Plans No 3 | 26 September 2011 |
| P449/NPS/01 Natural Play Space Layout | 26 September 2011 |
| P449/SS/01 Illustrative Purposes Site Sections | 26 September 2011 |
| Dwg ITB6088-GA-104 | 26 September 2011 |
| Dwg ITB6088-GA-105 | 26 September 2011 |
| Dwg ITB6088-GA-106 | 26 September 2011 |
| Dwg ITB6088-GA-109 | 26 March 2012 |
| Dwg ITB6088-GA-110 | 26 March 2012 |
| Dwg ITB6088-GA-012 | 26 March 2012 |
| Dwg ITB6088-GA-111 | 26 March 2012 |
| Dwg ITB6088-GA-112 | 26 March 2012 |
| Dwg GLE/E3848/200A | 26 September 2011 |
| Dwg GLE/E3848/205 | 26 September 2011 |
| Dwg GLE/E3848/206A | 26 September 2011 |
| Ecological Impact Assessment Appendices | 26 September 2011 |
| Ecological Impact Assessment Figures | 26 September 2011 |
| Planning Statement | 26 September 2011 |
| Design and Access Statement | 26 September 2011 |
| Soils Report on a Desk Study | 26 September 2011 |
| Soils Report on a Ground Investigation | 26 September 2011 |
| Transport Assessment | 26 September 2011 |
| Interim Travel Plan Statement | 26 September 2011 |
| Archaeological Desk Based Assessment | 26 September 2011 |
| Alderbrook Flood Risk Assessment | 26 September 2011 |
| Traffic Impact on Ashdown Forest | 26 September 2011 |
| Arboricultural Report | 26 September 2011 |
| Tree Survey and Constraints Plan TD546-02C | 26 September 2011 |
| Landscape and Ecology Strategy PlanTD546-03C | 26 September 2011 |
| Tree Protection Plan TD546-04 | 26 September 2011 |
| Statement of Community Engagement | 26 September 2011 |
| Stage 1 Road Safety Audit | 26 March 2012 |
| Designers Response | 26 March 2012 |
| Sustainable Design and Construction Statement | 26 September 2011 |

REASON: For the avoidance of doubt.

**IMPORTANT: See Note 1 overleaf**
**DATE OF ISSUE: 25 April 2012**

Kelvin Williams

**Kelvin Williams**
**Head of Planning & Building Control**

**APPENDIX 4**

OUR REF:

ASK FOR: **Kelvin Williams Tel: 01892 602484**

DATE: 13 April 2012

YOUR REF:

Wealden
District Council

Planning Agents

**Kelvin Williams**
Head of Planning and Building Control

Dear Colleague

**Re: Ashdown Forest Special Protection Area, Special Area of Conservation and Site of Special Scientific Interest.**

I am writing to you as an active agent for planning applications within the Wealden area and to advise you of recent development regarding this issue.

Due to the publication of two recent documents, the National Planning Policy Framework (27th March 2012) and Inspector's Interim Findings upon the Council's Core Strategy (letter dated 5th March 2012) there has had to be a temporary change in the Council's approach to facilitating development both in rural areas and within development boundaries. The main reason behind this change relates to the heightened status of protection afforded to the Ashdown Forest's Special Area of Conservation and Special Protection Area, both of which lie within 7 Km of your client's application site.

The policy position which the Council is now obliged to follow, in line with the emerging Core Strategy policy WCS12, is that all development within 7Km of the Special Area of Conservation/Special Protection Area which would, either individually, or in combination with other development, increase recreational and traffic pressures upon these European significant habitats* must mitigate its own impact. (*European Union's Habitats Directive, protected under the Habitats and Conservation of Species requires to provide adequate mitigation of the potential effects Regulations 2010). I attach a short briefing note which runs through the chain of events leading up to this letter, the implications, and the way forward.

The Council is actively now working on developing an interim (off site) mitigation strategy, in advance of a formally adopted Development Plan Document, so that there is a wider scheme available to support the development of 'windfall' housing sites, such as your clients land. It is likely that a financial contribution would be required to deliver the mitigation scheme. It is anticipated that this would contribute towards forming or improving a Suitable Alternative Natural Green Space (SANG) in the locality, which would off-set the impacts of additional recreational and traffic pressures upon the European Protected sites. Further detail of this matter can be found in the Council's emerging Core Strategy, under policy WCS12, which has now received support from the appointed Inspector, Mr Michael Moore, who presided over the Examination in Public last February. Mr Moore's proposed modifications (in a public document dated April 2012) can be viewed at the Council's planning website, and I would direct you to modification Ref WS35, which deals with the revised wording to policy WCS12. The Council takes the view this emerging policy is now sufficiently robust it must be taken into account in the decision making process.

The means of delivery for the mitigation strategy would be by S106 Planning Agreement, as it is likely to involve developing a scheme 'off site' (either a new or improved SANG), and by encouraging effective visitor management on the Forest. It would be inappropriate and challengeable under the Habitat Regulations to allow development in advance of providing these mitigation measures. It is anticipated that there would be a delay of at least 3 months in devising the interim strategy for mitigation.

We will keep our website up to date in relation to this issue, but before lodging any fresh planning applications, I would urge to discuss matters with my Development Management Team. The Duty Planning Officer is available on Tel: 01892 602011 (between 9.30am and 12.30pm Monday to Friday) and we shall contine to offer the pre-application surgery system via the bookable slots on Wedsnesdays.

If you have a live application currently under consideration with us at the moment, I shall write to under separate cover regarding our intensions for handling submitted casework.

Yours sincerely



Head of Planning & Building Control

# Issues Pursuant to Enhanced Status of the Core Strategy and New National Planning Policy Framework (Summary)

Wealden District Council

Stemming from recent events which have combined to have full effect following the preparation of the last Planning Committee agenda in April 2012, the weight attached to key material considerations has changed to the extent that the Council are now advising of the need to amend officer recommendations for all applications which increase residential and commercial pressures upon the Ashdown Forest. This affects:

- All applications which involve a material intensification of development and lie within 7.0 km of the Ashdown Forest Special Area of Conservation and Special Protection Area. (Evidence has proven a zone of influence within 7Km of the area)

## The Material Change of Circumstances:

- On 5th March 2012, Inspector Michael Moore produced his proposed interim findings on the Core Strategy. His suggested modifications follow the Examination in Public, and now carry increased weight as part of the emerging Core Strategy ('Local Plan').
- On 27th March, CLG issued the National Planning Policy Framework, NPPF), which has immediate effect.
- Paragraph 216 from Annex 1 of the NPPF advises decision makers that they may attach weight to relevant policies according to the stage of preparation of the Plan. Greater weight applies to latter stages.
- Paragraph 119 indicates the presumption in favour of sustainable development does not apply where development requiring appropriate assessment is planned (e.g. European Protected sites).

## Policy Issue

- Part of the Core Strategy housing provision strategy, including its scale and distribution, was governed by the environmental constraints imposed by the Ashdown Forest Special Area of Conservation/Special Protection Area.
- This has significantly limited more housing development around the Forest, in order to protect the European habitat from both recreational and nitrogen deposition impacts.
- The Inspector has endorsed the approach of limiting and reducing the impacts of development on the Forest. He has modified and added to Policy WCS12 of the Core Strategy to add clarity and strength to the policy protection to The Forest habitat.
- Strategic Development sites will have to provide their own Suitable Alternative Natural Green Space (SANGS), to limit pressure upon the SAC/SPA.
- Windfall development sites within 7km of the Forest will be expected to provide Suitable SANGS and on site visitor management.
- Several planning appeals, together Inspector Moore's comments make it clear the effects of new development must be viewed both alone and in combination with all other commitments.
- It is now considered that the combined strength of guidance within the NPPF, taken along with the advanced stage and anticipated soundness of the Core Strategy affects all new development with recreational and nitrogen impacts to The Forest.

- Recent Walders Stores, Chelwood Gate withdrawal of appeal indicates severity of the issue.
- This is now a determining issue for all current planning applications within 7km that have intensification at their heart..

**Implications**

- All planning applications which create a material impact upon the Ashdown Forest (i.e. within 7km) will require to show proportionate mitigation measures in the form of new or improved SANGS, or on site visitor management.
- The Core Strategy Inspector has modified WSC12 so in the interim period, WDC and appropriate partners work to identify SANGS, so that otherwise acceptable development is not prevented from coming forward.
- It may take at least 3 months, or more, for interim guidance to be formed so that adequate mitigation for windfall sites is agreeable.
- Failure to offer any mitigation for the adverse effects arising from the proposed development, leads to refusal of permission.
- Risk to Core Strategy by Judicial Review if ignored this key underpinning part of the growth strategy is ignored.

Applications which are not withdrawn, but create imp-act through intensified development could be subject to the following issues within a reason for refusal.

*The application site lies in close proximity to the Ashdown Forest Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Together with the nearby Wealden Heaths SPA and Thames Basin Heath SPA, Ashdown Forest forms part of a complex of heathlands in southern England that support breeding bird populations of European importance. It was classified in 1996 under EU Directive 79/409, known as the Birds Directive. As such, the SPA is a European site to which Part IV of the Conservation (Natural Habitats & c) Regulations 1994 (the Regulations) apply. The designation is principally concerned with the protection of two rare and vulnerable bird species, the nightjar and the Dartford warbler; these are identified in Annex 1 of the Directive.*

*The development proposal, both alone and in combination with other plans and proposals, would have an adverse effect on the integrity of the SPA and SSSI. There are no proposals to mitigate this adverse effect. The circumstances envisaged in Circular 06/05 - such as development overriding the public interest - that could lead to the grant of planning permission are clearly not applicable in this case. The proposal would also conflict with the emerging policy WCS 12 of Wealden District Council's Core Strategy, which has reached an advanced stage of preparation, as the development has not demonstrated adequate mitigation for the cumulative impacts caused to the biodiversity interests .*

*As a result, there are concerns with regard to the adverse effect on the integrity of the SPA, including the deterioration of the quality of the habitat; and an increased disturbance to birds.*

*The proposed development would therefore be contrary to Policy NRM5 of the South East Plan 2009, coupled with advice within National Planning Policy Statement at 11. 'Conserving and enhancing the natural environment' (paragraphs 109, 117, 118 and 119), Circular 06/05: "Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within The Planning System" and "Planning for Biodiversity and Geological Conservation: A Guide to Good Practice" (March 2006).*

**APPENDIX 5**

OUR REF: KW/WD/2012/0338/F

ASK FOR: **Kelvin Williams Tel: 01892 602484**

DATE: 01 May 2012

YOUR REF:

Wealden
District Council

Planning Agents

**Kelvin Williams**
Head of Planning and Building Control

Dear Sir/Madam,

**Re: Ashdown Forest Special Protection Area, Special Area of Conservation and Site of Special Scientific Interest.**

I am writing to you as an agent for planning applications within the Wealden area to advise you of certain major implications regarding the above European designated sites, an issue which may not have been clear to those of you who also received a copy of my letter dated 13th April 2012.

As with my earlier letter, the issue goes back to the publication of two recent documents, the recently published National Planning Policy Framework (NPPF) on the 27th March 2012 and the Inspector's interim findings upon the Council's Core Strategy (letter to the Council, dated 5th March 2012). This letter can be viewed upon the Council's website, and paragraphs 13 - 16 of the Inspector's letter are relevant in terms of Nitrogen deposition.

1) In my last letter, I explained that the status of the highest levels of protection afforded to the Ashdown Forest's Special Area of Conservation (SAC) and Special Protection Area (SPA) had significant implications for planning applications within a 7km radius. However, I also explained that those implications in terms of additional recreational impact upon the European Protected sites might be capable of mitigation and resolution through the provision of areas of green space to deflect visitor pressures from the internationally designated heathland habitat that is Ashdown Forest (referred to as Suitable Alternative Natural Green Space - SANGS).

   Whilst it is anticipated that the Council can address this matter and work with applicants to deliver such new green spaces (by Planning Agreement) the purpose of this letter is to emphasise that this approach can only realistically be pursued providing that any proposal has first met the sterner test identified above in respect of the impacts of nitrogen deposition caused by increased traffic. Whilst officers are progressing an interim mitigation scheme in respect of SANGS provision I wish to draw to your attention the more significant implications regarding nitrogen deposition.

2) This crux of the issue stems from the fact that any development which adds to vehicle movements will potentially increase traffic volumes within the zone of influence (7km radius) of the SAC and SPA. Any development which cannot show that it has a nil or reduced impact in this regard would conflict with the duty placed upon the Council in respect of the Habitats Regulations. This legislation offers the highest protection to these European designated sites and has recently been endorsed by the Governments published National Planning Policy Framework. The NPPF also confirms the weight to be attached to Core Strategies that have reached an advanced stage in their production.

If your client's application site lies within 7km of the Ashdown Forest SPA/SAC and is thus within the 'zone of influence' for development it will be affected by the emerging policy position, which now carries sufficient material weight to affect decisions from hereon.

I would emphasise that the matter of the importance attached to the Habitat Regulations and internationally designated sites is not new. Indeed these provisions date from 1994 and the duty placed upon all Local Planning Authorities by these provisions has for a number of years now been a part of the evidence base that we have had to prepare to support our emerging Core Strategy. The work undertaken on screening of the Core Strategy under these provisions and indeed the detailed appropriate assessment work subsequently carried out commenced in July 2009.

Our studies on these matters have been a key part of developing the strategy and the reports accompanying this work are published on our website and submitted as part of public examination of the document.

The position which the Council is now following is that all development within 7km of the Special Area of Conservation/Special Protection Area which would, either individually, or in combination with other development (this is the wording of the duty that we have under the regulations), increase recreational and traffic pressures upon these European habitats must mitigate its own impact.

In the case of traffic impact upon the Ashdown Forest the levels of nitrogen deposition have reached a critical level and it is known that the ecological health of the Forest is deteriorating. The main atmospheric pollutants are acid deposition and eutrophication by nitrogen deposition, a main source of which includes road traffic. Accordingly, the Council's settlement strategy as set out within its Core Strategy seeks to avoid significant development around the Forest area. Any development which adds to the traffic loading, even to a modest degree, would now attract a policy reason for refusal.

In its role as a facilitator of development, the Council's Development Management service will look carefully and constructively at proposals where a nil or reduced level of traffic generation can be proven or where off setting of traffic might be seen as adequate mitigation; for example displacing other comparable traffic generators from a site, replacing extant lawful uses or substituting existing planning permissions. However this approach cannot apply to other development sites both within and outside of development boundaries.

If, on the basis of this information, you have a current application which you consider must now attract a reason for refusal you may wish to consider withdrawal within the next few days, otherwise a refusal is probable. For guidance purposes only, the 7km radius would clearly affect development in and around the following main settlements - Crowborough, Uckfield, Maresfield, Buxted, Hadlow Down, Framfield, Rotherfield, Groombridge, Hartfield, Forest Row, Danehill, Nutley and Fletching. I propose to place a map extract, purely for guidance purposes only, on the Development Management pages of the Wealden website which will give a guide to the 7km area, but I should advise there may be larger scale development where an assessment of the effects of traffic could be required beyond 7km.

If you are in doubt about this issue, please take the opportunity to contact your case officer. If you have taken pre-application advice on a proposal which you are about to submit in the above category, you will need to carefully review the conclusions in the light of this letter. Officers will assist in any way they can to explain the constraint.

To conclude the recently published NPPF and the interim letter from our Inspector has enabled us to confirm our policy compliance with the Habitat Regulations.

I will endeavour to keep you fully posted as we try to make the best of what is a particularly difficult new issue for Development Management.

Yours sincerely

Kelvin Williams
Head of Planning & Building Control

Copies to: Mr D Phillips, Judith James, D. Moss WDC Planning

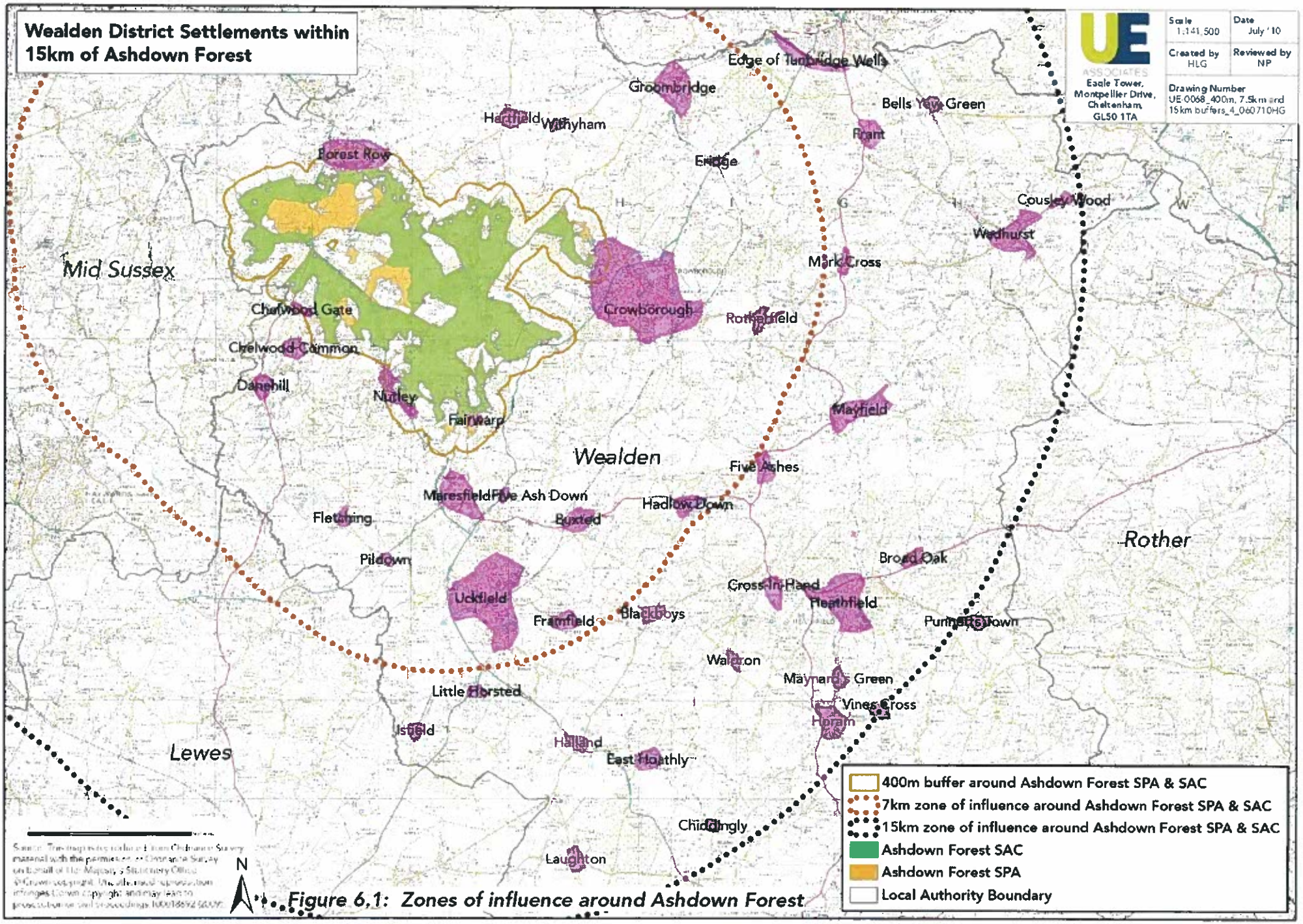



*Figure 6.1: Zones of influence around Ashdown Forest*