Surrey Wildlife Trust
Ecology Services

Proof of Evidence



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Author	Gabrielle Graham BSc (Hons) MSc MCIEEM CEcol – Managing Director	Date	19/10/2023
Project number		6180-A	
Report and version number		1.3	
Planning Inspectorate reference		APP/C1435/W/23/3321978	
Wealden District Council Reference		WD/2022/1637/MEA	
Commission date		28/09/2023	

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1 Qualifications and experience

1.1.1 My name is Gabrielle Gertrude Frédérique Graham and I am the Managing Director of SWT Ecology Services with over 16 years of experience in the ecological consultancy profession. I am a Chartered Ecologist, a member of the Chartered Institute of Ecology and Environmental Management, hold a Master in Science in Wildlife Conservation and Management and hold a Bachelor of Science in Zoology.

1.1.2 Throughout my career I have specialised in ecological consultancy and have spent the last eight years in South-East England. I work with a range of clients including Local Planning Authorities, developers, land owners and home owners.

1.1.3 Throughout my work in Australia and England, I have been involved in planning appeal hearings, planning inquiries and court hearings involving housing and renewable energy development. In particular in 2018, I was the expert witness for a case in Kent dealing with the impact of a housing development on ancient woodland (PI reference APP/H2265/W/19/3235167). In this case, the main issue relating to ancient woodland was whether the ancient woodland qualified as such and if so whether the proposals would adversely impact the ancient woodland. Based on the evidence that I provided the Planning Inspectorate concluded that "*the woodland known as Warren Wood on and adjacent to the site comprises ancient woodland, and that the proposed development would result in the loss or deterioration of part of it through the creation of the proposed emergency vehicle access and the main access road and associated footway*."

1.1.4 This proof is the result of my own work and represents my views.

1.1.5 Having had no prior involvement in this application, I was first approached by the Council to ask if I would give evidence in September 2023, due to one of their witnesses being ill and unable to prepare a proof of evidence in time for the Inquiry. Before I accepted these instructions, I satisfied myself that I agreed with Council's case as set out in its Reason for Refusal 2 and its Statement of Case, having reviewed other relevant documentation. I have visited the site as part of the preparation of this proof of evidence. I am familiar with the site and surrounding area and have considered the relevant national, regional and local plan policy background. In particular, I have read through the Committee Report for the planning application and I agree with its findings and conclusion on the loss of ancient woodland.

1.1.6 I understand my duty as an expert witness to the Inquiry. I have complied with that duty. This evidence includes all matters relevant to the issues on which my expert evidence was given.

1.1.7 I can confirm that the facts stated in my evidence are within my own knowledge. I have made clear which these are, and I believe them to be true and that the opinions I have expressed represent my true and complete professional opinion.

2 Scope of evidence

2.1.1 My evidence relates specifically to impacts to ecology; impacts on trees (ancient woodland, and veteran trees) is dealt with by Mr. David Massheder. Whilst we are dealing with different aspects, there is an interrelationship between the two disciplines and this should be considered when assessing our evidence. Furthermore, the evidence of Mr Graham Kean addresses drainage matters. I draw on his evidence as appropriate.

2.1.2 This inquiry concerns an appeal made by Gleeson Land and John Alison Land and Research Ltd against refusal by Wealden District Council for:

"Hybrid planning application comprising: outline application (with all matters reserved except for access) for the erection of up to 424 no. Residential dwellings including affordable housing, the provision of vehicular, pedestrian and cycle access and separate emergency access from the Uckfield bypass (a22), pedestrian and cycle access from Snatts road, open spaces including children's play space, sustainable urban drainage systems, associated landscaping, infrastructure and earthworks; and full application comprising creation of a strategic sang, associated landscaping and car parking, and demolition of existing residential property and other buildings and provision of pedestrian and cycle access from rocks road, associated landscaping, infrastructure and earthworks."

2.1.3 The planning application was refused on 21st April 2023 (application reference WD/2022/1637/MEA).

2.1.4 In relation to ecology, the application was refused for the following reasons:

"2. The development proposals would result in indirect and direct degradation and loss of ancient woodland, an irreplaceable habitat, and lead to the unacceptable fragmentation, isolation and disturbance of natural habitats that support protected wildlife species and other flora and fauna of acknowledged nature conservation importance. In addition, the development would threaten, harm and cause degradation to veteran trees, an irreplaceable habitat."

4. Whilst the site is within Flood Risk Zone 1, details in the flood risk assessment and surface water drainage strategy in relation to surface water flooding for this major development fail to demonstrate to the satisfaction of the Local Planning Authority and the County Council, as the Lead Local Flood Authority, that the proposed development on the site would not increase flood risk elsewhere. This is because it relies upon works to and within the Ancient Woodland which are unacceptable and will cause loss of irreplaceable habitat. It is accepted on the applicants own evidence that on site infiltration cannot occur due to geology and ground conditions. Whilst the scheme is outline, it is not considered possible to proceed without the drainage strategy being worked upon and to demonstrate avoidance of Ancient Woodland.

5. Insufficient information has been submitted to demonstrate the proposed development would not result in adverse impacts on protected species (GCN) and therefore the proposal would be contrary to Policy WCS12 of the Core Strategy 2013 and paragraph 174 and 180 of the National Planning Policy Framework 2021.

9. The application site lies within 7km of the Ashdown Forest Special Protection Area, and is likely to have a significant adverse impact upon the SPA as result of recreational impact caused by intensified residential occupation within a zone of influence of the SPA. The

application has not demonstrated through an appropriate mechanism that it can achieve the necessary mitigation measures in respect of the increased recreational pressures it is likely to bring on the Ashdown Forest Special Protection Area. In the absence of such committed measures to offset the impact of the development, the application conflicts with saved Policies EN1 and EN15 of the Wealden Local Plan 1998, Policy WCS12 of the Core Strategy Local Plan 2013; nor would it be compliant with regulation 63 of the Habitats Regulations 2018."

2.1.5 I understand that a Statement of Common Ground was agreed for reason for refusal 5, and as such this is not discussed further.

2.1.6 To inform my assessment, I reviewed the core documents relating to ecology and impacts on ecology and cite where appropriate.

3 Proposed development

3.1.1 The proposed development comprises:

- An outline planning application with all matters reserved except for access, for the erection of up to 424 residential dwellings and associated infrastructure.
- A full application comprising the creation of a strategic SANG, associated landscaping and car parking and demolition of an existing property and other buildings is also included.

3.1.2 The site comprises approximately 45 ha, with grassland (approximately 30 ha), scrub (approximately 1.6 ha) and woodland (16ha) and small areas of other habitats. The site is bounded by ancient woodland on the south and northern boundaries, with intermittent areas of ancient woodland to the west and east (DEFRA, 2023). Ancient Woodland also extends into the site (Longwood Gill). Habitat of Principal Importance (woodland) bounds the northern, western and southern boundary. The grassland within the site boundary is under a Countryside Stewardship (middle tier) (DEFRA, 2023). It is understood the agreement is current.

3.1.3 No statutory designated sites were recorded within the site (CD1/37 Sussex Biodiversity Records Centre, 2023). The closest statutory site is located 100m to the south (Uckfield Local Nature Reserve and Local Wildlife Site). Buxstead Park Site of Special Scientific Interest is located 800m to the east, and Ashdown Forest Special Area of Conservation and Special Protection Area is found 3.4km to the north. Several Local Wildlife Sites are located in close proximity to the site:

- Lake Wood (adjacent south)
- Butcher's Wood (35m west)
- Shortbridge Stream (EA main river and LWS) (200 m west)

3.1.4 Developed areas associated with Uckfield are located to the east and south and the A22 is located along the western boundary.

3.1.5 Thirty-two parcels of ancient woodland and ancient replanted woodland exist within 1km of the site, comprising 220ha (DEFRA, 2023) and (CD1/37 Sussex Biodiversity Records Centre, 2023). This includes six parcels within the site boundary (totalling 11.62ha):

- Shermanreed Wood (W5) 5.71ha
- Longwood Gill (W6) 1.51ha

- Budlett's Wood (W4) 1.35ha
- Thirty acre shaw 3 (W7) 1.19ha
- Thiry acre shaw 2 (W8) 0:43ha
- Fir Tree Grove (W9) 1.43ha

3.1.6 Lake Wood (7.11 ha) abuts the southern boundary, remaining areas of Fir Tree Grove (1.07ha), remaining areas of Budlett's Wood (9.98ha) and remaining areas of Shermanreed Wood (2.51ha) adjoin the site (DEFRA, 2023) (CD1/37 Sussex Biodiversity Records Centre, 2023).

3.1.7 It is proposed that the housing be located on existing fields. Access is detailed in the land use and parameter plan (CD2.8 Richards Urban Designs, 2022). The following accesses are proposed:

- Vehicular access: Via a roundabout along the south-western boundary to the site, creating a junction with the A22. This will also include a new pedestrian and cycle link to the town centre.
- Cycle/pedestrian access linking the proposed development to A22 and south towards the town centre
- Cycle/pedestrian access linking to Rocks Road through Fir Tree Grove in the south east of the site
- Cycle/pedestrian access linking the site to Snatt's Road
- Emergency access situated between two parcels of ancient woodland along the western boundary.

3.1.8 A car park is situated along Snatt's Road (east of the site) providing access to the SANG and a second car park is proposed west of the site (CD1/14 Enclosure 1 edp, 2023)

3.1.9 A 15m buffer around the ancient woodland is presented within the drainage scheme (CD2/113 Waterman, 2022). The hard and soft landscaping scheme indicates the habitats within the woodland buffer will include (CD1/14 Enclosure 1 edp, 2023):

- Sustainable drainage features
- Woodland habitat
- Grassland habitat
- Fencing (along the ancient woodland boundary)
- Footpaths (unsurfaced footpath with loose edging) (specifically located along the 15m buffer to Lake Wood in the south, within Thirty Acre Shaw 2 buffer, within Longwood Gill buffer and within Shermanreed Wood buffer).

3.1.10 A full 15m buffer does not exist for the boardwalk in Fir Tree Grove, the proposed emergency access and between Longwood Gill and Thirty Acre Shaw 3.

4 Planning policy context

4.1.1 The local planning policy context relating to reasons for refusal are detailed in Wealden District Council's Statement of Case (CD1/6 Wealden District Council, 2023) (Section 3.0).

4.1.2 In addition the following is considered:

- National Planning Policy Framework (2023)

- National Planning Practice Guidance (CD9/19 Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, 2022)
- Natural England and Forestry Commission standing advice on ancient woodland, ancient trees and veteran trees (CD9/3 Natural England and Forestry Commission, 2022)
- Keepers of time: ancient and native woodland and trees policy in England (CD9/6 DEFRA, 2022)

4.1.3 Natural England and Forestry Commission's standing advice on ancient woodland and veteran trees states:

"When making planning decisions, you should consider:

- *Conserving and enhancing biodiversity*
- *Avoiding and reducing the level of impact of the proposed development on ancient woodland and ancient and veteran trees.*

You should refuse planning permission if development will result in the loss or deterioration of ancient woodland, ancient trees and veteran trees unless both of the following applies:

- *There are wholly exceptional reasons*

There's a suitable compensation strategy in place (this must not be a part of considerations of wholly exceptional reasons) - see paragraphs 33 and 34 of the planning practice guidance on compensation guidance." (CD9/3 Natural England and Forestry Commission, 2022).

4.1.4 Paragraph 33 of the Planning Policy Guidance indicates (CD9/19 Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, 2022):

"Local planning authorities need to consider both the direct and indirect impacts on ancient woodland and ancient or veteran trees when assessing development proposals and the scope for avoiding or mitigating adverse impacts. Their existing condition is not something that ought to affect the local planning authority's consideration of such proposals (and it should be borne in mind that woodland condition can usually be improved with good management).

When assessing whether 'wholly exceptional reasons' exist that may justify a loss or deterioration of ancient woodland, ancient trees or veteran trees, it will not be appropriate to take any compensation measures into account. These should be considered only once the existence of 'wholly exceptional circumstances' has been ascertained."

4.1.5 Paragraph 34 of the Planning Policy Guidance indicates (CD9/19 Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, 2022):

"Where development that results in the loss or deterioration of ancient woodland, ancient or veteran trees is exceptionally permitted in line with the Framework, a suitable compensation strategy should be secured and implemented via planning conditions or obligations. Compensation measures need to be decided on a case by case basis and be appropriate to the scale, nature and impacts of the development, but it is desirable for them to be provided as close to the development site as possible. Appropriate compensation might include:

- *Planting new native woodland or wood pasture*
- *Restoring or improving other nearby ancient woodland*

- *Improving connections between the ancient woodland and other woodlands or habitats*
- *Planting individual trees that could become ancient or veteran trees in future."*

4.1.6 The standing advice (Section 1) states: "*ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat...Wooded continuously does not mean there's been continuous tree cover across the whole site…Open ground, both temporary and permanent, is an important component.*

4.1.7 The standing advice in Section 5 (subsection on buffer zone recommendations) states that: "*For ancient woodland, you should have a buffer zone of at least 15m from the boundary of the woodland to avoid root damage… Where assessment shows other impacts are likely to extend beyond this distance, the proposal is likely to need a larger buffer zone. For example the effect of air pollution from development that results in a significant increase in traffic. …Where possible, a buffer zone should contribute to wider ecological networks; be part of green infrastructure of the area. A buffer zone should consist of semi-natural habitats, such as woodland, a mix of scrub, grassland, heathland and wetland… You should consider if access is appropriate. You can allow access to buffer zones if the habitat is not harmed by trampling. You should not approve development proposals, including gardens, within a buffer zone. You should only approve sustainable drainage if: they do not affect root protection areas; any change to the water table does not negatively affect ancient woodland or ancient and veteran trees* (CD9/19 Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, 2022)*"*

4.1.8 The standing advice in Section 6 (compensation measures) states that: "*compensation measures are always a last resort. These measures can only partially compensate for loss or damage. Compensation measures should be appropriate for the site and for the scale and nature of the impacts on it. A compensation strategy could include the following package of measures:*

- *Create new native woodland or wood pasture and allow for natural regeneration*
- *Improve the condition of the woodland*
- *Remove invasive species*
- *Restore or manage other ancient woodland, including plantations on ancient woodland sites, wood pasture and parkland*
- *Connect woodland and ancient and veteran trees separated by development with green bridges, tunnels or hedgerows*
- *Produce long-term management plans for new woodland and ancient woodland - including deer management*
- *Manage ancient and veteran trees to improve their condition*
- *Plant or protect individual trees that could become veteran and ancient trees in future*

4.1.9 Appropriate monitoring is also required.

4.1.10 The standing advice indicates that planning decisions should consider conserving and enhancing biodiversity and avoiding and reducing the level of impact of the proposed development on ancient woodland and ancient and veteran trees

4.1.11 Decisions on planning applications should be in line with NPPF paragraph 180(c). This states that "*development resulting in the loss of deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless*

there are wholly exceptional reasons and a suitable compensation strategy exists." As a result, planning permission should be refused where development will result in the loss or deterioration of ancient woodland unless there are **wholly exceptional reasons <u>and</u>** there is a **suitable compensation strategy** in place.

4.1.12 The 25 year Environment Plan (DEFRA 2018) strengthens the Government's resolve to protect ancient woodland indicating "*beyond the economic benefits, the Government recognises the significant heritage value and irreplaceable character of ancient woodland and veteran trees. We are committed to ensuring stronger protection of our ancient woodlands, making sure they are sustainably managed to provide a wide range of social, environmental, societal and economic benefits."* Furthermore, "e*nvironmental protections already enshrined in national planning policy will be maintained and strengthened. New developments will happen in the right places…taking account the need to avoid environmental damage. We will protect ancient woodland"* (DEFRA 2018).

4.1.13 The Wealden Local plan was adopted in 1998 and policies relevant to the reasons for refusal are:

- EN12 Protection of Trees and Woodlands: seeks to retain and enhance the contributions of trees and woodland areas to the landscape character of the District.
- EN13 Ancient Semi-Natural Woodland: seeks to resist development that would prejudice the ecology of Ancient Semi-Natural Woodlands.
- EN16 In the consideration of any development proposal, including its design and layout, the Council will have regard to the implications for nature conservation and wildlife habitats. Particular regard will be had to the need to safeguard the active residence of protected species, to the integrity and continuity of landscape features of major importance for wild flora and fauna, and to opportunities for encouraging habitat protection, enhancement and management.

4.1.14 The Government has set out its policy principals and strategic objectives regarding ancient woodland, native woodland and trees policy. The document states "

Ancient woodland, ancient and veteran trees are irreplaceable habitats which must be protected. Impacts to woodland include:

- *Increased disturbance to wildlife from noise, light pollution and domestic pets*
- *Cutting back of trees and shrubs along the woodland edge…*
- *Development also increases the occurrence of other effects… such as fragmentation and overuse by people…*

Inappropriate recreational use

Sensitive habitats, such as ancient woodlands, can suffer when people use them excessively for recreation or inappropriate activities and access is not managed appropriately…

Walking… can cause compaction and erosion of the soil and supress ground flora and fauna…

Dogs can disturb wildlife and cause enrichment of the soils of owners do not remove dog waste.

Removing fallen branches or trees for firewood reduces important deadwood habitats and reduces biodiversity. Anti-social behaviour such as vandalism, littering, arson and fly-tipping can also have negative impacts on the habitat." (CD9/6 DEFRA, 2022).

4.1.15 The Government's main priority is to "*protect ancient woodland, and ancient and veteran trees from the threats* (CD9/6 DEFRA, 2022)*."* It is the Government's strategic objective to "*improve and maintain the ecological condition of ancient and native woodland and ancient veteran trees."*

5 Key consultation responses

5.1.1 In this section of my proof I consider the consultation responses of: (a) Natural England, (b) the Forestry Commission and (c) the Woodland Trust in relation to the issue of Ancient Woodland.

5.2 Natural England

5.2.1 The latest consultation response of Natural England is at CD12/1 (dated 13 July 2023). The consultation response makes clear that it "*is focused on its impact on designated nature conservation sites. The absence of detailed advice on other natural environment matters should not be taken to mean that impacts are acceptable, simply that these are matters for Wealden District Council (and now the Inspector) to determine."*

5.2.2 As Natural England has focused upon designated sites, it has focused upon the SANG to mitigate the impact of the proposed development on Ashdown Forest SAC and SPA. It sets out three outstanding matters in relation to the SANG in its letter. This includes the provision of a boardwalk, the need to discount SANG capacity on ecological grounds and confirmation of long-term ownership and management of the SANG.

5.2.3 Natural England appears to acknowledge that the SANG may lead to unacceptable recreational disturbance leading to harm to ancient woodland (an issue I address below). It has recommended discounting the capacity of the SANG, the boardwalks and management. However, it has not provided any detailed analysis of its opinion. For example, it has recommended discounting the capacity of the SANG but it has not explained how this would, in fact, reduce visitor numbers. Further, it has not explained why providing capacity for 848 homes would be a problem but fewer houses would not. Natural England does not appear to have considered the potential for the boardwalk to cause harm or for the potential for people and their dogs to leave the boardwalk.

5.2.4 With regards to Ancient Woodland the consultation response goes on to state:

'Beyond the proposed creation of the SANG Natural England is aware that the development as a whole has the potential for other direct and indirect impacts on ancient woodland. Natural England has fully supported Wealden District Council (and now the Inspector through this appeal process) in using both our standing advice for ancient woodland and ancient and veteran trees along with advice from other environmental consultees to form a view on whether the overall impact of the development on the woodland complex as whole is acceptable when considered against paragraph 180(c) of the National Planning Policy Framework (NPPF, 2021) which states:

development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

Natural England only provides bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances

(e.g. significant direct loss), neither of which criteria applies here. Our standing advice is a material consideration when determining planning applications and carries the same weight as a bespoke response.'

5.2.5 I note that a very recent appeal decision in Wealden considered the advice of Natural England in relation to a SANG which included a footpath upgrade through ancient woodland (as advised by Natural England). The Inspector addressed Natural England's stance as follows:

'27. I am aware that NE provided advice on the application. It is clear from this that they were aware of a path through ancient woodland to achieve a suitable circular walking route around the SANG. They also note that the inclusion of dog proof fencing, and fencing along the entire SANG border would deter the public from entering and negatively impacting the ancient woodland. However, this advice appears to be largely focussed on the creation of the SANG and it is possible some issues with respect to impacts on the ancient woodland may have been overlooked.' (Inspector Butcher, Land at Bird in Eye Farm, 12 October 2023, APP/C1435/W/22/3307820)

5.2.6 I consider that the same appears to have occurred here.

5.3 Forestry Commission

5.3.1 The Forestry Commission (a non-ministerial government department) has provided bespoke advice with regards to the potential of the scheme to harm Ancient Woodland. Its response dated 13 July 2023 is at CD12/4. This raises very significant concerns (although the consultation response explains that the Forestry Commission does not support or object to development). Key parts of the Forestry Commission's consultation response include:

'The proposed access roads for this development would result in direct loss of woodland which was previously designated as Ancient Woodland and is directly connected to a corridor of woodland that is still designated as Ancient Woodland (Thirty Acre Shaw). While we have not assessed the site ourselves, we understand that there is an abundance of evidence from surveys and local knowledge submitted for consideration in this Appeal by other consultees which suggest that the woodland contains Ancient Woodland features. We understand that there is an application with Natural England to update the Ancient Woodland Inventory.'

'The development's proposed the access roads are expected to result in fragmentation of a woodland corridor of high ecological potential that appears to be well connected within the wider ecological network of habitats and species, of which ecological surveys suggest there are many including rare and protected species. The woodland corridor provides a direct connection that would be severed between multiple Ancient and Semi-Natural Woodland (Budlett's Wood and Shermanreed Wood to the North and Lake Wood to the South) by the development'

'Ancient Woodland within and adjacent to the site is likely to be impacted by the development. For example, the proposed SANG relies heavily on Ancient Woodland (Shermanreed Woodland) which could cause impacts from increased recreational pressure (eg soil compaction, litter) so needs careful consideration, as outlined by Natural England's consultation response. We also note the extensive ecological, landscape and historical value at Lake Wood (ASNW) adjacent to the site that has been demonstrated by documents submitted by consultees and needs very careful consideration, especially given its connectivity

within the wider landscape and network of habitats including Ancient Woodland. The development would be likely to result in increased recreational pressure from residents in addition to other potential impacts such as changes to hydrology that may need to be considered (further advice on this is given in the below paragraphs).'

'*Based on the desk-based information available for this planning application, the proposals as they stand are expected to result in direct loss and impacts to woodland, including Ancient Woodland. In our view the proposals are likely to need significant changes before impacts could be considered as mitigated. We would be happy to work with the Council and developer to identify measures and design features that could help to protect woodland from development on the site. For example, solutions that could help achieve this include a much more extensive buffer area between development and woodland areas, minimising reliance on Ancient Woodland as part of SANG provision, sensitive management of any access and environmental gains including habitat enhancement and creation targeted at safeguarding and bolstering woodland habitat*

We can also carry out our own site assessments regarding how trees and woodland could be impacted by development including the significance of woodland that may be affected. We ask that we are given the chance to provide more detailed advice based on site observations if the Inspector is minded to accept the appeal.' (emphasis added)

5.3.2 The Forestry Commission has therefore raised the same concerns as the Council in relation to the Appeal Scheme.

5.4 Woodland Trust

5.4.1 The Woodland Trust's latest consultation response (dated 12 July 2023) is at CD12/3. The Woodland Trust has raised a 'strong objection' to the proposal based upon the deterioration of ancient woodland and veteran trees including on the Woodland Trust's Lake Wood site. A summary of the concerns in relation to Lake Wood are:

"We have particular concerns relating to Lake Wood, a Woodland Trust-owned site that borders the southern edge of the development site. Further details of our concerns in respect of ancient woodland, veteran trees and our site are provided in this letter, though to summarise our main concerns relate to the following:

• Intensification of human activity and recreational disturbance on ancient woodland, veteran trees and Lake Wood, particularly the inclusion of ancient woodland with designated SANG.

• Fragmentation of ancient woodland sites from adjacent semi-natural habitats.

• Noise, light and dust pollution affecting habitats and important flora and fauna.

• Threats to long-term retention of notable and veteran trees from increased safety concerns, and removal of important habitat features

• Adverse hydrological impacts across the site.

• Wider impacts on ecological connectivity and functioning of site, and concerns regarding the overall suitability of the site for development purposes.

• Cumulative effect of the above impacts resulting in long-term deterioration of the natural landscape."

5.4.2 The Woodland Trust has also objected in relation to the long-term deterioration of other Ancient woodland:

- Longwood Gill (or Long Gill Wood) (grid ref: TQ 46597 22117)
- Shermanreed Wood (TQ 46824 22284)
- Lake Wood (TQ 46454 21797)
- Thirty Acre Shaw 2 (southern wood alongside A22) (TQ 46397 22179)
- Thirty Acre Shaw (TQ 46486 22354)
- Fir Tree Grove (TQ 46730 21758)
- Part of Thirty Acre Wood west of A22 (TQ 46246 22110)
- Budletts Wood (TQ 46803 22530)

5.4.3 The concerns relate to recreational pressure including domestic pets, fragmentation and isolation, hydrological impacts, impacts of the main access and emergency access, the SANG use within ancient woodland is inappropriate, damage as a result of the paths through Fir Tree Grove, adverse impacts upon veteran trees and inadequate buffer zones.

6 Ancient woodland

6.1.1 In this section of my proof, I address the nature and importance of ancient woodland.

6.1.2 Ancient woodland is defined as an area of woodland that has been continually wooded since 1600AD (CD9/3 Natural England and Forestry Commission, 2022). Ancient woodland includes:

- Ancient semi-natural woodland that comprises trees and shrubs native to a site, usually arising from natural regeneration
- Plantations on ancient woodland sites.

6.1.3 Both have equal protection under the National Planning Policy Framework (2021) (CD6/1 Ministry of Housing, Communities and Local Government, 2021).

6.1.4 Ancient woodland is a unique habitat that provides a diverse ecosystem upon which many species rely due to its longevity and stability. Ancient woodlands support a quarter of the Species of Principal Importance and high levels of biodiversity (CD9/6 DEFRA, 2022).

6.1.5 Woodlands within the Wealden District are strongly influenced by the geology (Westaway, 2006). Ghyll (or gill) woodlands have similar climate conditions to those in south of England during the Atlantic Period 8000 – 5000 years ago, typical of Atlantic Forests on the western seaboard (CD9/21 Burnside, Metcalfe, Smith, and Waite, 2006). Although Sussex was historically heavily wooded, during the 12th and 13th century, much of the countryside was cleared for agriculture and construction villages and towns (Westaway, 2006). However, due to the heavy clay soils and topography, much of the ghyll woodland remained wooded. As such Wealden has the greatest concentration of ancient woodland in England (Burnside, Metcalfe, Smith, & Waite, 2006).

6.1.6 From an ecological perspective, ghyll woodlands provide a microclimate unique in the landscape and supports a rich diversity of species (Burnside, Metcalfe, Smith, & Waite, 2006). Critical to ancient woodland is their soil structure and composition, harbouring important seed banks, fungi and invertebrates amongst other life-forms, providing for the higher plants, birds, mammals, reptiles and amphibians relying on the woodland.

6.1.7 The soils of ancient woodland have formed over several hundred or thousand years. As each season passes, decaying material will fall onto the woodland floor slowly decomposing and creating a layer which will be covered by material the following year. Microbes will feed on the nutrients released through weathering and in turn produce acids and proteins that will weather the minerals within the soil. The structure formed by this process is important for the species within the ancient woodland, specifically in relation to the fungi and mycorrhiza on which trees depend. Disruption to this process will then in turn impact the interrelationship between soils, plants and animals which depend on these.

6.1.8 The methodology for establishing the presence of ancient woodland is detailed in (Westaway, 2006). This includes, reviewing of historical information and undertaking field surveys to identify features typical of ancient woodland. Of these, the presence of vascular plants strongly associated with ancient woodland (ancient woodland indicator species) is part of the information collected, however "*care is required as other factors affect the presence and abundance of these species.*" The presence and boundaries of the ancient woodland is therefore determined by the entity of the ecosystem and not just the species occurring within the woodland and impacts must consider the ancient woodland holistically.

6.1.9 The Standing Advice (CD9/3 Natural England and Forestry Commission, 2022) acknowledges that there are numerous direct and indirect effects which may give rise to loss or deterioration of ancient woodland. These include effects which I consider will arise as a result of the construction and operation of the appeal scheme, namely:

6.1.10 Direct effects:

- Damaging or destroying all or part of them (including their soils, ground flora or species occurring within soils)
- Damaging roots and understorey (all the vegetation under the taller trees)
- Damaging or compacting soil
- Damaging functional habitat connections, such as open habitats between the trees in wood pasture and parkland
- Introducing pests and diseases
- Increasing nutrient loads (eutrophication)
- Increasing levels of light pollution
- Changing the water table or drainage

6.1.11 Indirect effects:

- Breaking up or destroying working connections between woodlands, or ancient trees or veteran trees – affecting protected species, such as bats or wood-decay insects
- Reducing the amount of semi-natural habitats next to ancient woodland that provide important dispersal and feeding habitat for woodland species
- Reducing the resilience of the woodland or trees making them more vulnerable to change
- Increasing the amount of light and soil pollution
- Increasing disturbance to wildlife
- Increasing damage to habitat, for example trampling of plants and erosion of soil by people accessing the woodland or tree root protection areas

- Increasing damaging activities like fly-tipping and the impact of domestic pets
- Increasing the risk of damage to people and property by falling branches or trees requiring tree management that could case habitat deterioration
- Eutrophication

6.1.12 Ancient woodland cannot readily recover from adverse impacts, given it has taken centuries or millennia for the ecosystem to form. Such impacts will also increase an ancient woodland's susceptibility to other impacts, such as climate change, increasing the incidence of disease and pests, reducing the condition of ancient woodland, slowing plant growth and reducing regeneration through death of saplings. Ensuring the resilience of ancient woodland is critical given the ongoing and exacerbating threat posed by climate change and increased recreational impact (CD9/6 DEFRA, 2022).

6.1.13 Woodland deterioration through increased nutrient loads can alter the understorey and canopy species, negatively impacting the structure of the woodland ecosystem, and reducing biodiversity and loss of specialised species indicative of ghyll woodland habitats. This then adversely impacts the species relying on ancient woodland, further deteriorating the resilience of ancient woodland and the species that depend on this habitat. This is particularly evident along edge habitats (i.e. those adjacent to ancient woodland where interaction with human activity is greatest), referred to as 'edge effect.'

6.1.14 Below, I assess the impact of the Appeal proposals on the ancient woodland on and offsite. What I would note as a general point at the outset is there is a high potential for trespass into areas of ancient woodland which are not intended to be accessed. Below, I address the efficacy of fencing and buffer planting in preventing recreational access. However, I would note here that the relationship of the ancient woodland to the development on site means that there is a significant potential for multiple points of entry into the ancient woodland. This would not be the case if, for example, ancient woodland bordered the site to a limited degree. Specifically Longwood Gill will be entirely encased by the development, meaning that the edge effect and likelihood of occurrence would occur across all of its borders.

7 Assessment of impacts

7.1.1 In reviewing the information submitted as part of the application and appeal, I consider that the impacts which will arise as a result the appeal scheme can be summarised as:

- Habitat loss and deterioration, including
  - Loss of ancient woodland in Fir Tree Grove
  - Loss of ancient woodland within the SANG
  - Deterioration of ancient woodland in Fir Tree Grove and in the SANG as a result of use of footpaths and areas outside the footpaths (recreational disturbance)
  - Loss of woodland associated with the residential development (specifically in relation to the installation to outflow pipes and headwalls and fragmentation of hedgerow 1)
  - Recreational disturbance leading to deterioration of other areas of ancient woodland
  - Hydrological impacts
  - Other impacts from the housing development leading to the deterioration of the woodland

- Fragmentation of ancient woodland habitats leading to deterioration

7.1.2 I review each of these elements separately below and present my appraisal.

7.2 Loss and Deterioration

7.2.1 I consider that the Appeal scheme will lead to the loss and deterioration of ancient woodland both within and adjacent to the appeal site.

7.2.2 As stated in the introduction, my evidence should be read with that of Mr Massheder who focusses on the arboricultural elements of the Appeal Scheme.

7.2.3 I would note at the outset that the considerations of loss and deterioration of ancient woodland need to consider the impacts of the Appeal Scheme over the entirety of its lifetime, i.e. in perpetuity.

Loss of Ancient Woodland in Fir Tree Grove

7.2.4 The Appellant states that there will be no direct loss of ancient woodland (e.g. paragraph 7.90 of the amended chapter 7 of the ES). I consider that this is incorrect.

7.2.5 Paragraph 7.1.67 of the amended chapter 7 of the ES states:

'Woodland ground flora, including Ancient Woodland Indicator species is patchily present along the alignment of the Fir Tree Grove boardwalk route, which would be overshaded by the proposed boardwalk and as a consequence be unlikely to survive…In the absence of appropriate mitigation, the boardwalk would result in the overshading of woodland ground flora which includes ancient woodland indicator species. However, this amounts to a small area of effect, with approximately 297m2 of the ground to be covered by the boardwalk (93x3m), only a proportion (128m2) of which supports Ancient Woodland indicator species such as Bluebell.'

7.2.6 The evidence of Mr Massheder addresses the tree loss as a result of the boardwalk. He also highlights that it will lead to an area of ancient woodland which will no longer provide habitat for ancient woodland trees. Similarly, it is clear from the Appellant's Environmental Statement that the boardwalk route will lead to an area of ancient woodland which will cease to be habitat for ancient woodland ground flora. Not only will indicator species need to be translocated, the area will not be available for those species to grow in the future. I consider that this is clearly loss of ancient woodland habitat.

7.2.7 Further, I consider that it is wrong to simply focus upon indicator species. The policy test relates to the loss of habitat. The reality is that the area in which an indicator species is currently present may not be the same in a few years' time.

7.2.8 In the recent appeal decision relating to Bird-in-Eye Shaw North the Inspector considered the proposed upgrade of a path through ancient woodland. I understand that the path was proposed to run for c100m and was to be a 'no dig' construction which would not involve any soil loss (referred to at paragraph 19 of the appeal decision). The Inspector indicated:

"19. From what I saw on my site visit existing ground flora/fungi and understorey (existing vegetation under the trees) would need to be cleared to upgrade the path. Furthermore, any ground flora/fungi and understorey would, if not cleared, be suppressed due to the installing of a path on top of it. Part of the ancient woodland would therefore effectively be lost and unable to regenerate itself. NE is clear in its standing advice 'Ancient woodland, ancient trees

and veteran trees: advice for making planning decisions'[3] that damaging or destroying ground flora, fungi or understorey are direct effects which can lead to the loss or deterioration of ancient woodland. I therefore find some loss of ancient woodland in this regard."

7.2.9 I consider that the same is true of the boardwalk through Fir Tree Grove due to the permanent shading and loss of restoration opportunity that will be caused by the presence of the boardwalk, this is in line with the Forestry Commission's consultation response that states (CD12/14 Forestry Commission, 2023):

"Based on the desk-based information available for this planning application, the proposals as they stand are expected to result in direct loss and impacts to woodland, including Ancient Woodland. In our view the proposals are likely to need significant changes before impacts could be considered as mitigated."

7.2.10 The impact of installing screw piles within this area on the trees is dealt with by Mr Massheder. From an ecological perspective, the key impacts will be the permanent shading resulting from the installation of the boardwalk.

7.2.11 In the amended chapter 7 of the ES the Appellant states that ground flora will be translocated (para 7.278) (CD1/14 Stantec, 2023). As an irreplaceable habitat, any loss of ancient woodland, cannot be replaced. Translocation is not mitigation. Clearly, it does not reduce the level of impact to the area which has been lost. Further, whilst translocation will mean seed banks are salvaged, the soil structure is permanently lost through the disruption of the soil profile and this cannot be replaced or compensated for as this structure will have formed over several hundred or thousand years. Whilst in some instances translocation does re-establish the field layer, this can radically alter the abundance of individual species, changing the character of the ancient woodland, contributing to its deterioration (CD9/21 Craig, Buckley and Howell, 2015). This has also been observed when investigating the soil chemistry and microbiology changes following translocation, which found the mixing of soil horizons (layers) during the translocation process increased topsoil pH, causing changes in microbial communities, on which the structure and composition of ancient woodland relies. Even after three years, soils continued to show signs of disturbance (CD9/23 Borchers, Hannam and Pawlett, 2022).

7.2.12 Results from a long-term study (25 years) examining the impact of translocating soils within an ancient woodland, found that although the new community became established, this was significantly different from the donor site (CD9/24 Buckley, Helliwell, Milne and Howell, 2017). This was attributed to changed soil conditions. The disruption caused by the translocation resulted in impacts that persisted compared with other disturbances that occur in woodland, such as woodland management measures. Certain species developed positively with the translocation, whilst others requiring undisturbed soils, such as ancient woodland indicators, did not respond positively to the translocation and some of the ancient woodland indicator species present in the donor sites were not found in the receptor site, representing a permanent loss of these species associated with the translocation process. In any event, as I have stated, translocation would not prevent or mitigate the loss from the donor site.

7.2.13 The total loss of woodland in Fir Tree Grove is 279m^2 to accommodate the construction of a boardwalk across 93m. Section 7.167 of the amended Environmental Statement

states that of these, ancient woodland indicator species were recorded within 128m^2 of the woodland, however the loss must account for all losses within the ancient woodland, and not just the areas supporting ancient woodland indicator species. As such, the impact assessment underestimated the impact to the ancient woodland in Fir Tree Grove. The Environmental Statement notes sensitive construction methods will be implemented, further supported by the technical note on the boardwalk construction methods (CD1/14 Enclosure 5 FLAC, 2023), however shading will occur throughout the whole boardwalk route, and will adversely impact the seed bank, soil composition and structure on a permanent basis. Furthermore, regrading will be required within 15m of the woodland boundary as indicated in the earthworks cut and fill feasibility (CD2/22 Motion, Undated). Ultimately in the long-run the boardwalk will result in the permanent loss of this habitat within Fir Tree Grove as this area of habitat will never be able to recover. Furthermore the cut and fill within 15m of the ancient woodland will deteriorate the ancient woodland.

Loss of Ancient Woodland Habitat as part of the SANG proposals

7.2.14 In the original designs, a boardwalk was proposed in wetter areas for the SANG only however Natural England stated "*the SANG design should be amended to provide a boardwalk along the full extent of the circular route where it passes through ancient woodland… help manage the extent of visitor access within the ancient woodland* (CD12/1 Natural England, 2023)." In this instance Natural England has not commented on the development proposals as a whole as their consultation response specifically deals with impacts on designated nature conservation sites only (i.e. Ashdown Forest SPA and SAC). Natural England then refers to its standing advice in relation to impacts on ancient woodland.

7.2.15 Following the receipt of this consultation, the proposals were proposed to be amended to include a boardwalk through the entirety of the SANG where it traverses ancient woodland (i.e. within Shermanreed Wood and Fir Tree Grove). As stated in paragraph 7.168 of the amended Environmental Statement, the boardwalk will be 1.5m wide over a distance of 464m, although the assessed loss was calculated on 2m (to account for impacts during the construction). Total losses will therefore be 928m^2. As for the Fir Tree Grove assessment, the losses will be permanent due to the permanent shading the boardwalk will cause. The same issues apply with regards to translocation proposals (refer to my comments above).

7.2.16 Planning Policy Guidance and Natural England Standing Advice indicates that the current condition of an ancient woodland should not be taken into consideration when assessing the impact of a development on ancient woodland and review of a compensation strategy (CD9/19 Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, 2022) (CD9/3 Natural England and Forestry Commission, 2022). The technical note on the installation of a boardwalk in the SANG states "*these deleterious effects can become difficult to reverse and so lead to the progressive deterioration of woodland adjacent to damaged paths. This is the existing situation with many paths in ancient woodland at Downlands, such that the installation of boardwalks would be strongly net beneficial* (CD1/14 Enclosure 5 FLAC, 2023)*.*" Given the terms of the Planning Policy Guidance and the Standing Advice, I consider that it is wrong to take into account the existing

condition of the woodland when considering whether there would be loss and/or deterioration. Further, I would note that the fact that many paths created by unauthorized access into the woodlands (current situation) is already having a deleterious impact on the woodland as evidenced by FLAC (CD1/14 Enclosure 5 FLAC, 2023) and in several instances are narrower than the proposed boardwalk, meaning several trees, and possible old coppice stools will require removal. Whilst the boardwalk may encourage the use of a particular path it does not prevent people, and animals, from creating new paths within the ancient woodland, perpetuating the current deterioration of the woodland (I deal with this below).

7.2.17 The impact of not proceeding with the boardwalk will not result in a loss of ancient woodland, but a deterioration as discussed below due to increased footfall, trampling and soil compaction.

Deterioration of ancient woodland in Fir Tree Grove and in the SANG as a result of use of the footpaths and areas outside of the footpaths

7.2.18 Habitat deterioration from increased public access can impact ancient woodland through:

- Habitat loss: creation of desire lines impacting the ground flora, soil structure and composition, loss of individual species.
- Habitat deterioration:
    - Introduction of invasive, non-native species (on clothing, pet fur)
    - Increased nutrient loads (eutrophication) caused by dog waste
    - Altered soil structure and composition (including pH, microbe, mycorrhizae and fungi composition
    - Altered species composition due to changes to soil structure and composition resulting in competition by more aggressive species
    - Increased predation (cats)
    - Increased tree removal for health and safety due to increased recreational use.
    - Pollution through littering, change in water quality and composition
    - Light and noise disturbance

7.2.19 Paragraph 3.1.4 of the SANG and woodland management plan (CD2/111 Aspect Ecology, 2023) states "*a number of woodlands within the red line area are not suitable for inclusion within the SANG, because of a combination of their sensitivity to recreational disturbance … due to these limitations, it is considered that they would not be able to contribute to the public open space.*"

7.2.20 Contrary to this, the SANG boundary includes ancient woodland (Figure 6.3 Sheet 1 (CD1/14 Enclosure 1 edp, 2023) and (CD2/111 Aspect Ecology, 2023). Proposed path locations are detailed in Figure 5719/SMP5 (CD2/111 Aspect Ecology, 2023) and hard and soft landscaping (CD1/14 Enclosure 1 edp, 2023). It is clear from these that access into the ancient woodland is proposed to be encouraged.

7.2.21 At the outset I would note that there is currently no public access through Fir Tree Grove. There is some limited access in the SANG area which has led to the creation of some desire lines. The Appeal Proposals are expected to greatly increase the numbers of people within the ancient woodland.

7.2.22 Further I note that one of the purposes of a SANG is to encourage recreational use and specifically enable dogs to roam freely.

7.2.23 Natural England states (CD9/5 Natural England, 2021):

"Identification of SANG should seek to avoid sites of high nature conservation value which are likely to be damaged by increased visitor numbers (e.g. disturbance, erosion, input of nutrients from dog faeces and increase incidence of fires). The impact of the nature conservation value should be considered along the relevant policy in the development plans (CD9/5 Natural England, 2021)."

7.2.24 Although the document is targeted at Thames Basin Heaths Special Protection Area, the principles of SANG creation remain the same. Specifically:

- *Car parking facilities need to be provided*
- *Paths need to be accessible to visitors*
- *Woodland or a semi-wooded landscape are key features people appreciate*
- *Semi-natural landscape is required*
- *The bulk of visitors to the SPA came to exercise their dogs, it is imperative the "SANG allow[s] for per owners to let dogs run freely over a significant part of the walk. Access on the SANG should be largely unrestricted, with both people and bets being able to freely roam along the majority of the route.* ***This means that sites where freely roaming dogs will cause a nuisance or where they might be in danger (from traffic and such like) should not be considered for SANG****."* My emphasis.

7.2.25 Increased public access is a recognised impact on ancient woodland (CD9/6 DEFRA, 2022). The Appellant has suggested that this impact is negligible the ancient woodland in the SANG and Fir Tree Grove being "*considered to be less sensitive to disturbance… within these areas it is proposed to formalise the existing informal pathways* (Section 7.197 (CD1/14 Stantec, 2023))." This is supported by the SANG and woodland management plan which states (paragraph 3.7.8) (CD2/111 Aspect Ecology, 2023): "*on the basis of survey work undertaken, with appropriate design, it is considered that the ecological interest of the SANG area is compatible with the proposed recreational use*." However this contradicts the earlier statement (paragraph 3.4.1) stating areas of ancient woodland are not suitable for inclusion in the SANG due to their sensitivity to recreational disturbance.

7.2.26 Notwithstanding this, all areas of ancient woodland are equally susceptible to impacts of deterioration, due their ecosystems having evolved for centuries and millennia. The formalisation of the pathways will prevent any chances of recovery. The proposed paths will be wider and much more heavily used than the paths which currently exist. Furthermore, as stated in Natural England's standing advice (CD9/3 Natural England and Forestry Commission, 2022) and the Planning Policy Guidance (CD9/19 Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, 2022) the current condition of ancient woodland should not be taken into account when making planning decisions or assessing compensation strategies.

7.2.27 In Section 4.2, the SANG and Woodland Management plan considers the constraints posed by the presence of ancient woodland within the SANG and specifically notes "*it is considered that the continued use of these woodland areas will not result in undue*

additional recreational pressure or other adverse effects, which will be offset by woodland management, so that there is an increase in the capacity of these woodlands to receive additional visitors (paragraph 4.2.1) and "*further, enhanced habitat management would offset any potential effects associated with increased recreational use* (paragraph 4.2.4)*"* (CD2/111 Aspect Ecology, 2023). In both of these paragraphs the measures included in the management plan are seen as "offsetting" the impact of deterioration from the woodland; acknowledging a deleterious impact would be present, and require compensation, hence why the particular management measures are included in the plan. It is clear the Appellant recognises the degradation that will ensue from the proposed development on the ancient woodland.

7.2.28 The plan then proceeds to address the key types of impact (paragraph 4.2.5) which I have reviewed below. I have excluded impacts to grasslands as these are not the focus of the reasons for refusal:

- Tree damage and trampling surrounding vegetation: whilst the inclusion of a boardwalk supersedes this plan, the premise of the measures is the existing condition of the woodland, which Natural England indicates should not be considered when determining an application. Fencing is mentioned, however this fencing is located on the edges of the woodland, rather than immediately adjacent to the boardwalk although a handrail is incorporated onto one side of the boardwalk. The fencing will therefore not prevent tree damage, poaching/trampling of vegetation.
  Even if the public remain confined to the boardwalks this will lead indirect impacts as a result of their use. First, there is clearly significant potential for littering through people throwing organic and inorganic waste over the sides of any railing or fencing and dog waste to increase nutrients in the adjacent habitats. This has the potential to change the species composition of the habitats, encouraging more vigorous species suppressing those that are more sensitive to nutrient loads (e.g. ancient woodland indicator species, or other species with specific habitat requirements). Second, people and their pets can act as vectors for invasive, non-native species, such as seeds from garden plants being brought into the woodland from shoes and fur, in addition to pests and diseases. I have therefore assessed the proposed measures to manage this impact to be insufficient to prevent the deterioration of the ancient woodland.
- Damage to veteran trees: fencing is proposed around a mature free-standing veteran beech trees. Whilst the footpaths will avoid this area and fencing will minimise access to the tree, it will not prohibit the potential impact of root damage, vandalism, setting of fires or other activities. I have therefore assessed the proposed measures to manage this impact to be insufficient to prevent the deterioration of the ancient woodland.
- Dog fouling: the plan makes reference to "*the design of the SANG will seek to encourage dog owners from letting dogs foul within the ancient woodland area, including through the provision of dog bins and information boards*." People who access the countryside will regularly notice dog waste within habitats, despite the presence of information boards, and dog waste bins. Whilst people can be encouraged to behave in a certain way, this does not mean this will happen, and dog fouling in open areas is a significant issue across many open spaces. The measures proposed will not prevent dog fouling from occurring and as such I have therefore assessed the

proposed measures to manage this impact to be insufficient to prevent the deterioration of the ancient woodland.

7.2.29 Although not specifically addressed as an impact in the SANG and woodland management plan paragraph 3.10.2 indicates that trees within the woodland areas and individual trees within the SANG could pose a hazard to members of the public and as such a tree surgeon will review the trees annually and remove dangerous limbs/trees as necessary (CD2/111 Aspect Ecology, 2023). The removal of trees for health and safety, will deteriorate the ancient woodland due to the loss of standing deadwood, and crevices that form on trees. This will adversely impact the ancient woodland's suitability for hazel dormouse (use of hollows in trees for their nests), bats (use of cracks, fissures and hollows for roosting) and breeding birds (use cracks, fissures and hollows for their nests), in addition to deteriorating the condition of the woodland due to loss of standing deadwood. Furthermore, significant changes in canopy cover associated with the removal of hazardous trees, can alter microclimates ,and change lighting levels which will impact the structural diversity of the woodland, favouring light-tolerant species and adversely impact light-sensitive species. Whilst this occurs naturally through natural tree loss, this would be accelerated by the loss of trees deemed hazardous by anthropogenic metrics.

7.2.30 The reality is that even with management the potential for anti-social behaviour and deterioration associated with increased recreational use is likely to occur throughout the operation of the appeal scheme. I note that Lake Wood is currently under management by the Woodland Trust. Its management plan (CD11/5 Woodland Trust, 2021) reports:

'The site's attractive nature and close proximity to Uckfield has led to regular, on-going issues with anti-social behaviour including litter, fires, camping, swimming, boating and vandalism. During the Covid-19 restrictions in 2020 the site received an unprecedented number of visitors over the summer with consequential impacts on habitats and wildlife. Support from volunteer wardens and others in the community has been vital to control the worst of the impacts.'

7.2.31 Although swimming and boating are not concerns for this SANG. There is a real prospect of anti-social behaviour during the SANG's lifetime including littering, fires and camping leading to deterioration of ancient woodland and this deterioration will be significant and permanent.

Loss of woodland associated with the residential development

7.2.32 Eight outflow pipes are proposed in Longwood Gill and three in Shermanreed Wood (CD2/113 Waterman, 2022). This is required to discharge the collected water from the sustainable urban drainage systems to the streams. All outflows will require a headwall. Although these are pre-fabricated and they will be pinned to the woodland floor, the presence of the headwall will result the permanent loss of woodland habitat. Assuming the minimum outlet pipe diameter is 150mm, this impact area (woodland loss) will be in the region of 1 – 1.5m^2 per headwall. As such some woodland will be lost as a result of the installation of headwalls.

Deterioration in other areas of Ancient Woodland

7.2.33 As detailed in Section 3, several parcels of ancient woodland are located adjacent to the site boundary, or within a 1km radius. The proposed development will adversely

impact the adjacent parcels through increasing recreational pressure, with particular emphasis on Lake Wood, south of the proposed development; habitat degradation and increased lighting.

Recreational impacts

7.2.34 The Woodland Trust has raised particular concerns with regards to the impact of this proposal upon Lake Wood (CD12/13 Woodland Trust, 2022). I consider that those concerns are well-founded.

7.2.35 The Appellant proposes to install dog-proof fencing around areas of ancient woodland where access is not proposed to be encouraged. Below, I explain how this would inevitably disrupt the free movement of certain animal species using the ancient woodland. However, I also consider that the provision of fencing, when considered over the lifetime of the appeal scheme, is unlikely to be completely effective in preventing access by trespass. Trespass is likely to lead to deterioration of ancient woodland through the adverse impacts as a result of recreational disturbance as I list above and I do not repeat them here.

7.2.36 Lake Wood has attracted particular objection from the Woodland Trust, and is currently open to public access. As such, I consider that it is necessary to consider Lake Wood in more detail. I note that the impact on Lake Wood and Butcher's wood is addressed in sections 7.77 – 7.83 of the amended Environmental Statement in terms of construction impacts, and sections 7.149 – 7.153 for operational impacts (CD1/14 Stantec, 2023). Amended chapter 7 of the ES paragraph 7.150 notes that Lake Wood 'is known to have aquatic ecological features (including invertebrates and micro-organisms) which are sensitive to recreational disturbance….' And that the 'Lake Wood Management Plan for the Lake Wood Site reports that the Site suffers from regular anti-social behaviour problems such as camping, fires, litter and vandalism' (CD11/5 Woodland Trust, 2021). At paragraph 7.151 the amended chapter 7 of the Environmental Statement goes on to state that an '*increase in recreational use of Lake Wood LWS is considered likely as a result of the Development*'. Paragraph 7.152 goes on to state "*Populations of protected faunal species, including Dormouse may be adversely affected from an increase in disturbance. However, as part of the Development (as embedded mitigation) it is proposed to provide a robust fence to separate the residential parts of the Development and Lake Woods, blocking the existing informal access point. This will prevent residents from accessing it, and will also help to control existing pressures resulting from the existing informal access from the Site to Lake Woods. In addition, the provision of a SANG as part of the proposals provides an alternative visitor destination, which is likely to attract a number of visitors who will use the SANG instead of Lake Wood."*

7.2.37 I note that the Appellant has produced conflicting plans with regards to Lake Wood. The Parameter Plan Green Infrastructure (CD2/9 Richard Urban Designs, 2022b) shows protective fencing to Lake Wood's boundary to prevent informal access. However, the Illustrative Masterplan Movement and Access Strategy (CD2/7 Richard Urban Designs, 2022) shows a strategic pedestrian route directly into Lake Wood from the appeal site. Both plans have the same date (30.05.22).

7.2.38 Even if Lake Wood is proposed to be fenced, I consider that the fencing will not be absolutely effective in preventing access into Lake Wood for the reasons I have set out above.

7.2.39 I further note that the amended ES claims that the SANG will draw visitors away from Lake Wood (para 7.276 (CD1/14 Stantec, 2023)). However, I consider that residents living in the southern portion of the proposals are unlikely to favour using the SANG over Lake Wood given:

- Access path to Lake Wood will be between 100m – 200m walk from their homes, avoiding crossing a large intersection, versus approximately 700m to the start of the SANG.
- Access is encouraged via Lake Wood through the inclusion of a footpath and cycle path from the development along a pedestrian and cycle link to the Town Centre.

7.2.40 Recreational impacts to Lake Wood are similar to those detailed above.

Habitat degradation

7.2.41 Detailed hard and soft landscaping plans for the buffer along Lake Wood have not been provided. Based on the illustrative masterplan, this will comprise

- Sustainable Urban Drainage Systems ('SuDS') (x 2)
- Other habitats (details not provided), which themselves will be abutting residential dwellings.

7.2.42 Mr Massheder addresses the potential for SuDS to impact upon root protection areas. I address potential hydrological impacts further below.

7.2.43 Lake Wood in particular abuts the southern boundary of the site, and is within 15m of residential dwellings. Habitats are susceptible to impacts from the introduction of garden waste, specifically the introduction of non-native garden species which will adversely impact the Lake Wood flora and fauna. As detailed in the above sections, fencing will not prevent people from dumping their garden waste into the ancient woodland.

7.2.44 The close proximity of the residential dwellings to the ancient woodland will also introduce predators (cats) and dogs to the area, increasing nutrient enrichment and deteriorating the woodland condition. Fencing will not deter pets from entering the woodland.

Introduction of lighting

7.2.45 The dark areas map presents the proposed lighting strategy for the areas abutting Lake Wood (CD2/12 Richards Urban Design, 2022). Within this area, residential dwellings are located within 15m of Lake Wood and whilst the plan shows maximum lux levels to be no more than 1 lux at ground level, it will not be possible to control lighting levels installed by residents in perpetuity. It is therefore likely that residents will install different lighting levels that adversely impact the ancient woodland.

7.2.46 I note that my concerns are shared by both the Woodland Trust (CD12/3) and Forestry Commission (CD12/4).

7.2.47 Overall, contrary to the assertion in the amended Environmental Statement I consider that the appeal proposals would lead to further deterioration in Lake Wood through

direct and indirect impacts from additional recreational disturbance, hydrological effects, pet predation, lighting, introduction of organic and non-organic matter by residents living in the vicinity of this ancient woodland.

Hydrological impacts and impacts from drainage infrastructure leading to deterioration of ancient woodland

7.2.48 The ecosystem present within the ancient woodlands have evolved over hundreds, and thousands of years, reflecting the unique conditions of the of the topography and water flows. Changes to these, specifically in relation to the frequency of water flows will change the unique natural conditions that current exist within the woodland.

7.2.49 I understand from the geological assessment that there is a hydrological and hydrogeological connectivity between the site and Lake Wood, and ghyll woodlands rely on groundwater seepage (CD1/32 Thompson, 2023). Paragraph 7.182 of the Environmental Statement indicates impacts can occur from changes to the quantity and quality of water specifically moving form a natural seepage to an artificial regime (CD1/14 Stantec, 2023).

7.2.50 Potential hydrological impacts from the proposed development on the ghyll woodland as detailed in Sections 7.180 – 7.191 (CD1/14 Stantec, 2023) include:

- Changes in water quality (specifically around the introduction of chemicals into the water system)
- Changes in water quantity (including total quantify and method of seepage)

7.2.51 The Illustrative Masterplan (CD2/6 edp, 2022) indicates that the woodland buffer will include attenuation ponds. Standing advice indicates that "*you should only approve sustainable drainage schemes if:*

- *they do not affect root protection areas*
- *any change to the water table does not negatively affect ancient woodland or ancient and veteran trees"* (CD9/3 Natural England and Forestry Commission, 2022).

7.2.52 Impacts to the root protection area are dealt with by Mr. Massheder.

7.2.53 The drainage strategy details the following (CD2/113 Waterman, 2022):

- Three attenuation ponds are situated adjacent to Lake Wood ancient woodland. This will require regrading to ensure the slopes between the basins. It appears the regrading will be on the boundary of the 15m buffer to protect the ancient woodland.
- One attenuation pond will incur within the buffer of Thirty Acre Shaw 2. The pumping station and 15 buffer is located in this area
- Six attenuation ponds will incur within the buffer of Longwood Gill. It is unclear whether regrading is required within these. Notwithstanding this works will occur within this area which will impact the 15m buffer.
- Three attenuation ponds will incur within the buffer of Shermanreed Wood, along with a pumping station. The exact location of the pumping station is not provided, however assuming it is located in the middle of the buffer zone it is likely the pumping station will be located outside the buffer. However no information is provided regarding construction impacts and deterioration that may occur to adjacent habitats during this process.
- One attenuation pond will incur within the buffer of Thirty Acre Shaw 3.

7.2.54 Directional drilling is proposed to avoid impacts to the ancient woodland (Section 4.14 (CD2/82 Waterman, 2022). It is understood that further information would be provided post-planning and such a detailed methodology is not provided. However, Mr Kean has raised concerns about directional drilling and the potential for complications given the site's geology. Clearly, if directional drilling fails there is potential for adverse impact upon ancient woodland soils and potentially its flora.

7.2.55 Furthermore, it is understood pre-fabricated headwalls will be used where the inflow is proposed within the area of ancient woodland (paragraph 4.31). The headwalls will be pinned to the woodland floor and losses associated with this are detailed above.

7.2.56 I understand from APP/C1435/W/23/3317468 (See appendix 1, below) that the Inspector found the drainage strategy for that Appeal to be appropriate given the location of the sustainable urban drainage systems (paragraph 27 of the Appeal decision) and for the water to be discharged into the watercourse (paragraph 28). I have not reviewed the evidence which was available to the Inspector at that appeal. However, clearly, each application is to be assessed on its own merits. I consider that these proposals would result in the loss of ancient woodland, due to the installation of the head walls, but would also disrupt the soil structure and composition.

7.2.57 Further, I note that Mr Kean has raised concerns with regards to the ability of the SuDS to effectively mimic the hydrological regime into the ancient woodland. For the current appeal, the ancient woodland is in part dependent on seepage It appears that the appeal scheme will alter the water regime and flow, and specifically concentrate water into specific areas where the outflows are located, a situation which does not currently exist. I consider that there is clear potential that increased water outflow in these areas will change the local hydrology, favouring species that can tolerate the changed conditions, altering the species composition and degrading the woodland.

7.2.58 It is therefore my view that the proposed drainage scheme and outfalls will adversely impact and deteriorate the ancient woodland on a permanent basis.

Other impacts from the housing development (and associated infrastructure including roads) leading to deterioration of ancient woodland

7.2.59 The proposed development will include over four hundred houses and roads including four access points. The main mitigation measure proposed by the Appellant is a 15m buffer zone. However, it is noted that this buffer zone would not apply to the SANG proposals, the emergency access or Fir Tree Grove where re-grading is proposed.

7.2.60 Section The Standing Advice (CD9/3 Natural England and Forestry Commission, 2022) addresses buffer zones. It states:

'Use of buffer zones

Buffer zones can protect ancient woodland and individual ancient and veteran trees and provide valuable habitat for woodland wildlife, such as feeding bats and birds. The size and type of buffer zone should vary depending on the:

- *scale and type of development and its effect on ancient woodland, ancient and veteran trees*
- *character of the surrounding area*

For example, larger buffer zones are more likely to be needed if the surrounding area is:

- *less densely wooded*
- *close to residential areas*
- *steeply sloped*

7.2.61 Paragraph 7.68 of the Environmental Statement indicates that all development with the exception of compatible features, such as SuDS, have been excluded from a 15m buffer zone around all ancient woodland.

7.2.62 The Illustrative Masterplan (CD2/6 edp, 2022) indicates that the woodland buffer will include attenuation ponds and (CD2/82 Waterman, 2022) shows the location of the buffer in relation to footpaths, indicating multiple incursions with footpaths being located in the ancient woodland buffer which is not appropriate.

7.2.63 I note that the 15m buffer zone is primarily designed to achieve root protection. The guidance is clear that where a development will lead to impacts which are likely to extend beyond 15m then a larger buffer zone is likely to be needed.

7.2.64 It is clear to me that impacts from the appeal scheme are likely to extend beyond 15m. These are assessed below.

- Noise: The noise assessment (CD2/114; Cass Allen, 2023) assesses the impact of noise on proposed new residential development, specifically reviewing how people will be impacted by noise. The impact assessment does not review the impact of noise from the use of the development on protected species. The Environmental Statement does present the impact assessment of noise on breeding birds, noting no significant impact during construction (CD1/14 Stantec, 2023). I agree that this could be managed during construction. However, no assessment is provided during operation. The appeal scheme will introduce more than 1000 residents to the undeveloped appeal site. There will be noise associated with usual residential activity including cars, lawnmowers/garden machinery, parties etc. Such noise is likely to travel more than 15m and could adversely impact the species utilising the ancient woodland. This will adversely affect some more sensitive bird species.
- Light: In relation to Lake Wood the lighting from housing may well reach the edge of the woodland. Further, I would note from the illustrative masterplan Dark Areas Map (CD2/12 Richards Urban Design, 2022) that the same applies to the boundary of other blocks of ancient woodland. Impact of lighting on bats in particular is detailed below under habitat fragmentation. Specifically, lighting will fragment existing habitats across the landscape, preventing light-sensitive species from readily moving across the landscape.
- Garden waste and fly tipping: I have noted above, in relation to Lake Wood, the close relationship of housing to ancient woodland is likely to lead to the potential for garden waste to be tipped into the woodland. This does not only apply to Lake Wood but other woodland bordering the built development, including Longwood Gill.
- Pet predation: Approximately 26% of UK households a domestic cat (UK Pet Food, 2023)). It can be expected that 424 households would introduce over 100 new predators into the area directly adjacent to the ancient woodland surrounding the built development. These cats can be expected to directly predate birds and small mammals within the ancient woodland surrounding the appeal site leading to its deterioration.

- Habitat loss: Several footpaths comprising unsurfaced footpaths with loose edging are included in the 15m buffer (specifically located along the 15m buffer to Lake Wood in the south, within Thirty Acre Shaw 2 buffer, within Longwood Gill buffer and within Shermanreed Wood buffer). The footpaths are not semi-natural habitats that are stipulated in the standing advice. Inclusion of footpaths in the 15m buffer contributes to the ancient woodland's deterioration through pollution, trampling and nutrient enrichment. I note in the appeal decision (reference APP/H2265/W/19/3235167), the inspector concluded: ""*the woodland known as Warren Wood on and adjacent to the site comprises ancient woodland, and that the proposed development would result in* ***the loss or deterioration*** *of part of it through the creation of the proposed emergency vehicle access and the main access road and* ***associated footway***." (My emphasis). As such, access into the buffer during construction, recreation or travel (footways or cycleways) is not appropriate).

7.2.65 It is clear to me that the minimum 15m buffer proposed by the Appellant will be insufficient to prevent the above impacts from occurring.

7.2.66 I note that the recent appeal decision at Bird-in-Eye North considered these issues. In that appeal, the proposed buffer zone was c.30m (see Appendix 3) and it was for fewer houses than this appeal (290). In that appeal decision, the Inspector found:

'24. The minimum 15m buffer zone required by NE could be provided between the area indicated for housing and ancient woodland to the south and west of this as shown on the Illustrative Site Layout and could be secured by condition. This buffer could also be exceeded in places but it would be dependent on the final layout to be determined at reserved matters stage and could be affected by, for example, the final design of the drainage basin (see Drainage section).

25. Nevertheless, because this area of ancient woodland is of itself narrow with a high proportion of its boundary adjoining the area indicated for housing (it borders the whole of the southern boundary of the housing site and around half of its western side) it is, in my view, more susceptible to increased opportunities for deleterious impacts from development such as increased noise and disturbance to wildlife from additional people and traffic, fly-tipping, and the impacts of domestic pets from predation, even with the introduction of defensive planting and a post and rail fence. All of these impacts are identified by NE in their standing advice on Ancient Woodlands as effects of development which can cause loss or deterioration of ancient woodland.'

7.2.67 I consider similar factors apply to this Appeal Scheme. Significantly, the Inspector found that fencing and defensive planting within the buffer zone would not be sufficient to avoid deterioration.

7.2.68 I further note that my view that a more extensive buffer area is likely to be required is one shared by the Forestry Commission (CD12/14 Forestry Commission, 2023).

7.2.69 Finally, it is worth noting that there are areas of the development which have no buffer or a buffer well below the 15m minimum. These are the area of the emergency access and the paths provided through Fir Tree Grove and the SANG. There would be no attenuation of noise and lighting. Nor would there be any buffer to prevent the impacts of littering.

7.3 Habitat Fragmentation

7.3.1 Habitat fragmentation will occur as a result of:

- Creation of the vehicular access: Via a roundabout along the south-western boundary to the site, creating a junction with the A22. This will also include a new pedestrian and cycle link to the town centre. This will result in the loss of scrub and woodland habitat to accommodate the roundabout
- Creation of the emergency access situated between two parcels of ancient woodland along the western boundary.
- Installation of dog proof fencing
- Installation of lighting
- Creation of access through hedgerow 1 (H1)

Creation of the vehicular access

7.3.2 The main site access is situated along the south-western corner in the form of a roundabout. Although the access track is situated outside ancient woodland, the creation of the roundabout will result in the loss of approximately 4000m^2 of woodland recorded as Habitat of Principal Importance. The Environmental Statement indicates this loss will not be detrimental to the woodland corridor "*due to the critical mass it comprises* (CD1/14 Stantec, 2023)." The mitigation will include the creation of an ecological "hop over" which will be suitable for hazel dormouse.

7.3.3 The fragmentation of the habitat in this area will specifically impact bats (see below habitat fragmentation through lighting) and hazel dormouse. The loss of this habitat will fragment an important woodland corridor in the landscape, creating a physical barrier between other woodland blocks.

7.3.4 Hazel dormouse is an arboreal species that has experienced significant decline in the UK. The species favours ancient woodland with its structural diversity and requires connected habitats to thrive. The species uses tree hollows to nest in and hedgerows and bramble banks are critical for their dispersal. Habitat fragmentation and habitat degradation is a significant contributor to its population decline.

7.3.5 Hazel dormouse has been confirmed as being present and widespread within the ancient woodland. Specifically, the species was recorded within H1 (hedgerow) and W4d, W8, W4c, W6 and W6a. Where impacts to hazel dormouse cannot be avoided, a mitigation licence will be required and as part of this Natural England will review whether the proposals and any mitigation/compensation will adversely impact the favourable conservation status of the species. Paragraph 7.234 of the Environmental Statement indicates that the woodland corridor along the western boundary of the site is an important corridor to ensure habitat continuity for this species (CD1/14 Stantec, 2023).

7.3.6 The creation of the vehicle access track along the western boundary will result in the habitat being fragmented. Proposed mitigation includes a dormouse hopover however details of this are not provided. Furthermore the substantial fragmentation will reduce the viability of the habitat for hazel dormouse, adversely impacting the favourable conservation status of the species.

7.3.7 My view is supported by the Forestry Commission's response stating:

"*The proposed access roads for this development would result in direct loss of woodland which was previously designated as Ancient Woodland and is directly connected to a corridor of woodland that is still designated as Ancient Woodland (Thirty Acre Shaw). While we have not assessed the site ourselves, we understand that there is an abundance of evidence from surveys and local knowledge submitted for consideration in this Appeal by other consultees which suggest that the woodland contains Ancient Woodland features. We understand that there is an application with Natural England to update the Ancient Woodland Inventory.*

The development's proposed the access roads are expected to result in fragmentation of a woodland corridor of high ecological potential that appears to be well connected within the wider ecological network of habitats and species, of which ecological surveys suggest there are many including rare and protected species. The woodland corridor provides a direct connection that would be severed between multiple Ancient and batsSemi-Natural Woodland (Budlett's Wood and Shermanreed Wood to the North and Lake Wood to the South) by the development."

7.3.8 The Woodland Trust has also expressed concern about the impact of fragmentation, noting in their consultation that the "*proposed development would further encase sides of ancient woodland areas within the site that are not presently developed and that currently adjoin semi-natural habitat. This is particularly the case for Longwood Gill, which would be largely encased by urban development and isolated from other natural habitat, impacting its wildlife populations. The introduction of significant amounts of new infrastructure and loss of semi-natural habitat for housing, roads and other infrastructure will result in a significant barrier to commuting and foraging routes for wildlife, permanently altering the functionality of the existing network of habitats.*

7.3.9 As demonstrated, I agree with these observations.

Creation of the emergency access track

7.3.10 The emergency access track has been sited between two parcels of ancient woodland (Third Acre Shaw 3 and Shermanwood), clearing a 3m wide corridor and that has had a continuous canopy for over 250 years (paragraph 7.172 of the Environmental Statement) (CD1/14 Stantec, 2023). The Environmental Statement acknowledges the possibility of incorporating a 15m buffer is not possible; it states that the track will be used intermittently and as such impacts will be temporary. Figure 6.3 of the Environmental Statement (CD1/14 Stantec, 2023) indicates the track will comprise hard standing, bounded by species-rich grassland over approximately 500m^2 with a width ranging between 7m to 18m wide; introducing grassland species into the woodland, and increasing the edge effect, resulting in deterioration of the ancient woodland.

7.3.11 As a result of the creation and maintenance of the access track, the tree canopy will be permanently fragmented at this location. This will impact species utilising this habitat by increasing predation risk (hazel dormouse will need to cross this area on the ground and increase susceptibility of predation by cats), decrease the suitability of the woodland corridor (through the introduction of lighting, and increase natural lighting levels) and increase the edge effect (competitive species outcompeting ancient woodland specialists) and changing the ground conditions including soil structure and composition, further deteriorating the woodland.

Installation of dog fencing

7.3.12 The Illustrative Masterplan proposes that ancient woodland is to be bound with dog-proof fencing. (Figure 6.3, Sheets 1 – 10) (CD1/14 Stantec, 2023). The fencing is described as "*Plitt Chestnut Post and Rail Fence with wire mesh."* Further information on the fencing is provided in the SANG and Woodland Management Plan (CD2/111 Aspect Ecology, 2023).

7.3.13 Whilst the fencing in the hard and soft landscaping plans for the SANG is located around all parcels of ancient woodland (CD1/14 Enclosure 1 edp, 2023), areas of Shermanreed Wood are excluded from this fencing in the SANG and Woodland Management Plan (Figure 5719/SMP5) (CD2/111 Aspect Ecology, 2023).

7.3.14 This is to prevent access into the woodland by dogs and people. Above, I have explained that I do not consider that it is likely to be effective in ensuring that trespass does not occur.

7.3.15 Notwithstanding this, the fencing would have a significantly deleterious impact upon the freedom of movement of species which are currently using the ancient woodland and other woodland habitats within the site and surrounding area. If the fencing successfully protects against dogs from entering the ancient woodland it will also prevent species such as [redacted] deer, foxes, hedgehogs and other mammals from moving across the landscape and between different parcels of woodland and across the landscape. The impact to these species has not been addressed in the Environmental Statement.

Installation of lighting

7.3.16 The proposed development will require lighting. Given the proposals are for outline planning, a detailed lighting design would not be expected, and instead the principles of dark zones need to be demonstrated to ensure the impact on species is appropriately assessed, and specifically, the favourable conservation status is maintained for species protected under the Conservation of Habitats and Species Regulations 2017, as amended, and further protected under the Wildlife and Countryside Act 1981, as amended.

7.3.17 Lighting can fragment landscapes due to the avoidance behaviour displayed by nocturnal animals. Specifically, *Myotis species* and barbastelle have been shown to avoid illuminated foraging and commuting routes, resulting in a competitive disadvantage compared with other species (BCT and Intitute of Lighting Professionals, 2018).

7.3.18 Lighting principals to minimize impact on wildlife is presented in the (CD2/12 Richards Urban Design, 2022) which indicates that all ancient woodland will be primary dark zones with a target light level of 0.2 lux horizontally and 0.4 lux vertically. The plan also shows areas with a target 1.0 lux level across the proposed development, including instances where existing dark zones within and adjacent to ancient woodland will be intersected by a 1.0 lux

7.3.19 Key areas of habitat fragmentation caused by lighting occur within the proposed development:

- Vehicle access track severing the existing woodland corridor along the west of the site

- Introduction of lighting within Fir Tree Grove in the east of the site
- Introduction of lighting associated with the residential development
- Introduction of light spill within the woodland buffer

7.3.20 To inform the impact of habitat fragmentation associated with lighting for the proposed development, sufficient information and analysis is required. It is my view that insufficient data has been collected to inform the impact of habitat fragmentation from lighting within the woodland, due to the placement of the static monitoring devices and transects.

7.3.21 Bat surveys comprised transect surveys between September and October 2019, between April and August 2020 and between May and October 2023. Results from the September and October 2023 surveys have not been submitted. Transect surveys were complemented with the deployment of static monitoring devices in four locations. Transect survey and static monitoring locations are presented in Plan 5719/ECO4, Plan 5719/ECO5, Plan 5719/ECO6, Plan 5719/ECO7 of the Environmental Statement (CD1/14 Stantec, 2023).

7.3.22 As can be demonstrated by these plans, the transect and static monitoring locations were located outside the woodland, within the grassland. Bat detectors can detect bat calls up to 20m from their location therefore placement and transect locations must be sited to collect information from the impact area to ensure they appropriately inform the impact assessment. Paragraph 7.226 of the Environmental Statement (CD1/14 Stantec, 2023) indicates that bats preferred the woodland edge habitats, however data was not collected within the woodland, which would have informed the use of these by bats within the woodland, where the impacts will occur.

7.3.23 During the bat surveys, most of the bat species recorded were assessed as being common and widespread species with the exception of barbastelle (recorded in 2019 and not in 2023). Species of the *Myotis* genus were recorded, however a specific note about whether these could be Bechstein's was not made. Bechstein's and barbastelle are two of the UK's rarest bats. Sussex also supports other rare species of the *Myotis* genus, including alcathoe, and greater mouse-eared. *Myotis* bat calls cannot readily be distinguished into individual species due to the overlapping nature of their calls, it is therefore important that impact assessments consider and address these limitations. It is my view that this has not been appropriately addressed.

7.3.24 Many woodland bat specialists, specifically barbastelle and Bechstein's display frequent roost swapping during the maternity season, for the protection of their young. It is therefore important to consider the impact on a woodland as a whole, rather than the individual trees and specifically the impact of lighting on the fragmentation of the habitat. Furthermore, some bat species, such as Bechstein's are low dispersers which means that once their range is restricted, it is difficult for them to recolonize the area. It is therefore critical impacts to these species groups is appropriately considered, and data to inform these collected.

7.3.25 Given these are all woodland specialist species, extremely sensitive to light levels, the lack of data from the woodland means the impact assessment has not appropriately considered the habitat loss and deterioration of the ancient woodland on this species group.

7.3.26 The lighting impact assessment indicates that current lighting levels within the areas of woodland is 0.00 (CD2/30 The Lighting Bee, 2022). No lighting data is included for the grassland habitats, where the proposed development will be located. In many of the woodland buffers (i.e. 15m from the ancient woodland boundary) the target lighting levels will be 1.0 lux at ground level, which will be a permanent increase in lighting levels compared with the current baseline.

7.3.27 The vehicle access roundabout is located within the proposed dark zone "*subject to agreement with the LPA/HA*" however it is unclear whether dark levels would be achievable in the absence of any agreement with the local highway authority (CD2/12 Richards Urban Design, 2022). Specifically, the loss of the existing dark corridor along the western boundary of the site, will cause significant fragmentation for bat species with particular reference to light-sensitive bat species.

7.3.28 Whilst the dark areas map shows Fir Tree Grove as being in a dark zone, the lighting impact assessment indicates that within Fir Tree Grove (ancient woodland), the cycle and pedestrian route requires a P5 lighting class along the section supporting the boardwalk for which lux levels will range between 0.6 and 3.0, exceeding primary dark zone target light levels (CD2/30 The Lighting Bee, 2022). Section 6.2.3 of the lighting impact assessment further indicates that the lighting along the boardwalk will be on between dusk and dawn, when bats and other animals sensitive to lighting are active and as such will be impacted by lighting within Fir Tree Grove. As such, the introduction of lighting within Fir Tree Grove, will sever this habitat, which will also be surrounded by residential dwellings, reducing this habitat's suitability for bats, and deteriorating the ancient woodland as a result.

7.3.29 Furthermore, lighting across other habitats (grassland) will prevent bats and other nocturnal animals from readily moving across the landscape. Although the Dark Areas map does indicate some "lighting levels will be minimised as much as possible at access road crossing points for ecological links" it is unlikely the levels will allow for light-sensitive species to utilise the habitats, further fragmenting habitats within the wider landscape.

7.3.30 The primary dark zones will also be severed within the emergency access track, main access track and between Three Acre Shaw 3 and Longwood Gill, further fragmenting the woodland habitats within the landscape. Light spill into the ancient woodland from the lighting, is not detailed in the Environmental Statement (CD1/14 Stantec, 2023), dark areas map (CD2/12 Richards Urban Design, 2022) or lighting impact assessment (CD2/30 The Lighting Bee, 2022), however it is my view that light spill cannot be avoided, given the close proximity of residential development and associated infrastructure to the ancient woodland.

Habitat fragmentation to create access paths

7.3.31 The proposals will also result in the fragmentation of H1 (hedgerow) connecting Longwood Gill to W6b surrounding Pond 6. Two access points will be cut through the hedgerow resulting in the loss of some of the hedgerow, and fragmenting this habitat. Further, the increased recreational pressure within this area, and increased predation risk associated with the loss of buffering habitat, will adversely affect the hazel dormouse population utilisting the hedgerow.

7.4 Overall conclusion on loss, deterioration and fragmentation

7.4.1 I am of the clear view that the proposals will lead to the loss and deterioration of ancient woodland within and adjoining the appeal site. As has been made clear above, the impacts will be significant and wide-ranging. They relate to a large amount of ancient woodland present across the appeal site. The policy balance is for Mr Robins. However, I consider that the proposals will lead to loss and deterioration of ancient woodland and will prejudice the ecology of the ancient woodland, including in relation to protected species.

7.4.2 I understand that the Appellant is now seeking to argue that exceptional circumstances exist for the loss on the basis that it is de-minimis (paragraph 5.33) (CD1/50 Mellor, 2023)). I consider that there is no basis for describing the permanent harm to an irreplaceable habitat as *de minimus*. Nor is there any basis for seeking to dilute the permanent harm by pointing to the wider woodland resource.

7.4.3 The proof of Mr Mellor indicates that the proposal would provide significant 'compensation' through supplementary planting and implementation of a woodland management strategy (paragraph 5.34). I would note at the outset that the Appellant would have to prove exceptional circumstances exist for its development (I understand that this will be addressed by Mr Robins in his evidence to the Inquiry). If a compensation strategy is forthcoming then I will comment upon it as necessary.

7.4.4 I would note at the outset that the Standing Advice provides that compensation measures 'can only partially compensate for loss or damage' (CD9/3 Natural England and Forestry Commission, 2022) (p.8). Further, the compensation strategy should be tailored to the site and the scale and nature of the impacts upon it. Any compensation strategy for this appeal proposal would have to take account of all of the loss and deterioration which the appeal scheme would give rise to.

7.4.5 I further note that the issue of compensation has not been addressed by the Appellant in its ES. Nor has it been consulted upon. This is particularly concerning in relation to the Forestry Commission which is a non-statutory consultee on ancient woodland.

7.4.6 Finally, if the compensation strategy relies in any part upon the Appellant's biodiversity net gain assessment (CD2/86 Aspect Ecology, 2022) then I have identified significant issues with this which indicate that the value of this has been overstated by the Appellant. I understand from Mr Mellor's proof that a further BNG assessment will be produced as part of the Appellant's ecological evidence (para 2.79) (CD1/50 Mellor, 2023) I reserve the right to comment upon this. In short summary, the issues I have identified with the assessment at the biodiversity net gain assessment are:

- All habitat condition assessments were selected as good, which is overstating the achievable outcome for the habitat types.
- Scrub SC3 was recorded as being in good condition, therefore cannot be enhanced (within the metric this was shown as being in moderate condition, not reflecting the condition assessment form results).
- Assessor comments in planted trees indicates that the trees will be in moderate condition, however good condition selected. The condition needs to reflect the assessor comments and be reduced to moderate condition.

- Natural England states that *"the majority of newly created woodland associated with projects and developments would be classified as 'other woodland, broadleaved' or 'other woodland, mixed*" (Panks, S; White, N; Newsome, A; Nash, M; Potter, J; Heydon, M; Mayhew, E; Alvarez, M; Russel, T; Cashon, C; Goddard ,F; Scott, S; Heaver, M; Scott, S; Treweek, J; Butcher, B; Stone; D., 2022). High distinctiveness habitats impacted by a development must be replaced like for like and species composition must be reflective of that impacted. A realistic condition must be selected and the condition of newly planted woodland will be limited to poor as higher conditions would be unlikely to be exceeded in 30 years.
- The strategic significance of hedgerows needs to be updated to reflect the rest of the habitats (i.e. "formally identified in local strategy"). Furthermore, the hedgerow is shown has being retained and enhanced, however the illustrative masterplan (CD1/14 Enclosure 1 edp, 2023)shows two areas of loss associated with the creation of access points. This needs to be reflected in the biodiversity net gain assessment.
- For a modified grassland to meet a moderate condition (Si1 and Si3), it must pass the first criteria in the condition assessment form, which it did not therefore the condition must be revised to reflect this.
- The habitat condition assessment forms indicate trees are in moderate condition, but good condition selected. For this to be achieved, more than 70% of the trees within the block will need to be native species. If this cannot be achieved, the condition will be poor.
- Within created habitats, the traditional orchard condition was selected as good condition. For this to be achieved the habitat requires the presence of ancient or veteran trees to be present as being essential for achieving good condition. It is unreasonable to achieve this within the 30 years. Therefore this habitat can be no more than moderate condition.
- For all created woodland to the condition should be updated to fairly poor to indicate the likely achievable target within the 30 year period given the woodland would be newly planted. This is in line with the user guide (Panks, S; White, N; Newsome, A; Nash, M; Potter, J; Heydon, M; Mayhew, E; Alvarez, M; Russel, T; Cashon, C; Goddard ,F; Scott, S; Heaver, M; Scott, S; Treweek, J; Butcher, B; Stone; D., 2022).
- Two parcels of modified grassland were originally set as enhanced to mixed scrub, however in line with the user guide these habitats should be shown as lost and then mixed scrub created (Panks, S; White, N; Newsome, A; Nash, M; Potter, J; Heydon, M; Mayhew, E; Alvarez, M; Russel, T; Cashon, C; Goddard ,F; Scott, S; Heaver, M; Scott, S; Treweek, J; Butcher, B; Stone; D., 2022).
- An incorrect habitat type has been recorded for bracken, reducing the value of this habitat. The condition assessment is not applicable and cannot be enhanced. It is proposed this area will be mixed scrub. This habitat must therefore be recorded as being lost habitat (bracken) and mixed scrub will be created. Of note, the bracken is situated within the ancient woodland inventory as being integral to the ancient woodland.

  Of note, Figure 1 below presents two areas which have been excluded from the ancient woodland inventory in the SANG (Plate A), as presented in Plate B (DEFRA, 2023) and Plate C (Figure 5719/SMP5 (CD2/111 Aspect Ecology, 2023)). These areas

comprise an area of bracken and scrub, and an area of track. The exclusion does not align with the handbook for updating the ancient woodland inventory (CD/9 Natural England, 2018) which states: "*Some [interpreted open areas] IOAs, like power-line way-leaves, forest tracks and some water bodies, will typically qualify for inclusion within a woodland polygon or parcel of polygons - i.e. if that polygon or parcel were ultimately to be designated AW then the IOA would be part of the area designated and not a hole punched out of it - whilst others, like quarries and fields, will not.*"

Scrub and bracken are integral parts of woodlands and should therefore not be excluded.

Figure 1: Areas of bracken, scrub and ancient woodland within the SANG

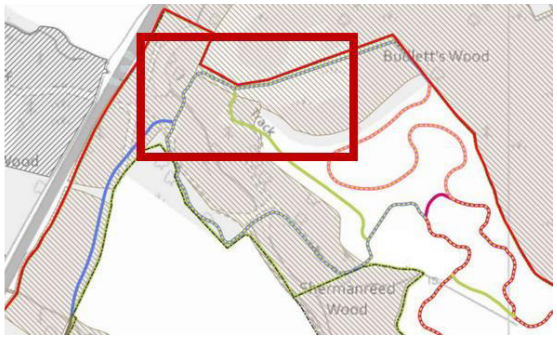
Plate A (CD1/14)



Plate B (DEFRA 2023)



Plate C (CD2/32)



- To assess the condition of a woodland parcel, the methodology requires a scoring against 13 criteria (1 for poor, 2 for moderate and 3 for good). The total number of scores is calculated. Woodlands with a score exceeding 33 points are attributed a good condition, those between 26 – 32 points are attributed a moderate condition and those with 25 points or less are of poor condition. I have reviewed the existing and proposed scoring (following the implementation of the SANG and woodland management plan) and present the findings of my assessment in Table 1.

Table 1: Woodland condition review

Woodland parcel	Existing score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Proposed score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Review	Revised score	Revised condition
W4	27	33	Criteria 3 awarded 3, however this cannot be higher than 2 as some invasive species will remain in the woodland due to increased recreational pressure. Criteria 8 awarded 3, however this cannot be higher than 2 as some pests and diseases will occur due to increased recreational pressure, degrading the woodland.	29	Moderate – no enhancement possible
W5	32	37	Criteria 2 awarded 3, however this cannot be higher than 2, as some browsing damage will be evidence given deer cannot be controlled in an urban environment. Criteria 12, awarded 3, however this cannot be higher than 2 as it is unlikely that 50% woodland plots having standing deadwood , large branches and stumps given the recreational pressure and H&S requirements for an open space.	33	Good – enhancement possible
W6a	30	33	Criteria 13 awarded good, however this requires no nutrient enrichment or damaged ground evident, given the recreational pressure and introduction of more dogs in the SANG and other woodland, this is not achievable. The score can not be higher than 2.	32	Moderate – no enhancement possible

Woodland parcel	Existing score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Proposed score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Review	Revised score	Revised condition
W6b (not ancient woodland	29	34	Criteria 12, awarded 3, however this cannot be higher than 2 as it is unlikely that 50% woodland plots having standing deadwood , large branches and stumps given the recreational pressure and H&S requirements for an open space.	32	Moderate – no enhancement possible
W7	31	34	Criteria 2 awarded 2, I agree with this assessment, however the current condition is awarded 3, therefore the Appellant acknowledges as deterioration of the ancient woodland associated with the proposals. Criteria 12, awarded 3, however this cannot be higher than 2 as it is unlikely that 50% woodland plots having standing deadwood , large branches and stumps given the recreational pressure and H&S requirements for an open space.	32	Moderate - no enhancement possible
W8a	32	35	Criteria 8 awarded 3, however this cannot be higher than 2 as some pests and diseases will occur due to increased recreational pressure, degrading the woodland. Criteria 12, awarded 3, however this cannot be higher than 2 as it is unlikely that 50% woodland plots having standing deadwood , large branches and stumps given	32	Moderate – no enhancement possible

Woodland parcel	Existing score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Proposed score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Review	Revised score	Revised condition
			the recreational pressure and H&S requirements for an open space. Criteria 13 awarded good, however this requires no nutrient enrichment or damaged ground evident, given the recreational pressure and introduction of more dogs in the SANG and other woodland, this is not achievable. The score can not be higher than 2.		
W8b	29	33	Criteria 13 awarded good, however this requires no nutrient enrichment or damaged ground evident, given the recreational pressure and introduction of more dogs in the SANG and other woodland, this is not achievable. The score can not be higher than 2.	32	Moderate – no enhancement possible
W8c	27	33	Criteria 3 awarded 3, however this cannot be higher than 2 as some invasive species will remain in the woodland due to increased recreational pressure. Criteria 6 awarded 2. Whilst I agree with this assessment, currently this parcel has up to 20% of temporary open space. The Appellant has indicated a deterioration in this criteria associated with the recreational pressure, and as such 2 points are awarded.	29	Moderate – no enhancement possible

Woodland parcel	Existing score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Proposed score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Review	Revised score	Revised condition
			Criteria 12, awarded 3, however this cannot be higher than 2 as it is unlikely that 50% woodland plots having standing deadwood , large branches and stumps given the recreational pressure and H&S requirements for an open space. Criteria 13 awarded good, however this requires no nutrient enrichment or damaged ground evident, given the recreational pressure and introduction of more dogs in the SANG and other woodland, this is not achievable. The score can not be higher than 2.		
W8d (not ancient woodland)	30	33	Criteria 6 awarded 2. Whilst I agree with this assessment, currently this parcel has up to 20% of temporary open space. The Appellant has indicated a deterioration in this criteria associated with the recreational pressure, and as such 2 points are awarded. Criteria 12, awarded 3, however this cannot be higher than 2 as it is unlikely that 50% woodland plots having standing deadwood , large branches and stumps given the recreational pressure and H&S requirements for an open space.	31	Moderate – no enhancement possible

Woodland parcel	Existing score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Proposed score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Review	Revised score	Revised condition
			Criteria 13 awarded good, however this requires no nutrient enrichment or damaged ground evident, given the recreational pressure and introduction of more dogs in the SANG and other woodland, this is not achievable. The score can not be higher than 2.		
W9	30	33	Criteria 3 awarded 3, however this cannot be higher than 2 as some invasive species will remain in the woodland due to increased recreational pressure. Criteria 8 awarded 2 which I agree with, however the Appellant has indicated this will deteriorate (baseline condition is 3) as a results of the increased recreational pressure, degrading the woodland. Criteria 11 current condition suggests on veteran tree is present per hectare. The Appellant has indicated this will be reduced to no veteran trees, however I presume this is an error and should be retained as 2. Criteria 12, awarded 3, however this cannot be higher than 2 as it is unlikely that 50% woodland plots having standing deadwood , large branches and stumps given the recreational pressure and H&S requirements for an open space.	31	Moderate – no enhancement possible

Woodland parcel	Existing score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Proposed score (Appendix 5719/2) (CD2/86 Aspect Ecology, 2022)	Review	Revised score	Revised condition
			Criteria 13 awarded good, however this requires no nutrient enrichment or damaged ground evident, given the recreational pressure and introduction of more dogs in the SANG and other woodland, this is not achievable. The score can not be higher than 2.		

8 Proof summary and conclusions

8.1.1 I refer to my background, experience and involvement in Section 1 of this proof.

8.1.2 My evidence relates to the reasons for refusal relating to harm caused by the loss and deterioration of ancient woodland. I endorse the approach and findings made on this issue in the Committee Report.

8.1.3 In Section 2 I detail the scope of the evidence and the reason for refusal which is that "t*he development proposals would result in indirect and direct degradation and loss of ancient woodland, an irreplaceable habitat, and lead to the unacceptable fragmentation, isolation and disturbance of natural habitats that support protected wildlife species and other flora and fauna of acknowledged nature conservation importance. In addition, the development would threaten, harm and cause degradation to veteran trees, an irreplaceable habitat."* My role in the appeal is to give expert evidence in relation to issues raised by this Reason for Refusal.

8.1.4 In section 3 I review the proposed development, and provide a site description. I have undertaken a site visit. The site is approximately 45 ha and comprises grassland, scrub and woodland, with some additional other habitats. Woodland and ancient woodland dominate adjoining habitats to the north, west and south, and the town of Uckfield is located to the east.

8.1.5 In section 4 I present the planning policy context. The National Planning Policy Framework (2021) states that development resulting in the loss of ancient woodland should be refused unless exceptional reasons and there is a suitable compensation strategy. This is strengthened by the Planning Policy Guidance that states that Local Planning Authorities need to consider direct and indirect impacts on ancient woodland or veteran trees and the scope for avoiding and mitigating impacts. Their existing condition should affect the consideration of development proposals. Furthermore, when determining whether wholly exceptions reasons exist, the compensation strategy should not be taken into account and should only be considered once this has been ascertained.

8.1.6 Wealden District Council's refusal to permit development in view of the impact on ancient woodland is therefore in line with the National Planning Policy Framework (2021) and Planning Policy Guidance.

8.1.7 In section 5 I review the key consultation responses, specifically Natural England, Woodland Trust and Forestry Commission. I note that Natural England does not provide specific comment on much of the development, but refer to their standing advice. Natural England's consultation focuses on the appropriateness of the SANG in relation to compensating for impacts on Ashdown Forest SAC and SPA. Whilst Natural England does recommend the inclusion of a boardwalk to create paths within the ancient woodland I assess that they have not considered the impact of increasing recreational pressure on the ancient woodland and the impact this will have on the irreplaceable habitat.

8.1.8 The Forestry Commission raised concerns about the impact of the development on the ancient woodland within and adjacent to the site, specifically referencing the impact of Lake Wood. The Forestry Commission recognises the proposed development will lead

to loss and deterioration of ancient woodland, and fragment this and other woodland habitat across the landscape. I agree with their assessment.

8.1.9 The Woodland Trust voices similar concerns. They recognise the antisocial behaviour already experienced in Lake Wood which will be further exacerbated by the proposed residential development, which will be further exacerbated by increased recreational pressure.

8.1.10 In section 6 I address the nature and importance of ancient woodland, an irreplaceable habitat. Ancient woodland will have been present since at least 1600 AD and supports a quarter of the Species of Principal Importance in England, and high levels of biodiversity. Due to its ancientness, impacts to its soil structure and composition, habitat structure, and ecosystem, cannot readily be mitigated or compensated for. Specifically ghyll woodlands, as found in and adjacent to the site, provide a microclimate unique in the landscape and rich in diversity. Specifically, soils have formed over millennia with each growing season providing a layer that decomposes, releases nutrients on which species living in the ancient woodland depend. Ancient woodland needs to be considered in their entirety and not specifically on the presence of ancient woodland indicator species. I review the impacts which can be direct (e.g. habitat loss and degradation, fragmentation, changing nutrient loads, introducing light, changes in water levels, quality or frequency), or indirect (habitat fragmentation, disturbance, pollution).

8.1.11 In section 7 I review the impacts of the proposed development on ancient woodland, specifically, reviewing habitat loss and deterioration and fragmentation. The proposals will result in the loss of ancient woodland in Fir Tree Grove, due to the presence of a boardwalk that will permanently shade the area, preventing species from being able to form underneath. The proposals will also result in the creation of a boardwalk in the SANG, which will have the same impact.

8.1.12 Currently there is no public access to Fir Tree Grove, and limited access to the woodlands in the SANG. SANGs are specifically designed to provide recreational access, and spaces where dogs can roam free. By including the ancient woodland in the SANG and providing access to Fir Tree Grove, the proposals will greatly increase recreational pressure within the ancient woodland, resulting in its deterioration. The boardwalk will not prevent people and their pets from entering the woodland and creating desire lines, nor will it prevent antisocial behaviour, as currently exists in Lake Wood, south of the development. The impact of the deterioration will be significant and permanent.

8.1.13 Areas of ancient woodland will be lost as a result of the installation of the headwalls associated with 11 outflow pipes. This will result in the permanent loss of between 1 – 1.5 m^2 of ancient woodland per headwall.

8.1.14 The proposals will also adversely impact ancient woodland adjacent and in close proximity to the site. I discuss how this will occur as a result of recreational impacts, specifically to Lake Wood and agree with the Woodland Trust's and Forestry Commission's assessment of this. The Appellant has indicated the impact would be managed through the inclusion of fencing, however this will not be absolutely effective in preventing access to Lake Wood. I also note the proximity of the SANG to residents

in the south of the development compare with Lake Wood and note that they would need to travel significantly further to access the SANG, and as such the risk of using Lake Wood for recreation is greater. The close proximity of the development to Lake Wood, and other parcels of ancient woodland will increase predation risk to species utilising the woodland. I conclude that contrary to the amended Environmental Statement, I consider the appeal proposals will lead to a further deterioration of Lake Wood through direct and indirect impacts.

8.1.15 I review the likely hydrological impacts of the proposals, and note the current hydrological regime is likely to be altered, specifically due to the presence of outflow pipes that will change the current hydrological and hydrogeological regime, specifically with seepage levels changing. I also consider that the positioning of headwalls within the ancient woodland will lead to the loss of ancient woodland habitat.

8.1.16 I review the impact of the housing development on the deterioration of the woodland, specifically relating to the introduction of noise, lighting, flytipping, pet predation and specifically the inclusion of footpaths in the buffers in several areas, which goes against standing advice. I conclude that it is evidence the minimum 15m buffer proposed by the Appellant will be insufficient to prevent the impacts from occurring. This is shared by the Forestry Commission.

8.1.17 I review the impact of habitat fragmentation on the ancient woodland, woodland habitat and species that occur within these. Habitat fragmentation will occur as a result of the creation of the vehicular access track, emergency access track, installation of dog-proof-fencing, lighting and creation of access points in hedgerow 1 (H1). My view is that the creation of the access track will provide a significant severance of commuting corridor for several species, notably bats and hazel dormouse, such that the favourable conservation status of the species' will be impacted. This view is shared by the Forestry Commission and Woodland Trust.

8.1.18 The creation of the emergency access track will also adversely impact habitat connectivity. Whilst this will be located in an existing gap in ancient woodland mapping, this will create a gap within the tree canopy. Further, the introduction of hard standing in this area, will also result in a loss of ground flora and will not be in line with the standing advice for the ancient woodland buffer (both in size and habitat type). Deterioration as a result of the creation of the emergency access will also occur.

8.1.19 The Appellant has indicated that the deterioration of ancient woodland associated with dog access into the ancient woodland will be controlled with the installation of a dog-proof fence. I have indicated that the fencing will have a deleterious impact on the freedom of movement of terrestrial species, fragmenting the habitats. The impact of this has not been addressed in the Environmental Statement.

8.1.20 Lighting is proposed throughout the development and principals are presented in the dark areas map. I have reviewed the data collected to inform the impact assessment and note that insufficient information to determine the impact of lighting on rare bat species has been collected, noting all surveys were undertaken along the woodland edge and not the interior of the woodland where they would occur. Lighting will directly impact nocturnal species sensitive to lighting, but will also fragment the habitats within the development, creating impassable barriers through the centre of the development

for light-sensitive species. I indicate that habitat will also be severed along the western boundary at the proposed vehicle access point, and the emergency access point and Fir Tree Grove. These concerns were also raised by Forestry Commission and Woodland Trust.

8.1.21 In section 7.4 I refer to the biodiversity net gain assessment and identify significant issues relating to the proposed habitat condition, demonstrating these have been overstated and habitat losses, demonstrating these have been understated. Following the adjustments on the biodiversity net gain metric, trading rules, critical to demonstrating biodiversity net gain, will not be met, specifically due to the impacts to ancient woodland and habitats of high distinctiveness (lowland, mixed deciduous woodland a Habitat of Principal Importance).

8.1.22 Issues above individually and cumulatively amount to loss and deterioration. The position is even more acute when considered cumulatively with arboricultural evidence.

8.1.23 The policy balance is ultimately for Mr Robins but my evidence demonstrates that the proposals will lead to both loss and deterioration of ancient woodland and will prejudice the ecology of the ancient woodland.

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Appendix 1: Previous appeal decisions

9.1.1 This appendix presents a review and commentary upon relevant appeal decisions. Changes to the National Planning Policy Framework in 2018 made policy tests much stricter, requiring evidence of wholly exceptional reasons where public benefit outweighed the losses, and a suitable compensation strategy where wholly exceptional reasons are evidenced. Whilst every decision for the cases below is made on their own merit, these changes need to be considered when reviewing these cases.

Land at Bird in Eye Farm, South of Bird In Eye Hill (Framfield Parsh), Framfield, Uckfield, East Sussex, TN22 5HA

9.1.1 Decision reference APP/C1435/W/22/3307820 at Land at Bird in Eye Farm, South of Bird In Eye Hill (Framfield Parsh), Framfield, Uckfield, East Sussex, TN22 5HA, dated 12 October 2023 in which the appeal case was dismissed. One of the main issues in this case were the loss or deterioration of ancient woodland and the effect of development on protected species. The proposals incorporated a path through ancient woodland to include an update to make it suitable for higher numbers of people using this. The proposals included a no dig solution and included chestnut paling fencing to district access into the ancient woodland by persons and their dogs. The inspector observed that ground flora would be suppressed by the presence of the path, which would prevent the ancient woodland from reestablishing itself, which would lead to the loss of deterioration of ancient woodland. With reference to protected species, the inspector notes "*fencing of the path would introduce a permanent barrier into foraging areas and route of the protected species as well as isolates parts of its territory. It would also result in a loss of vegetation which provides cover for this species and introduce increased disturbance to this area from people using the path. All of these effects are discouraged in standing advice from NE regarding this protected species (*paragraph 22). Paragraph 25 states: "*Nevertheless, because this area of ancient woodland is of itself narrow with a high proportion of its boundary adjoining the area indicated for housing (it borders the whole of the southern boundary of the housing site and around half of its western side) it is, in my view, more susceptible to increased opportunities for deleterious impacts from development such as increased noise and disturbance to wildlife from additional people and traffic, fly-tipping, and the impacts of domestic pets from predation, even with the introduction of defensive planting and a post and rail fence. All of these impacts are identified by NE in their standing advice on Ancient Woodlands as effects of development which can cause loss or deterioration of ancient woodland."* I understand that the buffer zones proposed in this appeal were well beyond 15m (around 30m).

9.1.2 Paragraph 26 states "*Taking all of these points together I find that the development would result in some loss and deterioration of ancient woodland. This is not outweighed by any facilitation of recreation, health or wellbeing benefits to be gained by opening up access to the public."*

9.1.3 Regarding Natural England's advice provided on this application, Paragraph 27 states: "I *am aware that NE provided advice on the application. It is clear from this that they were aware of a path through ancient woodland to achieve a suitable circular walking route around the SANG. They also note that the inclusion of dog proof fencing, and fencing along the entire SANG border would deter the public from entering and*

negatively impacting the ancient woodland. However, this advice appears to be largely focussed on the creation of the SANG and it is possible some issues with respect to impacts on the ancient woodland may have been overlooked. In any event, I am therefore satisfied that my findings that the proposal would result in some loss and deterioration of ancient woodland are in line with NE's standing advice."

9.1.4 In my opinion the conclusions drawn from this judgement are relevant to this appeal. The impact of a large housing development adjacent to areas of ancient woodland will result in a deterioration and loss of ancient woodland. It is evident that using ancient woodland as a SANG to compensate for impacts on internationally important habitats, is inappropriate as will result in loss and deterioration of an irreplaceable habitat.

Clear View Farm, Chiddingly Road, Horam, TN21 0JJ

9.1.5 In this appeal decision dated 15 August 2023 (APP/C1435/W/23/3317468) the Inspector considered the impact of siting a drainage attenuation within a 15m buffer and also the potential siting of drainage infrastructure within Ancient Woodland. The Inspector found that there was no substantive evidence presented by the Council to support their concerns about the volume and velocity of water eroding the relevant ditch or receiving watercourse (para.29). The Inspector further found that the Council did not present detailed evidence to support its proposition that the appeal development would lead to hydrological change (para.30). The Inspector further found that the siting of a drainage pipe would be 'of sufficient depth so as not to interfere with nutrient rich soils which generally lie closer to the woodland's surface (para.33).

9.1.6 The Inspector went on to find that the drainage headwall would 'be a pre-fabricated structure involving limited construction and excavation works' and that it could be sited 'to avoid sensitive biodiversity features' (para.34). The Inspector found that the installation would not harm 'the integrity of the ancient woodland'.

9.1.7 Whilst it is acknowledged that a minor loss of Ancient Woodland would occur, paragraph 38 states "*any effects arising from construction or from the discharge of water into the ancient woodland would be mitigated by virtue of the scheme's design, which includes ensuring the avoidance of tree root protection areas*."

9.1.8 I disagree with the decision, primarily due to the permanent loss of ancient woodland, associated with the installation of the headwall, disrupting soil structure and composition, but also resulting in the permanent loss of habitat available for species to utilise these. I would also argue that the inclusion of residential development adjacent to the ancient woodland which will increase the recreational impacts on the ancient woodland and anti-social behaviour. However, I have not reviewed the evidence which was available to the Inspector when reaching this decision. I also note that this proposal was much smaller than the appeal scheme, did not propose direct access into ancient woodland and only involved the installation of one headwall.

Badbury Hill, B4019, near Great Coxwell, Faringdon

9.1.9 **Decision reference** APP/V3120/W/17/3190461 (dated 10 July 2018) was an appeal where the Inspector considered an application by the National Trust to install new cycle trails and improvement of a car park. At paragraph 13 of the decision the Inspector explained that the proposed trails 'would go through an area of plantations on ancient woodland (PAWS)'.

9.1.10 The following paragraphs of the decision are particularly relevant to this appeal:

9.1.11 14. Standing advice from the Forestry Commission and Natural England[2] includes that the complex ecological relationships found in ancient woodlands cannot be recreated once taken away, due to the timescales involved and changes in the modern abiotic environment. For this reason, ancient woodlands are regarded as irreplaceable; a finite biodiversity resource. If the existing condition of ancient woodland is poor this should not be seen as a factor in favor of development because condition can usually be improved with good management, and compensation should not be considered as a benefit for development impacting irreplaceable habitats. BS 42020:2013 reflects this[3].

9.1.12 15. Construction of the trails in the PAWS area would be by 'over tipping' and a no dig construction. The AMS states that the surface would be formed of a minimum of 90mm of sub base and surface dressing. However, in certain situations this could be increased by up to 300mm. Appendix 2 of the Planning Statement[4] illustrates a cross section of a no-dig construction with a 300mm deep base and battered sides adding to the width of the overall surface to be covered with geotextile and base course material.

9.1.13 18. Within the PAWS area there would be clearance of understorey and 50mm of organic layers at the top of the top soil and the trails would be largely through tree root protection areas (RPA's). Only trees with a diameter of 300mm or less would be removed. The trees are likely to have large rooting areas and might be better able to withstand impacts than urban trees. The trails would affect only a small percentage of each tree's RPA and a small percentage of the PAWS area. Bench cuts are not intended, no tree roots would be cut within 2.5m of a tree, tree roots might not be asphyxiated and techniques might …

9.1.14 21. Once in use the trails would provide improved and enhanced access into the PAWS area and would facilitate an increase in the number of people accessing more of the PAWS area. Most might stick to the trails and signage could be used, but it would be difficult to prevent people from leaving the trails, perhaps for a short cut or to explore a bluebell glade, or earthwork.

9.1.15 22. The potential for such behaviours may already exist, wild riders could be encouraged to an area outside of the PAWS area, and the trails are intended to direct riders to specific areas of the ancient woodland. However, the eastern end of the Blue trail would go down into, round, and back out of the large dramatic bowl feature which I was shown as an area suffering damage from wild riding. Once in this area riders might depart from the trail and explore. …

9.1.1624. Creating the trails would enable the NT to block off and restore, where possible, wild trails at the time of construction. This would contribute to the long term strategy for restoration of semi-natural broadleaved woodland, enhancement of relict areas of ancient semi-natural woodland and active management of the site as a whole, including measures to manage the site's archaeology through regular monitoring. The NT agrees to a planning condition requiring a scheme for native broadleaf planting to off-set the loss of ancient woodland ground habitat. However, many areas affected by unauthorised bikers could restore naturally if left alone and the appellant concedes that natural regeneration is preferred. Having regard to the standing advice for ancient woodlands, the weight I attach to these benefits is limited.

9.1.17 25. Access would not be permanently prevented, for example with fencing. Rather it is proposed to use obstruction techniques with large stones and piled logs. At the hearing the appellant's team advised that a dedicated Ranger would not live on site and there is little to say how the site would be policed in their absence. From what evidence I saw of the wild riding I doubt that these measures would prevent or eliminate wild riding, particularly within the large bowl in the PAWS area.

9.1.18 26. I am not persuaded that insufficient land within non-ancient woodland areas to create usable trails is a reason to allow trails within the PAWS area, or that it is necessary to segregate cyclists and walkers. Plantation trees will be felled at some point, but forestry management does not necessarily involve disturbance to ground conditions or construction works. Examples of other trails through ancient woodland have been brought to my attention, but I know relatively little about the circumstances or the planning policy context of them. I have considered this scheme on its own merits.

9.1.19 27. I conclude that that the construction of the v4 Green and Blue trails in the PAWS area would be likely to result in the disturbance and harm of important ground flora and soils, trees and tree roots, including within presently relatively undisturbed areas and areas where protected species, priority habitat and archaeological assets have been identified. The trails would facilitate increased public access which could result in further deterioration or harm.

9.1.20 I have reviewed this case and agree with the findings that the proposals would result in a disturbance and harm of important ground flora, and soils, trees and tree roosts in currently undisturbed areas. The key elements with this case is that the Inspector was access would not be permanently prevented through design and fencing and it is not possible to control how people use the site. The increased access within this ancient woodland would result in further deterioration and harm.

Lilas Wood, Wick Lane, Hastoe, Tring, HP23 6LU

9.1.21 **In this appeal decision (APP/A1910/W/21/3275429, dated 13 July 2022) the Inspector** refused planning permission for the material change of use of woodland and agricultural land to a wedding venue. The Appeal site had been used as a wedding venue for 28 days per year under permitted development rights (para.2 of the decision). This decision addressed the issue of how the current condition of the woodland should be treated in a planning decision. At paragraph 19 the Inspector found:

9.1.22 "*19. The use of the woodland currently as a wedding venue under permitted development rights has resulted in deterioration through vegetation loss and soil compaction. Whilst the venue area might occupy a natural clearing in the wood, at the time of my site visit it was largely devoid of any shrub layers and ground flora or leaf litter/detritus/debris you would normally associate with a natural woodland, clearing or no clearing, and this all provides a habitat for wildlife and living organisms. Any increased human traffic on site along with the more permanent siting of various structures would only further inhibit such plant growth and deter wildlife all of which would result in further deterioration of this ancient woodland. … 21. Whilst conditions could be imposed in respect of hours of operation, fires, lighting, and noise which are not in place for the current use occurring under Permitted Development Rights this would not mitigate the impacts of the development on the ancient woodland that I have*

identified. The appellant suggested various conditions could be applied to satisfy any requirements in respect of woodland management. However, given the lack of any robust evidence before me in terms of what this might entail and whether it could successfully mitigate the impacts of the development, I cannot be satisfied such conditions would adequately overcome the harm. 22. Having regard to all material considerations I find that the proposal would result in further deterioration of the ancient woodland contrary to the Framework and policy CS26 of the CS which requires designated sites to be protected. As per paragraph 180c) of the Framework wholly exceptional reasons are required to allow development resulting in the deterioration of ancient woodland. In this case, however, I find no such wholly exceptional reasons to justify this harm."

9.1.23 I have reviewed the decision and agree with the Inspector's report.

The Finches, Chartway Street, East Sutton, Maidstone, Kent ME17 3DN

9.1.24 Decision APP/U2235/W/21/3278941 (dated 23 May 2022) was the refusal of an application for the change of use of land and the stationing of 12no holiday cabins, landscaping and access. Paragraph 6 highlights that the cabins would be 'small-scale, basic buildings erected on site and placed on timber supports without foundations' and that the services would not require any ground disturbance. The caravans were to be sited in cleared pockets of land and there was no evidence that further tree removals would be required (para.6).

9.1.25 The Inspector found that some trees had been cleared to facilitate the use of the site for stationing touring caravans (para.9). But went on to state: '[N]evertheless, the soil is largely undisturbed. Such soil 'harbours dormant seeds of ancient woodland plants, sometimes for many decades' and ancient woodland soil is therefore 'as worthy of conservation as the above-ground woodland'. Moreover, there is no suggestion that the replanted or self-seeded trees present on the site are not suitable or appropriate to maintain ancient woodland and a small number of other ancient woodland indicator species are present on parts of the site.

9.1.26 The inspector found direct and permanent loss of ancient woodland as a result of the proposed use (para.11). At paragraph 13, the Inspector found:

`13. Although in small pockets, it would nevertheless prevent or disrupt managed or natural regeneration of ancient woodland over a significant part of the site, including where the cabins would be sited. There is no evidence that existing or proposed open spaces would result in any meaningful functional benefit to ancient woodland equivalent to the arrangement or extent of open space envisaged by the FC restocking notice. Moreover, the resulting fragmentation of woodland across the site, and nature of proposed human activity and use, would unduly erode a purpose of the site as a buffer to the off-site trees. This would detract from the overall integrity of this entire parcel of ancient woodland.'

Appendix 2: CDA7 (Land at Bird in Eye) APP/C1435/W/22/3307820



KEY

- Site Boundary - 42.75Ha (excludes the ancient woodland dividing the SANG areas).
- Retained Land for Bird in Eye Farm - 1.62Ha
- SANGS Land - 26.17Ha
- Ancient Woodland and buffer zone within the housing land - 1.69Ha
- Residual land for Housing and Open Space - 13.27Ha
- Open space within housing land - 4.59Ha
- Land for Housing only - 8.68Ha

Applicants:
Croudace Homes Ltd and Mr. & Mrs. Berry

Croudace HOMES.CO.UK

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Land at Bird in Eye Farm, South of Bird in Eye Hill, UCKFIELD

1:2000 @ A1 — 0 20 40 60 80 100 Metres

Rev: C 11/06/21 Red line amended around Hailwell Farm.
Rev: B 27/04/21 Joint applicant names added. Title block revised.
Rev:A 01/04/2021 Areas updated. Draft status removed.

Indicative Parameter/Land Use Plan

Ref: PRB/BIE/PA4C May 2020

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