Delegated Officer Recommendation

Case Officer:	**SR/CT**	**Date:**	**21 April 2023**
		Consults Expiry:	**22 December 2022**
		Site Notice Expiry:	**11 April 2023**
		Advert Expiry:	**16 April 2023**
		Neighbour Expiry:	
		Expiry Date:	**21 April 2023**
		Extension of Time:	**21 April 2023**
		BVPI Category:	**Large scale Major**

WD/2022/1637/MEA

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.

LAND AT DOWNLANDS FARM, UCKFIELD

Parish: Uckfield — LB ref:

Received Complete: 8 July 2022 — Cons Area:

Recommendation – Refusal

Case Officer	**Initials**	**SR/CT**	**Date**	**21.4.23**
Pre-commencement conditions agreed with applicant?				o ü (tick)
CIL Liability checked by Officer	**Initials**	**N/A**	**Date**	
		CIL Liable	o **Yes**	o **No**
		CIL Exemption Claimed	o **Yes**	o **No**
DMngr	**Initials**	**SB**	**Date**	**21.4.23**
Authority to Delegate Required?		~~YES~~ / NO	**Date**	

Fields filled in on Custom screen on Datawright?				O ü (tick)	
Admin					
Decision notice checked	**Initials**	**BH**		**Date**	**21.04.23**
CIL Liability Notice Issued			NO	**Date**	**21.04.23**

Reason CIL Notice Not Issued:

- o Less than 100 m^2
- o Not Residential
- o No increase in floor area
- þ Other: **Refusal**

Recommendation

Planning permission BE REFUSED for the following reasons:-

1. The proposed development represents an unjustified and unacceptable form of development of a site that for planning purposes lies in the countryside, outside of the defined development boundary for Uckfield, contrary to Policies GD2 and DC17 of the Wealden Local Plan. It is accepted that the Council cannot demonstrate a five-year supply of deliverable housing sites. This means that policies most relevant to the determination of the application should not be considered up to date and that the proposals should be considered in the context of the presumption of sustainable development as set out in the NPPF. However, having regard to the effect of the development on the Ancient Woodland, defined in the NPPF as an irreplaceable habitat, and in accordance with footnote 7 of Paragraph 11, this does not indicate that permission should be granted in this case. Even if this were not the case, because of the environmental harm identified, the proposals would not be sustainable development, its environmental impacts significantly and demonstrably outweighing its social and economic benefits when assessed against the policies in the Framework as a whole.

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.

   The scheme is contrary to National Planning Policy Framework 2021, section 180c, Natural England Standing Advice, ancient woodland & veteran trees and saved policies EN1, EN12, EN13 and EN15 of the Wealden Local Plan 1998 and Wealden District Core Strategy Local Plan 2013, policy WCS12 Biodiversity and WCS14 sustainable development.

3. The Council has a duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which

it possesses (Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990) (hereafter referred to as The Act). There are three listed buildings immediately surrounding the site, including Oast Cottage (NHLE 1028090) and Swallows Barn (NHLE 1262256) at Downlands Farm and the grade II* listed Buckwood Grange (NHLE 1194277).

It is commonly agreed that Spring Cottage and Patridges Oast are considered to be non-designated heritage assets. The application also identifies an unlisted historic building – Chicory Cottage – which has the potential to be considered a non-designated heritage asset (if not curtilage listed) by virtue of its historic association to Buckwood Grange. There are further unlisted historic buildings at Downlands Farm Cottages (historically known as Bridge Farm) which also have the potential to be considered non-designated heritage assets.

Section 72(1) of The Act relates to planning and conservation areas and requires that Local Planning Authorities pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In this instance, the proposed access for the application site lies in the vicinity of the designated Maresfield Conservation Area. The Draft Conservation Area Appraisal for Maresfield has been published on the Council's website, and provides the most up to-date considerations of the character of the conservation area as designated in March 2017.

It should be noted that the Courts have held that 'preserve' means an absence of harm. The NPPF points out that harm can be either 'substantial' or 'less than substantial' and where harm occurs, it should be given considerable weight as a material consideration in the assessment of planning applications and as part of the balance exercise and in ascertaining if any public benefits would outweigh that harm. This national policy intent is addressed by 'saved' Local Plan Policies EN1 and EN27; Core Strategy Policy SP02; as well as Chapter 12 of the Wealden Design Guide.

The scheme in its totality would cause less than substantial harm to the significance of heritage assets through the proposed development within their setting.

At present, in the absence of any mitigation evidenced in the indicative proposals, this is regarded to be the higher end of less than substantial harm. Though it was set out that this harm might be reduced through more thorough and considered understanding of significance and amendments to the design, none has been forthcoming.

In summary, the National Planning Policy Framework recognises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. Great weight should be given to the conservation of designated heritage assets, including any harm or loss of significance through development within their setting. The National Planning Policy Framework also places great importance on development being of good design and responding to local character to ensure the integration of new development into the existing environment. Where harm is considered to be less than substantial, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. It is not considered that any heritage benefits would arise from the present scheme, nor that planning conditions could be capable of sufficiently mitigating that harm.

The wider public benefits matters could include the delivery of housing on a site that is ready and available. However, the delivery of that housing presents other challenges in regard to Ancient Woodland, access and connectivity. If the only benefits of the scheme are laced and intertwined with those harms, then the less than substantial harm is not outweighed. Therefore, the scheme would not satisfy the aims of the National Planning Policy Framework as regards the conservation of heritage assets, nor would it 'preserve' the significance of the listed buildings, including one grade II* listed building and two grade II listed buildings.

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.

   The details as submitted and determined by the Local Planning Authority fail to demonstrate that adequate provision for Sustainable Drainage Systems can be satisfactorily accommodated within the site layout and that the development would not lead to increased risk of surface water flooding both on and off-site and therefore the proposal is contrary to Saved Policies EN1 and CS2 of the Wealden Local Plan 1998; SPO1, SPO13 and Policy WCS14 of the Core Strategy Local Plan and having regard to National Planning Policy Framework 2021, specifically paragraphs 167 and 169 and guidance offered within Chapter 4 Paragraphs 8.6, 8.7 and 8.8 of the Wealden Design Guide.

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

6. The proposal has not demonstrated that a safe and suitable access arrangement can be achieved for all users and to reduce dependence on the private car.

   The scheme would therefore be contrary to Saved Policies EN1, EN2, TR3 and TR13 of the Wealden Local Plan 1998, Spatial Planning Objectives SPO7 and SPO15 and Policies WCS7 and WSC14 of the Wealden Core Strategy Local Plan 2013 and the guidance within Chapter 9 of the NPPF.

7. The proposal does not satisfactorily demonstrate that there would be an acceptable impact on the surrounding highway network, particularly (though not limited to) Uckfield town centre which is already heavily congested at peak times, nor that safe access can be secured for all parts of the site and scheme, contrary to, to SPO2, SPO12, SPO13 and Policy WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies TR3 and TR16 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 110 of the National Planning Policy Framework 2021.

8. The Planning Statement confirms the intention to deliver a policy compliant scheme to secure affordable housing. Custom Built Housing is also detailed within the submissions. No mechanism exists to secure an appropriate package that would ensure delivery of these matters and as a result the proposed development is contrary to the provisions of Policy AFH1 of the Affordable Housing Delivery Local Plan 2016, Spatial Planning Objective SPO3 and Policy WCS14 of the Wealden Core Strategy Local Plan 2013 and paragraphs 60, 61, 62, 63 and 65 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.

10. This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:

Documents Submitted for WD/2022/1637/MEA	**Date Submitted**	**Version/Issued/Report No**
Environmental Statement Habitat Regulations Assessment	24/06/2022	Volume 2 - Appendix 7.2
Environmental Statement Ecological Appraisal	24/06/2022	Volume 2 - Appendix 7.1
Environmental Statement Assessment of Effects Schedules	24/06/2022	Volume 2 - Appendix 6.2
Environmental Statement Energy, Waste & Sustainability Statement	24/06/2022	Volume 2 - Appendix 3.1
Environmental Statement Scoping Correspondence	24/06/2022	Volume 2 - Appendix 2.3
Environmental Statement EIA Scoping Opinion	24/06/2022	Volume 2 - Appendix 2.2
Environmental Statement EIA Scoping Report	24/06/2022	Volume 2 - Appendix 2.1
Environmental Statement Geo-Environmental Site Investigation	24/06/2022	Volume 2 - Appendix 10.2

Environmental Statement Phase 1 Geo-Environmental Desk Study (Part 1)	24/06/2022	Volume 2 - Appendix 10.1
Environmental Statement Phase 1 Geo-Environmental Desk Study (Part 2)	24/06/2022	Volume 2 - Appendix 10.1
Environmental Statement Phase 1 Geo-Environmental Desk Study (Part 3)	24/06/2022	Volume 2 - Appendix 10.1
Environmental Statement of Expertise & Qualifications	24/06/2022	Volume 2 - Appendix 1.2
Environmental Statement Location of Information within ES	24/06/2022	Volume 2 - Appendix 1.1
Arboriculture	24/06/2022	CC40-1020 – Issued May 22
Lighting Impact	24/06/2022	Rev 0.1 – Issued 24/05/2022
Environmental Statement - Appendices Contents Page	24/06/2022	Volume 2
Environmental Statement	24/06/2022	Volume 1
Environmental Impact Assessment Non Technical Summary	24/06/2022	Final 02
Planning (Including Affordable Housing)	24/06/2022	Final 02
Economic Benefits	24/06/2022	Final 1
Pedestrian/Cyclist Route Earthworks Cut/Fill Feasibility Model	24/06/2022	2001061-140
Pedestrian/Cyclist Route Cross Sections	24/06/2022	2001061-139
Pedestrian/Cyclist Route Long Section	24/06/2022	2001061-138
Rev B - Fir Tree Grove Proposed Boardwalk	24/06/2022	2001061-137
Rev B - Fir Tree Grove Proposed Ramp/Steps Arrangement	24/06/2022	2001061-136
Rev E - Overview of Fir Tree Grove Pedestrian/Cycle Route	24/06/2022	2001061-135
Proposed SANG Access and Pedestrian Crossing Point	24/06/2022	2001061-107
Rev B Proposed Emergency Access	24/06/2022	2001061-102

Rev A Site Access Roundabout	24/06/2022	2001061-101
Parameter Plan - Green Infrastructure	24/06/2022	1309.04
Parameter Plan - Land Use and Access	24/06/2022	1309.03
Site Location Plan	24/06/2022	1309.01
Environmental Statement Flood Risk Assessment & Drainage Strategy (Part 1)	24/06/2022	Volume 2 - Appendix 8.1
Environmental Statement Flood Risk Assessment & Drainage Strategy (Part 2)	24/06/2022	Volume 2 - Appendix 8.1
Environmental Statement Fir Tree Grove Botanical Report	24/06/2022	Volume 2 - Appendix 7.3
Design and Access Statement	24/06/2022	
SANG Detailed Hard & Soft Landscape Design	24/06/2022	6170_d016f
Framework Travel Plan	24/06/2022	Final
Appendices Part 2 - Transport	24/06/2022	Version 3.1
Appendices Part 1 - Transport	24/06/2022	gluckf/2001061
Transport	24/06/2022	Final
Environmental Statement Non-Designated Heritage Assets	24/06/2022	Volume 1 - Figure 9.2
Environmental Statement Designated Heritage Assets	24/06/2022	Volume 1 - Figure 9.1
Environmental Statement Eco Features	24/06/2022	Volume 1 - Figure 7.3
Environmental Statement European Designations Within 25km	24/06/2022	Volume 1 - Figure 7.2
Environmental Statement Ecological Designations	24/06/2022	Volume 1 - Figure 7.1
Environmental Statement Findings of EDP's Visual Appraisal	24/06/2022	Volume 1 - Figure 6.9
Environmental Statement Published Landscape Character Units	24/06/2022	Volume 1 - Figure 6.8
Environmental Statement Relevant Planning Designations & Considerations	24/06/2022	Volume 1 - Figure 6.7
Environmental Statement	24/06/2022	Volume 1 - Figure 6.6

Topography		
Environmental Statement Site Character & Local Context	24/06/2022	Volume 1 - Figure 6.5
Environmental Statement Fir Tree Grove Detailed Soft Landscape	24/06/2022	Volume 1 - Figure 6.4
Environmental Statement SANG: Detailed Hard and Soft Landscape	24/06/2022	Volume 1 - Figure 6.3
Environmental Statement Illustrative Landscape & Ecology Strategy Plan	24/06/2022	Volume 1 - Figure 6.2
Environmental Statement Night Photoviewpoints	24/06/2022	Volume 1 - Figure 6.12
Environmental Statement Winter Photoviewpoints	24/06/2022	Volume 1 - Figure 6.11
Environmental Statement Photoviewpoints	24/06/2022	Volume 1 - Figure 6.10
Environmental Statement Site Location & Site Boundaries	24/06/2022	Volume 1 - Figure 6.1
Environmental Statement Green Infrastructure Parameter Plan	24/06/2022	Volume 1 - Figure 3.3
Environmental Statement Land Use & Access Parameter Plan	24/06/2022	Volume 1 - Figure 3.1
Environmental Statement Cumulative Schemes Plan	24/06/2022	Volume 1 - Figure 2.1
Environmental Statement Site Location Plan	24/06/2022	Volume 1 - Figure 1.1
Environmental Statement Archaeological & Heritage Assessment	24/06/2022	Volume 2 - Appendix 9.1
Environmental Statement Ecological Appraisal	24/06/2022	Volume 2 - Appendix 7.1
Environmental Statement	24/06/2022	Volume 1
Biodiversity Net Gain Assessment	27/06/2022	1005719 BN01 BIA dv2
Downlands Woodland Park - SANG and Woodland Management Plan	27/06/2022	5719-SANGManPlan.vf1 MRD AB
Detailed Soft Landscape Design	27/06/2022	6170_d024a
Environmental Statement	27/06/2022	Volume 1
Environmental Statement Landscape & Visual Baseline*	27/06/2022	Volume 2 - Appendix 6.1
Parameter Plan - Scale	08/07/2022	1309.05

Showing Boundaries for Outline and Detailed Planning Applications		1309.06
Lighting Strategy Plan	08/07/2022	1309.06
Environmental Statement Scale Parameter Plan	08/07/2022	Volume 1 - Figure 3.2
Environmental Statement Illustrative Masterplan	08/07/2022	Volume 1 - Figure 3.4
Environmental Statement Lighting Strategy Plan	08/07/2022	Volume 1 - Figure 3.5
Illustrative Masterplan	08/07/2022	1309.02
Illustrative Masterplan - Movement and Access Strategy	08/07/2022	1309.02M
Drainage	24/08/2022	WIE16835-100-TN-220823_Drainage
Technical Note - Response to Drainage Comments	24/08/2022	WIE16835-100-TN-220823_Drainage
Technical Briefing Note (hydrology)	31/10/2022	Technical Briefing Note 08
General Ecological Responses	29/11/2022	Technical Note TN06
Response to WDC Ecology	29/11/2022	Technical Note TN09
Downlands Heritage Addendum	10/01/2023	Edp6170_r008
Site Plan	23/01/2023	Rev – P13
Technical Note (Drainage)	23/01/2023	WIE6835-100-TN-5-1-2
Emergency Access Site Plan	22/02/2023	2001061-102 Rev - C
Ecology	22/02/2023	5719 HRA vf3/MRD/AB
Site Plan	22/02/2023	edp6170_d026b
Site Plan - Hard and Soft Landscape Design	22/02/2023	edp6170_d016i
Site Plan - Roundabout	22/02/2023	2001061-101 Rev - C
Site Plan - Access	22/02/2023	2001061-107 Rev - A
Woodlands Management Plan	22/02/20023	5719-SANGManPlan.vf2 MRD AB

REASON: For the avoidance of doubt.

NOTE 1 : Reason 5 relates to GCNs and common ground that GCN ponds were identified through the survey work completed with the application. Those ponds are likely to be affected by the development and either a Natural England licence is required to secure GCN mitigation. Or there is the option of a District Level Licence with Nature Space. Providing either is secured then Reason 5 will not be contested in any s78 appeal.

Reason 7 are matters that can be secured through an appropriate legal agreement and Statement of Common Ground. That being so, those reasons would not be contested in any s78 appeal. Reason 8 relates to the proximity of the site and in combination impacts on the Ashdown Forest, accepting that the part of the scheme includes an on site SANG. In the scenario that the SANG is considered to be acceptable, there is no mechanism in place to secure that SANG and its access in perpetuity.

Save for the reason 7 and 8 matters listed, and in the event of any appeal, the applicant is reminded of the clear advice in the Planning Inspectorate Procedural Guidance at but not limited to Annexe M.2.1 "If an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought".

Executive Summary

This is a hybrid planning application comprising: an **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 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 a **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.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the plan unless material considerations indicate otherwise. The current development plan for the area in which the application site is located comprises the policies of the Wealden Local Plan 1998 which were saved in 2007, the Core Strategy Local Plan which was formally adopted on 19 February 2013 and the Affordable Housing Delivery Local Plan adopted in May 2016.

The Council cannot demonstrate a five-year supply of deliverable housing land and there is a clear need for housing within the housing market area, including a need for affordable housing.

The site is contrary to Saved Policies GD2 and DC17 of the adopted Wealden Local Plan 1998, by virtue of its location in open countryside. These policies, which restrict development in the countryside, were based on an assessment carried out in 1998 of the housing requirements up until 2004. In the absence of a five-year housing land supply the effect of these policies, which seek to restrain new development to land within the settlement boundaries, would be to restrict the supply of housing and prevent local housing needs being met. On this basis the issue of housing delivery is considered to be a significant material consideration in favour of the application that outweighs the policy conflict with GD2 and DC17. On this basis, it is the officer's view

that very limited weight should be given to these two policies in the consideration of this application.

It is also the case that some aspects of this case should be afford positive weight in the balance: contribution towards housing land supply, plus other forms of housing also in need (affordable, custom and self build).

However, and for the detailed reason set out, the site is subject to nationally designated constraints in the form of Ancient Woodland and Veteran trees. There are irreplaceable habitats and despite vehement argument to the contrary, the scheme will lead to loss and deterioration of these areas. This disengages the presumption in favour of sustainable development as the NPPF says applications that affect these designations should be refused.

There are other aspects of this proposal which have drawn objection: access (vehicle) and then access for non-car modes, are poorly composed and are far from persuasive. Other aspects, drainage and surface water matters, effects upon ecology and protected species, lack information.

As will be set out, large parts of the site were the subject of a previous scheme refused by the Council and subject of multi week public inquiry (that also considered other land in Uckfield). Whilst that appeal was plainly some time ago and related to a larger site and form of development, it is clear that very many of the issues remain material to these deliberations. They have not been unaddressed and/or the scheme does not present a persuasive case to overcome these points. Whilst the site is reduced from that larger scheme, it also now includes a dwelling and its curtilage. That site has been introduced in order to try and address some of the earlier connectivity complaints and criticisms of development here. Except that site and area is wholly within Ancient Woodland. The case presented that primary pedestrian and cycling connections through this site can occur without harm to the Ancient Woodland is very highly optimistic to say the least.

There can be little doubt that since that appeal, policy and guidance relating to Ancient Woodland and other irreplaceable habitats is different. That difference is to present a much higher bar before development can proceed, with clear direction from Government that planning permission should be refused even where schemes will lead to *degradation* (let alone direct *loss*). Whilst there are exceptions to this, none are relevant or in play.

It is recommended that planning permission be refused.

1. Statutory Bodies and Residents - Responses

Officer comment – below is the headline position of those that have commented. This section of the report would ordinarily include detailed breakdown of comments received. However, that will add 100 pages to the report. As such, the full verbatim list of comments is a separate addendum to the document. It is however, confirmed that those submissions have been fully assessed in detailed deliberations.

ESCC Highway Authority OBJECTION

As submitted, the application for both the outline and full consent cannot be supported for reasons relating to:

1) All 3 accesses and accessibility measures for active travel cannot be accepted as being deliverable from both a design and highway safety perspective.
2) PRoW routes are inappropriate for everyday use as surfaces and gradients are unsuited to vulnerable users, prams/buggies, and require solid footwear.
3) The community transport option has received objection from the Passenger Transport Team, though there is a further option to explore and discuss.
4) Highway impact on the town centre roads has not been assessed
5) The scheme is detached from the urban fabric of the town, and this prevents any efficient connectivity to the local amenities

Southern Water Services *Summary:* One response (received 03.08.22) NO OBJECTION SUBJECT TO CONDITIONS

ESCC LLFA *Summary: Two responses (received 09.08.22 and 29.09.22* OBJECTION DUE TO INSUFFICIENT INFORMATION

Environment Agency *Summary: One response (Received 27.07.2022)* NO OBJECTION SUBJECT TO CONDITIONS

ESCC County Archaeologist NO OBJECTION SUBJECT TO CONDITIONS

Natural England *Summary: One Response (received 27.09.22)* ISSUES OF CONCERN

Sport England *Summary: One response (received 04.08.22)* NO OBJECTION

Woodland Trust *Summary: One response (received 20.09.22)* OBJECTION

Police (Crime Prevention) Summery : one response Come concerns about layout (or SANG car park)

Uckfield Town Council OBJECTION

Maresfield Parish Council OBJECTION

Buxted Parish Council OBJECTION

Isfield Parish Council OBJECTION

Fletching Parish Council OBJECTION

Sussex Fire and Rescue Services GENERAL COMMENTS

Nature Space Newts Officer OBJECTION

Sussex Wildlife Trust OBJECTION

Historic England OFFERS NO ADVICE

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. Please use local conservation advice.

Other third party responses (including local residents)

366 OBJECTIONS have been received. This includes detailed Local Member OBJECTION

These can all be seen on the on line case: https://rb.gy/gm5v4

Précis of issues raised:

- Site is located outside of the defined development boundary
- Adverse landscape impacts.
- Adverse ecological impacts.
- Adverse impact on Ancient Woodland
- Reduction of the important countryside gap between Uckfield and Maresfield.
- Access provision is inadequate.
- Traffic impact on the surrounding highway network would be unacceptable.
- Snatts Road is unsafe for pedestrians and cyclists.
- Insufficient infrastructure and services.
- Increase in noise, disturbance, air and light pollution.
- Adverse impact on public footpaths.
- Increase in traffic congestion in the town centre.
- Adverse impact on Lake Wood SNCI
- Development is poorly related to Uckfield and will function as a separate community, heavily reliant on the car.
- Adverse impact on residential amenities of properties at Budletts Common and along Snatts Road.
- Increased flood risk
- Uckfield does not need any more houses
- Many issues left over from previous planning appeal and public inquiry: not addressed by reduction in scale of development

2. Other Relevant Responses/Issues

WDC Conservation and Design Officer

Summary: *One response (received 13 September 2022)*

I consider that there would be a less than substantial harm to the significance of heritage assets through the proposed development within their setting. At present, in the absence of any mitigation evidenced in the indicative proposals, I consider that this would be at the higher end of less than substantial harm, though could be

reduced through more thorough and considered understanding of significance and amendments to the design in line with this understanding

WDC Drainage	OBJECTION
WDC Biodiversity	OBJECTION
WDC Housing	GENERAL COMMENTS
WDC Arbs and Landscape	OBJECTION
WDC/RDC Pollution Control	OBJECTION Insufficient information: Noise and air quality assessments are required.

3. Relevant Planning History

The site is part of a wider parcel of land that was promoted for development in 2006 under application WD/2006/2855/MEA. That was for a larger parcel of land and a more intensive form of development (750 dwelling, commercial development primary school, community hall, retail units and managed country park. That scheme was refused and subject of public inquiry, conjoined with two other sites at/on the edge of Uckfield at Bird in Eye. All three appeals were dismissed in 2009. It is material that the appeals were recovered by the Secretary of State who agreed with the Inspector that permission should be withheld for the then version of the Downlands development, but also the Bird in Eye sites.

Although the current site is reduced, there is overlap with areas of the Downlands site previously considered in the 2009 appeal. There is an additional parcel of land not previously included and that principally relates to Chicory Cottage and its curtilage.

Despite the passage of time and changes to planning policy, at local and national level, many issues remain 'live' from the previous appeal.

4. Details of Case

The Application Site

The Site comprises several parcels of land which combine to provide a total area of circa. 46 hectares (ha) to the north-west of Uckfield. It comprises a mixture of woodland and agricultural land, alongside the residential property of Chicory Cottage and its associated curtilage.

The Site is bound to the west by the A22, the principal road within the District which connects Uckfield to Crowborough (via the A26) to the north and then Hailsham to the South. The A22 provides a physical barrier to the settlement of Uckfield, which is located to the east of the Site.

The majority of the woodland on the Site, with the exception of the woodland within the north and southeast, is classed as Ancient and Semi-Natural Woodland. Two wooded ghylls provide natural divisions in the land here. Longwood Gill is a narrow

woodland strip with a stream, while Shermanreed Wood is slightly broader in width. There is a woodland belt along the A22 bypass to the west of an old carriage driveway. Part of the site adjoining Pay gate Wood and lower parts around Budletts Wood were laid out as parkland in the nineteenth century, when the land was part of the Rocks Estate.

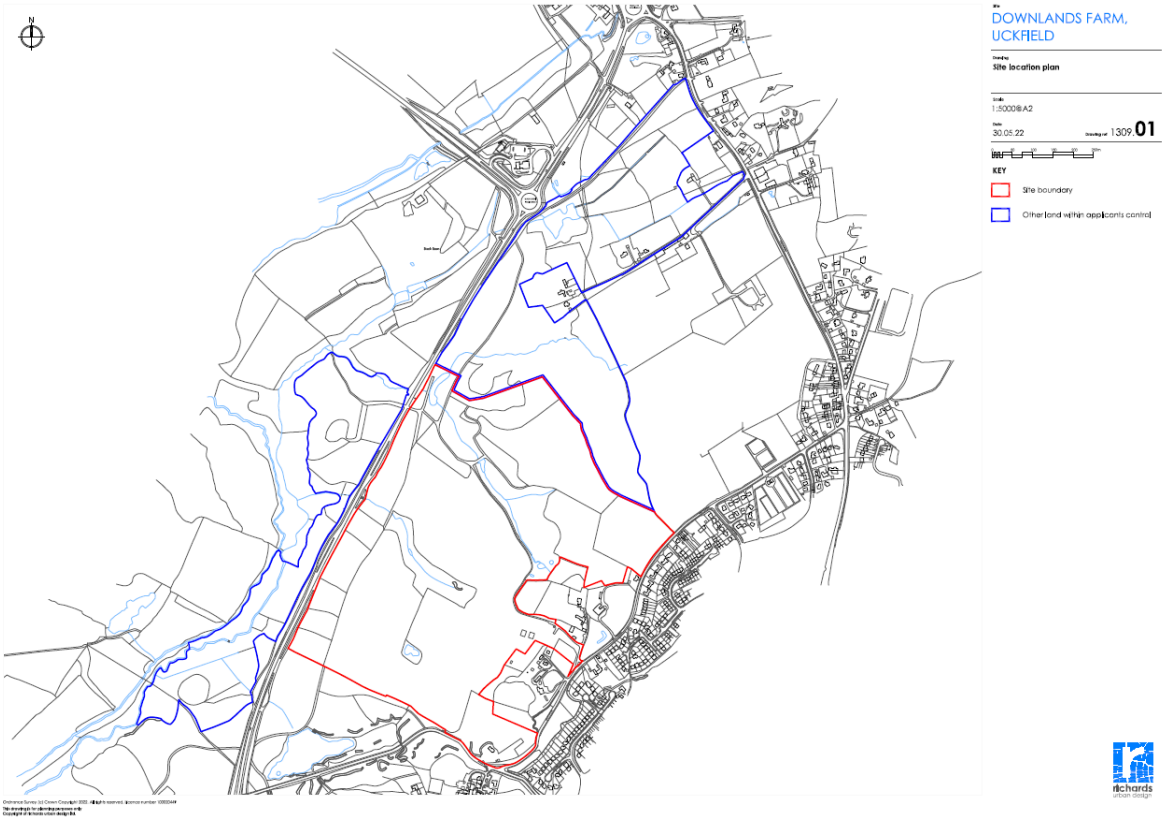
The agricultural land is largely confined to the south of the Site. With reference to the Department for Environment, Food and Rural Affairs (DEFRA) online Magic Map tool, the agricultural land on the Site comprises a mixture of Grade 3b and Grade 4 (i.e. not Best and Most Versatile (BMV) agricultural land).

The site slopes generally from east to west, from about 60 m. AOD at Snatts Road to about 25 m. AOD at the bypass. Owing to the ghylls, it has a rather complex detailed topography. There is no significant built development anywhere within the site boundary, although there are a few scattered, old established dwellings on the north side of Snatts Road. There others further north towards the area of Budletts Common but that is outside the current site area and denoted as within the applicant control (blue land).

There are no public rights of way within the Site itself, albeit one adjoins the eastern boundary of the Site with Snatts Road. This matter is of itself contentious with many representations commenting that public access into and across the site is long established and lawful. Using the County Council right of way map, then at the time of determination of this application, there are no public access rights across the Site.

The A22, where the principal access is proposed, represents a significant physical feature on the western side of Uckfield. West of it runs the Shortbridge stream, a tributary of the Sussex Ouse, which in turn is partly fed by the smaller streams within the site. North if it, and about 1 km. from northern parts of the site, is the village of Maresfield. East of that is the small scattered settlement of Five Ash Down. Both are separated from Uckfield by countryside.

The site contains several small ponds, some dug originally for sporting purposes. Immediately adjoining it to the south is Lake Wood, a SNCI (county site of nature conservation importance) with public access, which is managed by The Woodland Trust (an objector to the scheme). Other nearby SNCIs are west of the A22.



The Development Proposals

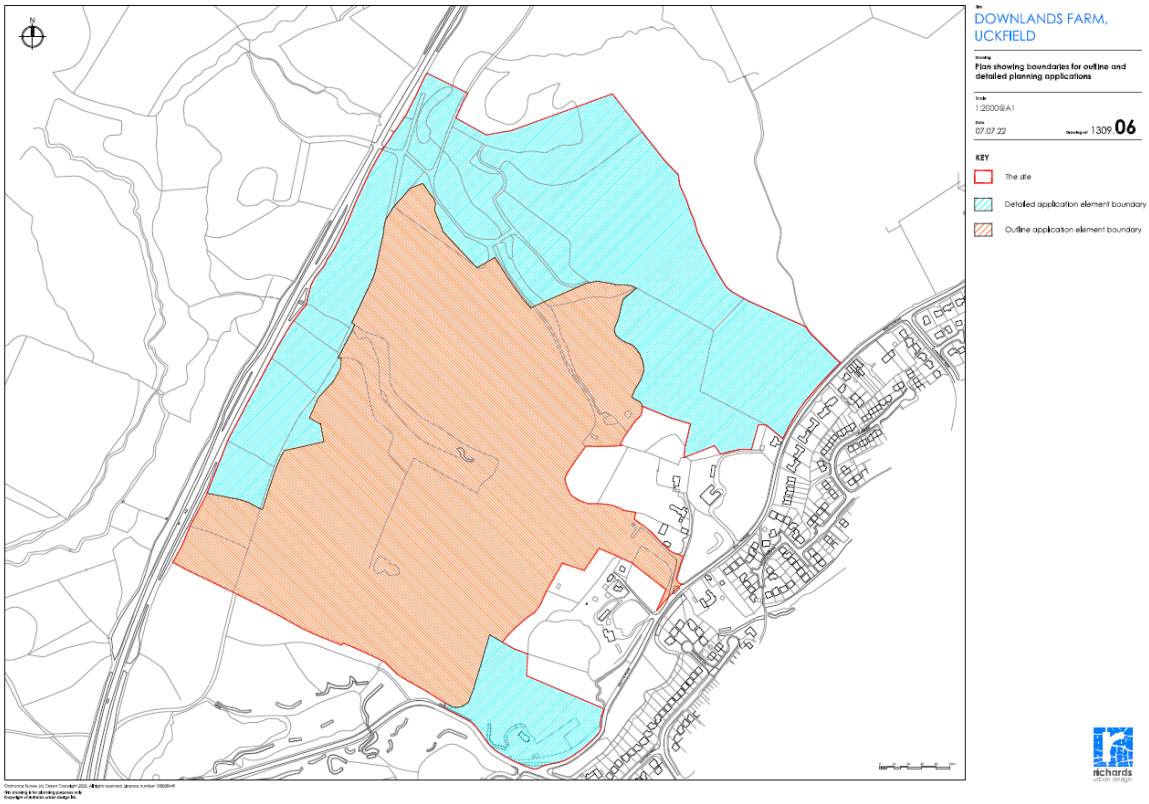
This submission is a Hybrid Planning Application comprising 2no. elements, these being the 'Outline' and the 'Full' (or Detailed) parts as follows:-

1. Outline Application (with all matters reserved except for access) is proposed for the erection of up to 424 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.

   The outline element of the application relates to the areas where built development is proposed across the site comprising the housing, access, road infrastructure, and green infrastructure provision.

2. Full planning application for the creation of a Strategic Suitable Alternative Natural Greenspace (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.'

The full element of the application relates to areas of the Site proposed for SANG the areas of Ancient Woodland proposed for management including the land at and surrounding Chicory Cottage (including the woodland of Fir Tree Grove) where a new pedestrian and cycle access is proposed



Site and breakdown of outline and full parts of proposal

The SANG area is located immediately to the north and north east of the development Site, and would occupy an existing open former pasture field, as well as Budletts Wood and part of Shermanreed Wood (which are both Ancient Woodlands) and areas of non- Ancient Woodland in the woodland corridor alongside the A22.

The key objectives of the SANG are to provide an attractive area for recreational use in its own right, to both offset visitor pressure on the SPA arising from the development of Downlands Farm as well as to attract existing residents through the provision of car
parking facilities.

The SANG would cover an area of 18.1 hectares and would include:

- A 2.3km circular walk,
- A new community orchard,
- Circa. 1.7 hectares of new woodland planting,
- 2no. car parks providing a total of 25 spaces.

The application is accompanied by an illustrative masterplan which sets out the parameters of the proposed development and demonstrates how the proposed development would be accommodated within the site.



The proposals have been the subject of a scoping exercise to identify the likely significant effects on the environment that may arise from the demolition and construction and operational phases of the Development.

A request for an EIA Scoping Opinion was submitted to WDC on 13 October 2020. The scoping exercise identified the topics considered likely to require assessment within the ES and those topics for which there would not be likely significant effects, that could therefore be scoped out of the ES. A copy of the EIA Scoping Report is attached at Appendix 2.1 of the Environmental Statement.

WDC adopted a scoping opinion on 30 November 2020 alongside further clarification on 11 December 2020.

Amendment to the Scheme

The application has been variously amended most recently on the 28 March 2023. The latest revisions were to add a Noise Assessment and Air Quality Assessment submitted in response to the comments of the Council Shared Service Pollution Control Team.

Elsewhere there have been addendum to the drainage scheme (but no substantive change to drainage), SANG layout, addendums to transport case and also the case regarding effect on Ancient Woodland.

Policy Framework

The Development Plan

The adopted development plan for Wealden District comprises the following documents:

- The Wealden District Council (incorporating part of the South Downs National Park) Core Strategy Local Plan adopted 19th February 2013 ('CSLP')
- The Wealden Local Plan (adopted December 1998) (Saved Policies) ('WLP').
- The East Sussex and Brighton & Hove Waste Local Plan (adopted February 2006) (Saved Policies).
- East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan (adopted February 2013).
- The Affordable Housing Delivery Local Plan (May 2016) ('AHDP')

The development Plan also includes three neighbourhood plans, but they are not affected by the appeal scheme and so not listed here.

CSLP – changes to WCS 12

On 28 March 2013 an application was made to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 challenging the validity of the CSLP on the grounds that it failed to comply with the requirements of Directive 2001/43/EC on the Assessment and Effect of Certain Plans and Programmes on the Environment and the implementing Environmental Assessment of Plans and Programmes Regulations 2004. This was dismissed by Order dated 21 February 2014. However, an appeal on 3 grounds was made to the Court of Appeal. On 7 October 2014, the Court of Appeal dismissed Grounds 1 and 2 relating to the housing numbers in the Core Strategy (original ruling was upheld) but allowed the appeal on Ground 32.

Ground 3 related to whether the Council had considered reasonable alternatives to the use of a 7km zone in relation to the provision of mitigation in relation to Ashdown Forest Special Protection Area (SPA). On 9 July 2015 in response to the Court of Appeal decision, the Council published changes to CSLP Policy WCS12 as directed by the Court of Appeal relating to Ashdown Forest SPA.

Prior to the Court of Appeal Judgment, Policy WCS12 provided that any net increase in residential development between 400m and 7km of the SPA would be required to mitigate its recreational impact through the provision of Suitable Alternative Natural Green Space (SANGS) and on-site visitor management measures. The reference to the 7km zone and the specific mitigation identified in this policy was removed. However, all relevant planning applications continue to be subject to the Habitat Regulations which protect the Ashdown Forest SPA.

The rest of the CSLP was unaffected therefore remains intact as part of the adopted development plan for the purposes of this application.

WLP Saved Policies

Certain policies of the WLP (1998) were 'saved' via Direction of the Secretary of State dated 25 September 2007, under the provisions of Paragraph 1(3), Schedule 8 of the Planning & Compulsory Purchase Act 2004.

Under 'saved' policies EN1 (sustainable development) and EN27 (layout and design) of the WLP 1998, the Council has also formally adopted the Wealden Design Guide, November 2008, as a Supplementary Planning Document. Some 'saved' policies

(and the Design Guide) continue to have material weight where they are in compliance with the NPPF and CSLP (having regard to paragraph 213 of the NPPF).

Relevant Development Plan Policies

The relevant development plan policies include:

- Saved Policies GD2, EN1, EN2, EN8, EN12, EN14, EN15, EN27, EN29, DC17, HG5, HG6, HG7, TR3, TR13, TR16, LR1, LR3, LR5, CS1, CS2, CS3, CS4 of the adopted Wealden Local Plan 1998 (WLP).

- Policies WCS1, WCS2, WCS3, WCS4, WCS5, WCS7, WCS12, WCS13 and WCS14 of the adopted Wealden Core Strategy Local Plan 2013 (CSLP).

- Policy AFH1 Affordable Housing Delivery Local Plan 2016 (AHDLP)

National Planning Policy Framework (NPPF)

The latest iteration of the National Planning Policy Framework (NPPF) came into force in July 2021 and is a material consideration in assessing and determining planning applications. Due regard has been had to any relevant national policy guidance, in particular paragraphs 2, 8 10, 11, 12, 38, 47, 55, 56, 57, 60, 63, 65, 73, 74, 77, 90, 92, 93, 95. 97, 98, 100. 104, 106, 110, 111, 112, 119, 120, 124, 130, 131, 134, 153, 154, 159, 165, 166, 168, 174, 176, 179, 180, 182, 183, 185, 194, 195, 218 and 219 of the NPPF.

Draft Wealden Plan

The Council had produced a new draft Wealden Local Plan which was submitted to the Secretary of State on the 18 January 2019 for examination. The Examination Hearings began on the 21 May 2019, but at the rise of Stage 1 of the Examination, the Inspector declared the plan to be unsound. It was withdrawn by the Council in early 2020.

Work has begun on a new Local Plan. A ‘Direction of Travel’ consultation took place between 23 November 2020 and 18 January 2021. The Local Development WDC Scheme projected consultation on a Regulation 18 draft Local Plan in spring 2022. Although large sections of the Plan are drafted in response to the Direction of Travel consultation, the Regulation 18 draft is delayed by issues that have arisen nationally in respect of housing numbers and potential revisions to the NPPF.

Principles of Development

The site lies outside the development boundary as shown on the 1998 Wealden Local Plan, Proposals Map 53 where development is resisted in accordance with saved policies GD2 and DC17. In this context the Council notes that Core Strategy Policy WCS2 in the CSLP states that land will be allocated at Uckfield for an additional 1000 dwellings up to 2027. The policy then goes on to confirm that broad locations for housing development are indicated on the Core Strategy Key Diagram but that individual sites to meet these housing provisions will be allocated in the Site Allocation DPDs There is no Site Allocations DPD. The Key Diagram (and Fig 6 on page 38 of the Core Strategy) shows a ‘pink blob’ which represent the said broad

locations. This is to the west of Uckfield abutting the A22 and futher south form the Downlands site and is the former Ridgewood Farm site. It is material that planning permission has been granted for a mixed use scheme here including up to 1000 dwellings, coupled with a school site, employment floor area but also retail uses. Application WD/2015/0219/MEA on the 24 March 2016. Subsequent Reserved matters have been approved the first two phases of development and c.200 dwellings are on site, coupled with key infrastructures such as two new roundabouts and a cross site linking road.

The settlement or development boundary of Uckfield was not extended or changed in the Core Strategy, this being a matter left for later review within subsequent DPDs (see CSLP 6.11(2)). As of today, and notwithstanding attempts, no such review has occurred.

It is correct that the 1998 LP development boundaries have to be breached in order to deliver growth. That has happened including at Uckfield, not least with the Ridgewood Farm proposals (SD1 of the CSLP refers). The CSLP confirms that development boundaries are used to define built up areas (within the development boundary) and the countryside (outside the development boundary) and that in principle development in the countryside is subject to greater restrictions, to preserve the character of the rural area.

The CSLP therefore seeks to support appropriate development within the built up area contained within the Uckfield development boundary.

The applicants rely heavily upon a case that the development plan does not deal with sufficient growth and also that other sites locally and elsewhere have been approved outside development boundary locations. It is correct that has occurred, though there are few – if any – comparable sites with the constraints that existing at Downlands. Certainly the circumstances are different and should not be regarded as some form of precedent for approval. However, as a starting point for consideration, it is a fact that the application site lies outside the development boundary.

To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 – these provisions also apply to appeals). The application must be refused unless material considerations justify taking a different view.

Housing Land Supply

Paragraph 74 of the NPPF requires local authorities to identify a supply of specific deliverable sites to provide a minimum of 5 years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than 5 years old. The five-year supply of sites additionally requires a 5% buffer to ensure choice and competition in the market for land, 10% where the local planning authority wishes to demonstrate a five year of deliverable sites through an annual position statement or recently adopted plan to account for any fluctuations in the market during that year.

Importantly, where there has been a record of persistent under delivery of housing through the Housing Delivery Test (HDT), local planning authorities should increase the buffer to 20%.

The latest national Planning Practice Guidance (PPG) states that for local planning authorities that deliver less than 85% of their identified housing requirement, a 20% buffer would then be added to their housing land supply position, with immediate effect from the publication of the HDT results. Only a 5% buffer would apply where the local planning authority has results of at least 85% for its HDT measurement and where they are not seeking to demonstrate a five year housing land supply position.

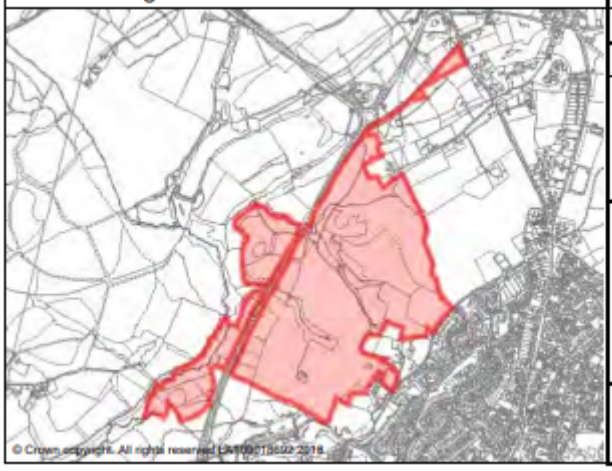
The government has recently published its HDT results for 2021 and this confirms that Wealden District Council had a result of 82% against its housing requirement. The implications of this result means that the local planning authority is required to use a 20% buffer for its five year housing land supply position. As set out in the Five Year Housing Land Supply Statement as of 1st April 2022, published December 2022, the Council confirmed there are 5,706 (net) dwellings on identified sites that are considered available, suitable and available now for the five year period, which is some 1,556 (net) dwellings less than the 7,272 (net) dwellings required to be deliverable (inclusive of a 20% buffer). This equates to 3.92 years (or 78.5%) of housing land supply

Paragraph 11d of the NPPF advises that where there are no relevant development plan policies, or the policies which are most important for determining the applications are out of date which includes applications for housing where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework take as a whole. The presumption in favour of granting planning permission under Paragraph 11 of the NPPF does not automatically apply where Footnote 8 of the NPPF applies, and policies of the NPPF provide a clear reason for refusal. However, the shortfall in the supply of housing land is a material consideration that weighs heavily in favour of allowing the proposed development.

Prematurity

The Strategic Housing and Economic Land Availability Assessment January 2019 (SHLAA) assessed the suitability, availability and achievability of all sites submitted to the Council for development up until 15th November 2018. This helped to inform the choice for broad locations for housing development and inform the Sustainability Assessment for the Submission Wealden Local Plan.

The application site was considered as part of a much larger land ‘offer’ in that process though deemed to be an unsuitable site in the Wealden SHELAA January 2019 under site reference 137/1410

Plan showing whole extent of submitted site	Site Reference: **137/1410**
	Settlement: Uckfield
	Parish: Uckfield
	Address: Land at Downlands Farm, Snatts Road, Uckfield
	Suitable for housing?: No Suitable for employment: No Site available: No Site achievable: Site Conclusion: Not suitable
	Site area (ha) Gross: 72.66 Site area (ha) Net: 0

It was recorded that :

This is an area of attractive rural landscape on the fringes of Uckfield, containing much ancient woodland. Development of the site would entail considerable adverse landscape impact and would compromise its nature conservation integrity and biodiversity interests. In addition, development of the site is unacceptable on transport sustainability grounds and because of its relative inaccessibility from the town centre. The site was also subject to an appeal which was dismissed by the Secretary of State in 2008 due to specific site constraints.

Following the withdrawal of the Submission Wealden Local Plan (January 2019) in February 2020, the Council has begun work on the new Wealden Local Plan. As part of this process, the land availability evidence is being updated, which will include a review of all sites previously submitted to the Council and any new sites. The Strategic Housing and Economic Land Availability Assessment (SHELAA) will provide up-to-date evidence on the availability of land for new development within the District, to support the development of options for consideration later in the Local Plan process. It will be used as an aid to plan making, but does not in itself determine whether a site should be allocated for development. Once the assessment is finalised it will be used to assess the relative merits of the most suitable, sustainable and deliverable sites in order to establish which sites should be put forward for allocation.

The new local plan will have to contemplate significantly higher housing requirements than those within the withdrawn local plan. The strategic options as to where development should be accommodated within the District will be considered as the new local plan progresses, however whether or not the site is proposed as an allocation in the new local plan, having regard to the overall quantum of housing development that will be required across the district, it is considered that having regard to test (a) under paragraph 49 of the Framework, a grant of planning permission for 424 dwellings would not undermine the plan making process for the new Local Plan by predetermining decisions about the scale, location or phasing of development that are central to it (para 49 (a) refers).

Following the withdrawal of the SWLP it is not necessary to consider test (b) under paragraph 49 of the NPPF

It is therefore concluded that approval of the case, all other matters being equal, is in compliance with the NPPF regarding prematurity.

Impact on Ancient Woodland

The site includes extensive areas of Ancient Semi Natural Woodland and veteran trees. The ancient woodland sites are designated as a mix of ancient semi-natural woodland (ASNW) and plantation ancient woodland sites (PAWS) on Natural England's Ancient Woodland Inventory (AWI).

Paragraph 180(c) of the NPPF clearly advises that 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. Footnote 63 explains wholly exceptional reasons which are identified as being infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills) where the public benefit would clearly outweigh the loss or deterioration of habitat. This application does not include those exceptional works/circumstances.

Saved policy EN13 of the Wealden Local Plan 1998 states that the Council will resist development proposals that involve the clear felling or otherwise prejudice the ecology of the Ancient Semi-Natural Woodlands.

The development proposed as part of this application would involve the creation of a new residential development of a significant size and scale (400+ dwellings). Where development is sited in close proximity to ancient woodland there is the potential for the woodland and its wildlife to be adversely affected by this change of land use and the associated impacts of increased activity. This application has the potential to impact on several areas of ancient woodland, resulting in their long-term deterioration. We consider that the following areas of ancient woodland could be subject to adverse impact:

- 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)

Natural England and Forestry Commission have identified impacts of development on ancient woodland or ancient and veteran trees within their standing advice. This guidance must be considered the Government's position with regards to development impacting ancient woodland. It is material that Natural England has set out concerns, the Forest Commission object as do the Woodland Trust. Locally, the District Council ecologist and arboriculturist object and the Sussex Wildlife Trust, a rule 6 party to the early appeal, also object.

It must be recognised that the entirety of the site, from ancient woodland to ghylls to grassland are intrinsically linked at an ecological level. This landscape of natural

habitats and their wildlife populations are functionally dependent on each other. Below we have set out our main areas of concern in respect of ancient woodland.

The proposals involve the provision of a surface water drainage works within, close to (in buffer areas) and through the protected area. There are no wholly exceptional circumstances suggested which would justify the proposal and even if there were there is no suitable compensation strategy proposed. The Standing Advice is clear that decision makers 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

There scheme is lodged with hydrology assessments that purport to set out why there would be no impact upon ecology and water table. It is the subject of objection and dispute, in some cases by professionally prepared objections.

Standing Advice refers to buffer zones and accepts they can protect ancient woodland and individual ancient and veteran trees and provide valuable habitat for woodland wildlife, such as feeding bats and birds. 15m is the minimum distance but 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

Of course the previous inquiry debated direct and indirect impact upon Ancient Woodland and as staged, for a much larger site and proposal. The Inspectors Report at para 730, is clear that “However, from the evidence of several other parties I have quite serious reservations about the long term integrity of the AW on and nearby the site, if for any reason any future protective management regime should prove insufficiently effective. And I also have general concerns about the future of protected species. Unless the Secretary of State is minded to place great credence, and weight, on the claimed conservation benefits of the scheme, she might conclude that these amount to unnecessary risks, which are not worth the taking”.

Since then and that appeal, the tests in policy and guidance for irreplaceable habitats can only be described as becoming firmer and more restrictive.

The site is very clearly a remnant from a much larger wooded area that is long since removed to facilitate other land based activity. There can be little doubt that the site has pockets of Ancient Woodland; Lake Wood in the south- west, Fir Tree Grove in the south-west, the long thin area of Shermanreed Wood and then Budletts to the north. There variously shape or frame open areas. However they are very clearly a network of woods, in parts fragmented from one another though connected in other

ways. Though there is no clarification of what 'steeply sloping' means in the context of the Standing Advice, the site has a very pronounced change in levels. None more so that in Shermanreed Wood with its gyll streams and attractive levels changes. There are arguments to the contrary, but the conclusion is that parts of the site are steeply sloping. Lastly, the scheme proposes 424 houses in the immediate context and vicinity of the ANSW. That is very clearly close to residential areas and a further aspect to the urbanisation of the ANSW edge.

The main pedestrian connection (with cycle links too) to the site is through the site known as Chicory Cottage and its associated curtilage. That site is within the Fir Tree Grove though the case presented, précis, is that the Ancient Woodland is already disturbed. Elsewhere the SANG and circular walk are within Budletts Wood and Shermanreed Wood and the applicant goes to great lengths to explain that the routes abuts but is not within the woodland, or where it does cross into the Ancient Woodland there is an established paths already in place.

SANG Non Ancient Woodland - There can be little doubt that the SANG is for the most part well within the (minimum) 15m buffer from Ancient Woodland and the Standing Advice says this is only acceptable if the habitat is not harmed by trampling. This is not explained any further but it seems clear that the type of access envisaged is occasional and say incidental to wide management. A strategic SANG with associated major increase in footfall is not that. It seems trampling has to be accepted as a direct consequence of the application proposal.

SANG within Ancient Woodland - the SANG does loop up into Ancient Woodland but argues it affects parts that are already disturbed. It is clear the Standing Advice maintains that where a proposal involves the loss of ancient woodland, you should not take account of the existing condition of the ancient woodland when you assess the merits of a development proposal. Its existing condition, regardless of quality, is not a reason to give permission for development. Even if that is in doubt, given the nature of SANG – the principle being that SANG was first introduced as a means of diverting people away from sensitive habitats – the use (and therefore potential damage) of ancient woodland for this purpose is inappropriate and must be avoided.

This is supported by wording within the 'Guidelines for creation of SANGS' document produced by Natural England, which states: "*The identification of SANGS should seek to avoid sites of high nature conservation value which are likely to be damaged by increased visitor numbers. Such damage may arise, for example, from increased disturbance, erosion, input of nutrients from dog faeces, and increased incidence of fires. Where sites of high nature conservation value are considered as SANGS, the impact on their nature conservation value should be assessed and considered alongside relevant policy in the development plan."*

Pedestrian route through Chicory Cottage and curtilage – the applicants case is that the site is already disturbed. The route through seeks to demonstrate least amount if direct impact on the ground (boardwalk and uses disturbed areas. However, the Standing Advice already quoted) is clear that the existing condition of the woodland d should not weigh in the balance of whether planning permission should be granted. There also seems to be a basic mismatch with the concept of the primary access for pedestrians and cyclist through the ancient woodland here. The frequent comings and goings, use and activity, lighting etc. are indicative of urbanisation features that

all guidance says should be avoided rather than allowed through such an irreplaceable habitats.

The applicant is clear there are veteran trees on site and these are listed in the supporting documents. Given the number of dwellings proposed this would lead to future occupiers using the ancient woodland as amenity space, resulting in indirect impacts from trampling, understorey clearance and recreational pressure, as well as the risk of the new formation of new informal access points, increased disturbance to wildlife, potentially damaging impact from the promotion of non-native plan species and the predation of domestic pets. The application would likely cause the direct effects listed in the Standing Advice which decision makers are told to avoid in regard to veteran trees. Namely:

- damaging or destroying all or part of them (including their soils, ground flora or fungi)
- 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
- increasing levels of air and light pollution, noise and vibration
- changing the water table or drainage
- damaging archaeological features or heritage assets
- changing the woodland ecosystem by removing the woodland edge or thinning trees - causing greater wind damage and soil loss

Due to the close and lengthy interface between the existing Ancient Woodland habitat and the proposed development, the site has all the hallmarks and qualifying conditions justifying a much deeper buffer to protect the irreplaceable habit and veteran trees. It does not have that. In this regard reference to current Standing Advice recommends, in cases where impacts such as the significant increase in traffic and the effect of air pollution occurs, a larger buffer zone would be required. Given that at present there is no vehicular activity at all within this site, the effects during and post development would be immediate and sudden. A larger buffer zone would temper this abrupt change. The Woodland Trust has identified a number of cases where larger buffer zones were supported, ranging from 50-200m in the UK, to mitigate against effects such as noise, light, vehicle emissions, the transmission of garden waste and invasive species, all of which are relevant in this case.

Instead, the scheme has minimum buffer of 15m and that buffer is key to demonstrating the quantum of growth sought in the proposal. Put another way, a deeper buffer would call into question the ability to deliver 424 homes and associated facilities and SANG.

There is separate impact (considered elsewhere in this report), relating to drainage proposals: all which further compromise Ancient Woodland.

There can be little doubt that the Ancient Woodland here is under threat directly and indirectly from the application scheme. It should be noted, again, that the NPPF and the Standing Advice on ancient woodland and veteran trees is materially different than when the SoS considered the previous appeal. The proposals do not represent an infrastructure project where the public benefit would clearly outweigh the loss or

deterioration of habitat. On this basis alone, and in the absence of any wholly exceptional reasons, the application should be refused.

The development proposal would harm the ancient woodland, placing it in conflict with saved policy EN13, Policy WCS12 of the Core Strategy as well as the NPPF and Natural England's standing advice on Ancient Woodland.

Landscape and Visual Impact

The scheme includes a Landscape Visual Impact Assessment (LVIA) which is Environmental Statement (ES) Chapter 6: Landscape and Visual, and associated appendices.

The open parts of the site are agricultural land classified as Grade 3b

The earlier Inquiry considered in significant detail, the effect of development on the landscape. There were concerns by the Inspector, set out IR para 690, which were clear that that version of the Downdlands development would have a far greater and more harmful impact on landscape than the Bird in Eye sites (considered contemporaneously). The inspector was clear that this would be contrary to relevant development plan and other policies. In his judgement, this amounts to a major planning objection to that scheme; sufficient, even on its own, to justify refusal. However, there can be little doubt that the reduction on the scale of development coupled with the concentration of housing on the open parts of the site have tempered the effect on the landscape. Whilst the roundabout access on the A22 is back in as part of the scheme and thus was considered to affect the tree lined edge of Uckfield and the A22, more development has occurred along the A22 at Ridegwood Farm (including a new roundabout now as 'Owlsbury') and the other side of the A22 at Copwood roundabout. Furthermore, and again the other side of the A22, is the Ashdown Business Park, which although an allocation in the 1998 Plan and therefore material to deliberations in the 2009 appeals, the site has since been built out. The large commercial units and associated activity affect appreciation of the landscape here.

The LVIA sets out the baseline for the site and surrounding area broadly comprises gently sloping country of low ridges and wider valleys covered by a pattern of streams and woods. Tranquillity is reduced by noise from the adjacent A22, reducing with distance, and limited inter-visibility to the settlement edge from the eastern area of the Site, which varies across due, primarily, to intervening vegetation.

The Site is visually very well contained due, primarily, to the surrounding woodland and the well wooded gently undulating nature of the wider context which provides few opportunities for views into the Site beyond the distant elevated tops and facing slopes of the High Weald AONB, which is located to the north of the Site.

It is difficult to go behind these conclusions. What does remain as a surviving concern from the earlier appeal is the previous conclusion that the Downlands site "suffers from a major disadvantage, in terms of the landscape setting and urban morphology of Uckfield, compared with BIEN and BIES. I think this is readily apparent from even the most cursory look at a 1:50,000 or 1:25,000 OS map, especially when imagined in 3 dimensions. It is that the Downlands scheme would "spill out" into a new and relatively pristine area of countryside, over the long

topographical ridge which follows approximately the line of Snatts Road, thereby breaching an important natural (and defensible) boundary to Uckfield. Instead of facing the town, it would look towards the adjacent countryside and the more distant AONB" (IR 678).

Whilst this issue remains is linked to connection of the site to the town and key day to day facilities (or lack of of) rather than a landscape criticism of itself.

Consideration of Statement of Heritage Significance

Below ground

ESCC archaeologist has confirmed he is satisfied that no further pre-determination archaeological investigation would be warranted. However, a number of magnetic responses could be of archaeological origin and there remains a risk that archaeological heritage assets of local or regional significance may exist and it would be appropriate, in line with standard practice, to test the geophysical survey results by intrusive investigation.

In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss.

Above Ground

The Council has a duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990). This requirement is reinforced by the National Planning Policy Framework (NPPF), which at Chapter 12, sets the national agenda for 'Conserving and enhancing the historic environment'. This, in particular requires the significance of any heritage asset to be identified and assessed that may be affected by a proposal (including by development affecting the setting of a heritage asset) and for this to inform future change in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Whilst the scheme is supported by heritage submissions, it is considered that the Archaeological and Heritage Assessment (AHA) is rigorous enough to support its conclusions, particularly in respect of impact on the former Downlands Farm group, but also in respect of the setting of Buckwood Grange which shares an historic relationship with the land within the site, as well as Downlands Farm, the former Bridge Farm (now Downlands Farm Cottages) and Lake Wood which represents part of the designed landscape immediately adjoining the site.

The background set out for the period 'Post-medieval to Modern' within the AHA does not reflect a good understanding the inter-related and evolving mosaic of uses within the former Rocks Estate associated with Buckwood Grange; nor does it show any informed understanding of Downlands Farm, in terms its relationship with Bridge Farm, Downlands House and Gormanston. Whilst the site and its surroundings were

all part of the same owner's landholding, the nuances in terms of how the different uses were related both physically and through association, appear to matter in terms of the contribution that setting makes to their significance. The change over time (or lack thereof) does not appear to be generally well understood – for instance, the evolution (and fragmentation) of the wider Downlands group has not been well understood throughout the 20th century – and therefore cannot inform the understanding of significance of the assets. As a result, it is difficult to see how this could have led to reasonable conclusions about what contributes to significance via setting (without understanding what parts of the surroundings have historically mattered), or how that significance would be impacted through further change.

In respect of the Downlands Farm grouping there is still evidence of a metalled farm track adjoining the former farm buildings – which have readily identifiable and locally distinctive farm typologies – directly linking the farm group and the open fieldscapes to which it is historically related. Whilst not presently a public right of way, it is clearly well-used and easily accessible in its current form. The proposals to provide a public route through the planted 'buffer' which is suggested to adequately protect the setting of these assets, would in fact introduce new experiences of the assets. As regards the conservation of heritage assets, there is an obligation not to prejudice understanding of its significance for future generations. The buffer, read in the context of parkland style planting and suburban housing development, has no meaningful contribution as the farm buildings will no longer have any tangible relationship to nearby open land (only woodland and modern development). The most common experience of them would be from within this new context, of which the ANA demonstrates no understanding.

The layout proposed closest to the farm and directly at the end of the former track is perhaps the most suburban in form and quality and would introduce adverse change within a portion of the asset's setting which in my view contributes positively to its significance. At paragraph 5.3 the conclusion that '*this change would be so peripheral to the current experience of the listed buildings, that the implementation of the proposed development would nonetheless preserve the character of* [their] *settings*' clearly demonstrates the inadequacy of the assessment. It also demonstrates no understanding of the experiential qualities of the rural area, which have the potential to be eroded through increased vehicle movements, parking, activity and lighting, in addition to visibility of the development.

In respect of Buckwood House, there is a legibility that the land to the north of Rocks Road, encompassing both Lake Wood and the grounds surrounding Chicory Cottage, formed part of the wider landscaped setting of the house. Historically, a footbridge crossed over the road joining the ornamental grounds surrounding the house with the woodland walks beyond, in the immediate vicinity of the site boundary. Portions of Rocks Road and Snatts Road retain historic stone boundary walls enclosing Lake Wood and Fir Grove (now associated with The Quarry House) which add to the legibility of these historic relationships, and historic maps show clear historic routes through these parcels of land which connect with routes in the parkland and gardens surrounding the house, including the existing gated entrance track to the Woodland Trust's land.

The relatively tranquil experience of moving through the landscape associated with Buckwood Grange has the potential to be irreversibly altered by the noise, activity and visual qualities of modern housing development immediately on its edge. I note

that the settings assessments were carried out in the summer of 2020 and 2021, with no real appreciation for potential effects of such large scale, and closely sited areas of development with regard to seasonal or diurnal changes, as well as the effects of topography in this location in particular. The land within the site has historic associations with both Downland Farm and Buckwood House as part of its wider estate, though the latter is only very briefly acknowledged. In my view, the agricultural land would have played an important role in the setting of the parkscape and how it was appreciated as part of the ornamental and pleasure grounds of the house, and was incorrectly dismissed from further assessment as part of the AHA. As a result, the proposals within Fir Tree Grove at the south-eastern extent of the site, appear to pay little regard to the character of the landscaped grounds surrounding Chicory Cottage, or the serpentine woodland walks which historically traversed the woodland, opting instead for an overtly straight path and what appears to be highly engineered interventions within the woodland. This appears to be the only driver for demolition of Chicory Cottage, which retains some historic visual character and as the former butlers house to Buckwood Grange, further evidences the intrinsic historic relationships, and could continue to do so. It is clear that an understanding of significance has not informed the proposals here, nor have opportunities to enhance or better reveal significance been taken.

There is no reason to disagree with the finding of less than substantial harm, at the lower end of the scale, to the Maresfield Conservation Area (as set out in paras 5.35-5.46 and 6.7-6.9).

Having reviewed the extensive planning history, the conservation officer agrees that the heritage sensitivities here are unlikely to be prohibitive to development alone. However, at Paragraph 206, the NPPF requires Local Planning Authorities to look for opportunities for new development within the setting of heritage assets to enhance and better reveal their significance. It is not considered that a proper understanding of setting and significance, and consideration of the wider relationships between the assets, offers an opportunity to reflect the NPPF's design objectives (Paragraph 130), as well as respond positively to the setting of, and perhaps enhance the significance of, the heritage assets.

Taking this into account it is considered that there would be a less than substantial harm to the significance of heritage assets through the proposed development within their setting. At present, in the absence of any mitigation evidenced in the indicative proposals, it is considered that this would be at the higher end of less than substantial harm, though could be reduced through more thorough and considered understanding of significance and amendments to the design in line with this understanding.

The NPPF recognises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. Great weight should be given to the conservation of designated heritage assets, including any harm or loss of significance through development within their setting. The NPPF also places great importance on development being of good design and responding to local character to ensure the integration of new development into the existing environment. Where harm is considered to be less than substantial, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. It is not considered that any heritage benefits would arise from the present scheme, nor that planning conditions could be capable of sufficiently mitigating that harm.

The wider public benefits matters could include the delivery of housing on a site that is ready and available. However as this report has demonstrated the delivery of that scheme presents enormous challenges in regard to Ancient Woodland, access and connectivity. If the only benefits of the scheme are laced and intertwined with those harms, then the less than substantial harm is not outweighed. Therefore, the scheme would not satisfy the aims of the National Planning Policy Framework as regards the conservation of heritage assets, nor would it 'preserve' the significance of the listed buildings, including one grade II* listed building and two grade II listed buildings. It is a further reason for refusal in this case.

Traffic Impact and Access

Primary vehicle access to the development will be provided at the south western edge of the Site, via the A22. The proposed access will be in the form of a new roundabout. An emergency vehicle access point will also be provided at the northwest of the Site, via the A22.

Internal vehicle circulation routes will also provide internal vehicle connection through the Site and provide access to the proposed built development areas.

Access to the Site for pedestrians and cyclists will be from Snatts Road and Rocks Road to the east of the Site and from A22 to the west of the site. The Development will provide an integrated network of footpaths and cycle routes through the Site, and include new connections and enhancing some parts of the existing local walking and cycling network.

The proposed SANG area will allow residents and other visitors to walk a network of waymarked paths around the surrounding countryside and will be served by two small car-parks, one off Snatts Road and one in the development itself near the A22.

Up to a total of 880 parking spaces will be provided as part of the Development, which will include 85 visitor parking spaces. Parking spaces will be provided across the Site in a mix of private drives, garages, parking courts for the residential apartments and on street parking. The SANG will also include two small car parking areas (similar in area and capacity to the Horsted Pond SANG and off Hosted Lane, Little Horsted).

The current application is accompanied by a Transport Assessment, versions of Safety Audit and Travel Plan.

It should be noted that the Highway Authority Assessment, which is lengthy, robust and has been ongoing for some considerable time, is a stand alone document in itself. Their assessment and appraisal of all matters is 30 pages focussed exclusively on the highway assessment. It cannot be repeated here due to excessive bulking of this report. Instead, the summary is best reproduced here.

It is considered that even with the mitigation proposed being achievable, the site is standalone and detached from the town and does not form linkage or any cohesive continuity to the urban form to relate in transport terms. The quoted distances for walking are not measured to the illustrated dwellings located furthest away which would be expected to walk a further 500m+. When considered against the ease of

access in terms of reaching the major road network by car, this is likely to be the favoured option. The provision of pedestrian/cycle access from the position of Chicory Cottage requires prominence of the access in the largely rural setting, speed limit reduction and character change to raise awareness to drivers that there is frontage and active movement on carriageway edges and pedestrians crossing the road, though even with this point of access, the continuation of the route towards the town centre via Church street has narrow footways with an elevated section, areas of narrow carriageway and limited places to cross. That is not to say that some sections are unsuitable, but that the route does not offer a consistent good standard, for what is likely to be a 30-minute walk.

As submitted, the application for both the outline and full consent cannot be supported for reasons relating to:

1) All 3 accesses and accessibility measures for active travel cannot be accepted as being deliverable from both a design and highway safety perspective.
2) PRoW routes are inappropriate for everyday use as surfaces and gradients are unsuited to vulnerable users, prams/buggies, and require solid footwear.
3) The community transport option has received objection from the Passenger Transport Team, though there is a further option to explore and discuss.
4) Highway impact on the town centre roads has not been assessed
5) The scheme is detached from the urban fabric of the town, and this prevents any efficient connectivity to the local amenities

The issue of connection of the site to the town and key facilities was given much air time at the earlier inquiry. This need not be repeated in full here but the Inspector did conclude that “Downlands would not be nearly so well connected with Uckfield town centre for pedestrians and cyclists, as its proponents claim. I think it self-evident that this would only tend to increase car-use at the expense of these other modes, whose use is in general strongly encouraged by relevant national and local policies. That tends to undermine Downlands’ claim of not being excessively car-dependent. The other main factor which, to my mind, tends to increase the likelihood of car-dependency at Downlands is its considerable ease of access by car onto the A22 Uckfield by-pass, and thence on to the wider road network, or into Uckfield town centre” (IR 749-750).

Housing

The supporting documentation states that the indicative mix for the market housing is based on the sizes suggested in the Council’s Strategic Housing Market Assessment 2016.

The Development will provide 424 residential dwellings (Use class C3), and the exact mix of dwellings will be determined at the reserved matters stages. The Development will provide a mix of housing and includes a variety of dwelling types and sizes with a mix of market, affordable rental and intermediate housing. The Development could provide up to 35% affordable housing. The indicative mix is shown as follows:

Type of dwelling	Total Units
1 Bedroom Apartment	102
2 Bedroom Apartment	64
2 Bedroom House	96
3 Bedroom House	113
4 Bedroom House	33
5 Bedroom House	16
Total	**424**

The current proposal includes the provision of 64 x 2 bed flats which causes concern to the housing team. They suggest that this number is significantly reduced and replaced with 2 bed houses or that they are used for the First Homes or shared ownership units. This is because many of the households eligible for 2-bedroom properties through the housing register include young children for whom flatted accommodation is less suitable, in addition to this 2- bed flats for rent are becoming increasingly difficult to let in the district and so there may be issues in securing a Registered Provider partner willing to take on these units. Overall, however its not a matter that goes to the outline scheme as it can be controlled at reserved matters.

WDC Housing support the application. The provision of affordable housing, delivered as part of a mixed scheme with 65% open market units, coupled with 5% for custom and self build, is a matter that must be afforded significant weight in favour of the grant of consent. However, there is no legal agreement lodged or concluded on this matter

Layout and Design

The scheme is hybrid. The outline aspect, essentially the residential component, all matters are reserved other than access to the site (i.e. appearance, landscaping, layout and scale), the detailed position of particular buildings, internal roadways, parking, amenity space or proposed planting are all matters for later consideration. In terms of these aspects, this application simply has to demonstrate whether the quantum of development proposed, accessed from the locations detailed can be adequately accommodated within the constraints of the site.

An illustrative masterplan indicates one possible option of how the site could be developed which is shown below.



As layout has been reserved for future consideration through the submission of Reserved Matters, the merits of the illustrative layout are not considered in detail in this report.

Impact on Neighbours

Clearly many residents living in the locality and adjoining the development have understandable concerns regarding the impact of the development on the area. The site directly abuts existing residential properties for a very limited and short section of a part boundary. Mostly the site is free standing and or divided by an existing road. Whilst a Land Use Plan and Illustrative Masterplan have been submitted in support of the application, these only establish the broad principles of development, not precise locations and detail. These matters will be addressed when the detailed design is developed through the submission of Reserved Matters application(s).

If there was an approval, a condition is recommended relating to the submission of and adherence to a Code of Construction Practice Plan to address concerns raised by local residents relating to the impacts during the construction process.

Ecology

Paragraph 180 of the NPPF states that *"When determining planning applications, local authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused…"*

The Environmental Statement's section on Ecology and Biodiversity reveals the Site has a large proportion of woodland, Ancient Woodland, together with other habitats

including ruderal vegetation, and scrub. Habitats which are considered to be of importance at the local level or above comprise woodland, an area of species -rich grassland, hedgerows and tree lines, ponds and watercourses. Surveys of protected species have found that the Site is of local importance for foraging and commuting bats, Dormouse, Great Crested Newts and reptiles, whilst Badger, breeding birds and other common mammal and invertebrate species are also supported by the Site.

This report has already covered concerns about adverse impact on the Ancient Woodland and Veteran trees. In part, there is an ecological objection to that thread in so far as it is irreplaceable habits, buyt there are cocnenrs about adverse impacts on soils, ground flora or fungi, 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 increasing levels of air and light pollution, noise and vibration, changing the water table or drainage, damaging archaeological features or heritage assets, changing the woodland ecosystem by removing the woodland edge or thinning trees - causing greater wind damage and soil loss.

The following text is simply in relation to recorded species rather than the Ancient Woodland and its associated ecosystem.

The submitted documentation sets out a range of measures recommended by the ecologist to ensure that no protected species are harmed and to minimise ecological impacts and subject to the implementation of appropriate avoidance, mitigation and compensation measures it is considered that the development will not result in significant adverse effects to biodiversity and indeed with the opportunities for ecological enhancements as recommended in ES could achieve net gains to biodiversity.

The findings of the ecological reports are broadly accepted and it is considered that in the event of an approval a planning condition can ensure the necessary mitigation and enhancement works are undertaken at the appropriate time. The development would accord with planning policies with regard to nature conservation and biodiversity enhancement.

The exception here relates to GCNs.

The applicant has provided an ecological report, [Baseline Ecological Appraisal, aspect ecology, June 2022]. Within this report it states that:-

An eDNA survey was carried out to determine the presence/absence of Great Crested Newt within five on-site ponds, P2-P6 and one off-site pond, P8 (see Plan 5719/ECO9). Water samples were collected on the 29/06/2019 following the procedure outlined in the methods manual prepared for DEFRA by Biggs et al. (2014)17.
Two on-site ponds (P1 and P6) and one off-site pond (P20) (see Plan 5719/ECO9) were subject to further specific Great Crested Newt survey between March and June 2020, having been identified through the HSI assessment as having 'good' potential to support Great Crested Newt, or having tested positive using the eDNA technique.

A medium population of great crested newts was recorded to be present in pond P6, whilst the species was found to be absent from all other ponds surveyed within the site and the wider study area.

This has been received by Nature Space who advised they were not satisfied the applicant has adequately demonstrated that there will no impact to great crested newts and/or their habitat as a result of the development being approved. As GCN were confirmed in the pond on-site during the 2020 surveys a licence is required for the development.

The applicant can either choose to use the district licencing scheme or provide information to satisfy the council that a licence can be granted by Natural England post planning approval (if approved) this would include all impacts, mitigation, compensation and any monitoring that is required. It is indicated that the Natural England license would be pursued in the event of an approval. For now, this should form a 'holding' reason for refusal.

Foul Water Drainage

Whilst Southern Water has advised that there is inadequate capacity within the existing foul sewerage network to accommodate the additional foul flow from the proposed development site, they have confirmed that the capacity issue within the local network can be addressed through the provision of additional infrastructure to provide sufficient capacity to service the development. A condition could be imposed that restricted occupation of the development until works required to upgrade the infrastructure sufficiently to provide capacity for the new development have been carried out.

Flood Risk and Drainage

The majority of the site lies within Flood Zone 1 with a low risk probability of flooding.

The scheme includes a drainage strategy with majority relating to the outline and housing component. Soakage testing was undertaken across the Site, which demonstrated soil permeability that was too low to calculate the infiltration rate in most locations. In one location a rate of 1.12 x 10-6 m/s was calculated, which is considered too low to successfully support infiltration. The Geo- Environmental Site Investigation report concludes that the disposal of surface water to soakaways will not be feasible at this Site due to the predominantly cohesive nature and proved low permeability of the underlying soils. Discharge to ground is therefore precluded. Another scheme or system is required.

The development proposes 13 SuDS ponds on the site. 9 of these are proposed within the minimum 15 metre buffer zone for ancient woodland, irreplaceable habitat. This includes SuDS pond on sheet 2 of the hard and soft landscape plan at 7 metres, SuDS on sheet 3 at 4 metres, SUDS on sheet 4 at 7 metres and SUDS on sheet 6 at 0 metres. It is clear SuDS at these locations will not be able to be accommodated without impacts upon Ancient Woodland. Natural England standing advice has already been quoted: there can be little doubt it is breached here. "A buffer zone should consist of semi-natural habitats such as: woodland; a mix of scrub, grassland, heathland and wetland". Failure of SUDS drainage and effectiveness to capture pollutants, contaminants and nutrients would lead to ancient woodland degradation

and loss. Whiles SuDS can provide wetland habitat they do not provide sufficient buffer habitat for ancient woodland and waterbodies reflect light and noise, indirect impacts to ancient woodland ; the majority of SUDS proposed are between road and ancient woodland where such impacts would be frequent onsite (e.g. vehicle movements).

At 11 locations the SuDS are proposed to have outflows directionally drilled underground through ancient woodland, emerging in ancient woodland by the ghyll streams. This will cause direct damage to the habit and species where drilled pipes emerge through ancient woodland soils, levelling and citing proposed headwalls and ongoing impacts through proposed permanent citing of what is described as ground-bearing, prefabricated headwalls. Whilst bore-hole surveying has been undertaken on the site, for assessing soakaway capabilities of the site, this is at sporadic locations and it is understood such proposed directional drilling can be prevented by soil and rock composition on proposed routes, for example seams of sand causing drilling to change direction or be aborted; it is noted such geology is present very near and potentially on the site. There is also likelihood that one or more of the proposed directionally drillings will meet complication and not able to be completed or damage ancient woodland habitat, soils or tree roots in the process.

The geo-environmental site investigation report indicate soakage rates are too low to drain the site by infiltration, as such SUDS at these locations would be therefore discharge through ancient woodland, causing direct erosion and damage, or leading to recommendations for drainage trenches or hard landscaping features to accommodate outflow within AW, causing direct impact and degradation.

The proposed development would significantly increase hard surfaces on the site leading to a likelihood of increased water flow of, potentially contaminated surface water run-off into Ancient Woodland. The SuDS outflows are proposed to be concentrated at 11 points within the ancient woodland where changes in hydrology will likely occur with increased localised flow rates and increased localised erosion of ancient woodland habitat within the ancient woodland ghylls. Currently the drainage conditions onsite consist of a large expanse of grassland, which provides soakaway outside of the ancient woodland and distribute residual amounts of water widely into the ancient woodland, maintaining slow water flow and negating erosion. It is reasoned the development would not mimic the existing hydrological regime as water outflows would be concentrated watercourses through drainage pipes; such piping of water may would also not act as current processes of slowing water flow down to prevent erosion and silt deposition within the ancient woodland.

The Local Lead Flood Authority has advised that the drainage strategy is at concept stage and does not provide a design to fully demonstrate the illustrative layout is feasible in terms of a levels and drainage. However the majority of drained area is part of the outline application with all matters reserved and the existing ground levels and falls allow for a proposed layout and drainage design which does not require mechanical pumping. It might be argued that there is sufficient plan area set aside for attenuation features in the concept design and that a more comprehensive drainage strategy can be presented at reserve matters stage. However, the issue of discharging to a watercourse through protected woodland requires a technical solution to the satisfaction of the Council in consultation with relevant statutory consultees at this stage. The Local Lead Flood Authority agree. Until there is evidence of an in principle approval to undertake works within the ordinary

watercourses to enable discharge of surface water, the deliverability of the drainage outlets and therefore the drainage system has not been satisfactorily demonstrated and there is a potential risk of flooding to the site. There is also associated damage to the irreplaceable habitat. There is therefore an objection to this application on drainage grounds until this matter is resolved.

Noise

The Environmental Statement included a section on the impact of noise. This was subject of criticism and a further report has been submitted. Construction noise which will have an temporary adverse impact on sensitive receptors could be managed through the Code of Construction Practice condition to mitigate noise during the course of construction. Consideration of environmental noise is best carried out at the detailed design stage of planning. A condition could be imposed to require the submission of noise assessments along with the reserved matters applications which will identify any necessary mitigation required.

Air Quality

The application is not situated within or adjacent to an Air Quality Management Area. The Environmental Statement sis not include a section on Air Quality and that drew criticism. The assessment now lodged concluded that the adverse impacts from dust during the construction phase can be mitigated using appropriate management and dust suppression techniques, details of which will be submitted through the discharge of the Code of Construction Practice condition.

Dispersion modelling of road traffic emission from the scheme demonstrates that the annual mean concentrations of nitrogen dioxide and particulate matter in the expected year of opening will be well below the Air Quality Objectives of the local area. The overall effect of the operational phase of development on local air quality was assessed as “not significant”

Habitat Regulations Assessment

Ashdown Forest SPA contains habitat in which there is a concentration of Dartford warbler and European nightjar, both rare ground nesting birds. As such the site is recognised under the Conservation of Habitats and Species Regulations 2017 (the Regulations).

Evidence shows that the SPA is under pressure from an increasing number of people living nearby. As the population grows, urbanising impacts from human pressures and increasing recreational activity has the potential to cause disturbance to these bird species and have adverse effects on the protected habitat. The appeal site is within 7km of the SPA.

Recent caselaw[1] requires the decision maker, when considering the effect that a proposal may have on European Sites, to consider mitigation within an Appropriate Assessment. In the absence of mitigation measures and using a precautionary approach, given the proximity of the appeal site to the European habitat site, it is reasonable to suppose that residents of the development would potentially visit it for

[1] People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

recreational purposes. Intensification of such activities would be likely to cause disturbance to the bird populations and their habitats. Decision makers are required under the Regulations to consider the effect of the proposal both individually and in combination with other projects. As such, there is a risk of a significant effect on the internationally important interest features of the SPA.

The Council has adopted an Ashdown Forest Mitigation Zone Background Paper measures supported by Natural England that seek to establish strategic mitigation for the impacts of development on the SPA. This generally takes two forms, the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM). It is anchored within WCS12 to the CSLP.

The mitigation seeks to provide alternative greenspace for recreation to divert visitors away from the SPA, and the latter relates to projects to monitor and manage visitors to the SPA. Financial contributions per dwelling towards SANG provision and SAMMs and are generally sought in line with tariffs set out in the Council's background paper.

SAMM would include the provision of rangers and advice for recreational visitors to the SPA. In addition, it was confirmed that the closest SANG at Horsted Park does have capacity to address the impact arising from the proposal. The applicants do not dispute the requirement for, or quantum of these mitigation measures. However they do not seek to rely on them. Instead they are proposing to deliver their own on site SANG.

Indeed Horsted Pond SANG arises from approval at what was Ridgewood Farm. As already set out, the SANG proposed in this scheme would deliver an acceptable SNAG. In doing so, it was cause adverse impact on irreplaceable habitat. As such, the mitigation measures, which is a full part of the application, is not acceptable. It means there is no acceptable form of mitigation to avoid in combination impacts to the Ashdown Forest.

Saved policy EN1 of the LP seeks, amongst other matters, to conserve and where possible enhance the quality of the natural environment. Saved policy EN15 seeks to safeguard designated nature conservation sites by resisting development which would be likely to adversely affect their nature conservation value. This is further reinforced by amended policy WCS12 of the CSLP which seeks to avoid an adverse effect on the integrity of the SPA by creating an exclusion zone around the SPA.

As deliverable package of mitigation is not part of the application, this should form a further reason for refusal.

5. Conclusion and Planning Balance

The starting point for determining planning applications is the Development Plan. Section 38(6) of the Town and Country Planning Act (TCPA) 1990 provides that planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

Framework Paragraph 11 c) provides that there is a policy presumption in favour of development that accords with an up-to-date Development Plan. In this respect, the Framework thus makes clear that it does not change the statutory position which

makes the development plan the starting point in any determination. Many aspects of the development plan are consistent with the Framework when read as a whole. However, it is acknowledged that, by reason of the failure of the LPA to demonstrate a 5-year supply of deliverable housing land, those Local Plan policies relating to housing need and supply are deemed to be out of date (Saved Policies GD2 (Development outside the development boundaries) and DC17 (Housing development)).

The delivery of 424 houses, open market, affordable and other forms of housing need (custom and self build) are afforded significant weight when viewed against the five year housing land supply shortfall. It would require a legal agreement to secure these and none is presented in the application.

In accordance with Framework Paragraph 11 part c), Policies WCS6 (Rural Areas Strategy) and SP07 (Spatial Planning Objectives) of the CSLP are considered to be consistent with the Framework's approach to locate development according to the range of facilities available within settlements and the need to encourage the use of sustainable modes of travel to access them. There are no policies in either the Local Plan or Core Strategy which favour development in this location. Indeed the dislocation and poor accessibility of the site have been considered at appeal before, including by the SoS. No persuasive case has been advanced to address the failings of the sites location to key day to day facilities.

As there would be conflict with all the other up to date policies, the proposal would be contrary to the development plan as a whole, including Policy EN1, Policy EN13 and Policy EN22 of the Local Plan and WSC14 of the Core Strategy, which promotes sustainable development.

Paragraph 11 of the Framework part d) states that where there are 'no relevant development plan policies or the policies which are most important for determining the application are out-of-date', applications should be granted unless, limb i) the policies within the Framework that protect areas and assets of particular importance provides a clear reason for refusing the development. Only once limb i) has been assessed in accordance with footnote 7, does one then move to limb ii) which states that permission should be granted unless any adverse impacts of doing so would demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Limb (i) of Paragraph 11 d) refers to policies in the Framework that protect areas or assets as defined in footnote 7. These include the Framework's policies relating irreplaceable habitats. Decision makers must then look at paragraph 180 of the Framework which is clear that :

c) 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 (emphasis added).*

This report has already commented that Framework 180(c) has its own footnote, number 63, which identifies the type of project that might present wholly exceptional reasons. None are in play in this case.

Even if it was accepted that there would be ***no direct loss*** of Ancient Woodland (which to be clear, the Council does not accept), it is beyond any doubt or reasonable argument that the scheme when viewed as a whole will lead to ***deterioration*** of the Ancient Woodland. Natural England accepts this as do other key partners and stakeholders. At a very basic level, the scheme will result in recreational activity in the protected woodland. There will be adverse effects on a Veteran Tree which the Standing Advice specifically talks against and tells us to avoid. This only comes as a direct result of the urbanisation of the edge and setting to these irreplaceable habitats. As there will, at the very least, deterioration of the Ancient Woodland and the protected area including Veteran Trees, the scheme cannot comply with paragraph 180 (c). It has to be refused as the Framework directs refusal. It is therefore considered that the proposals should be refused in accordance with NPPF Paragraph 11 part d) limb i) and the tilted balance in favour of sustainable development does not apply (Paragraph 11 d) ii).

The ESCC highway authority object to the development. They raise three complaints about safety of access points, that the land is poorly connected for this scale of growth but also that it will add to congestion in the town centre. The Council is not in receipt of positive comments from the Highway Authority so a reason for refusal on the grounds of highway safety has been recommended.

The proposed mitigation, in the form of SANG, that is proposed to avoid potential effects arising on the SPA as a result of an increase in recreational use associated with the residential development is not acceptable because it will also affect the Ancient Woodland. No other form of mitigation is presented and as such, the scheme will lead to in combination impacts on the Ashdown Forest. In line with para 182 of the Framework, this is another direction to refuse and further reason to disengage the presumption in favour of sustainable development (paragraph 11).

It is also the case that the scheme will cause less than substantial harm to the heritage assets without a convincing or deliverable package of public benefits. Finally, the drainage scheme will also cause harm to irreplaceable habitats.

Overall, even taking into account the significant shortfall in housing land supply, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole and it is recommended that planning permission is REFUSED.