Date: 13 July 2023
Our ref: 438677
Your ref: APP/C1435/W/23/3321978

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BY EMAIL ONLY

Dear Tim Salter

Town and Country Planning Act 1990
Appeal by: Gleeson Land and John Alison Land & Research Ltd
Site: LAND AT DOWNLANDS FARM, UCKFIELD
Proposal: 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.
Planning Inspectorate Reference: APP/C1435/W/23/3321978

This letter constitutes Natural England's formal Appeal Statement with respect to the above planning proposal.

If you have any queries relating to the advice contained herein please contact me at heather.twizell@naturalengland.org.uk

Yours sincerely

Heather Twizell
Senior Adviser
Sussex and Kent Area Team

Cc. Wealden District Council
Aspect Ecology

1. Summary of Natural England's advice as of 13th July 2023

Natural England's advice on this application is focused on its impact on designated nature conservation sites. The absence of detailed advice on other natural environment matters should not be taken to mean that impacts are acceptable, simply that these are matters for Wealden District Council (and now the Inspector) to determine.

In the absence of mitigation the proposal is likely to have an adverse effect on the integrity of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) through the pathway of increased recreational pressure. Wealden District Council is part of an agreed strategic planning solution to manage this impact which requires all net increases in housing within a 7km Zone of Influence (ZOI) around the SPA / SAC to provide a financial contribution to the Strategic Access Management and Monitoring (SAMM) Strategy AND to either provide a financial contribution to secure capacity at a previously agreed Suitable Alternative Natural Greenspace (SANG) or to provide bespoke SANGs as part of individual development proposals. The Downlands Farm application has chosen to bring forward its own SANG.

This Appeal Statement provides Natural England's updated advice on the proposed Downlands Farm SANG. We are advising that through the appeal process the Inspector should consider three outstanding matters in relation to the SANG (summarised below and covered in more detail in Section 4):

- SANG design to be amended to provide boardwalk along the entirety of the circular route where it runs through ancient woodland.
- Discounting of SANG capacity on ecological grounds.
- Confirmation and securing of the long-term ownership and management of the SANG.

Provided these matters can be suitably addressed through the appeal process then Natural England has no objection to the proposal.

2. Case History

To date Natural England has provided a single, formal advice letter in relation to this application dated 22nd September 2022 (Our Ref: 401475). This response was a Further Information Request raising a number of questions and concerns relating to the original SANG design (Downlands Woodland Park – SANG and Woodland Management Plan, Aspect Ecology, June 2022). We advised that until these matters (as summarised below) were suitably addressed the SANG could not be considered as effective mitigation for recreational pressure impacts on the Ashdown Forest SPA / SAC. Matters raised in this response were:

- Concern around the significant use which the SANG made of ancient woodland, including the provision of new paths through it and a request for further consideration of the impact that considerably increased public access (from promoted use by the proposed adjacent development of 424 dwellings vs current, informal access) could have on sensitive woodland habitats.
- A request for more detailed consideration of the potential impacts of the SANG on other (non-ancient woodland) priority habitats and protected species on site.
- Concern that the circular walk was somewhat contrived and not reflective of how visitors would actually use the site and a recommendation that inclusion of more focal points could help address this.
- Reiteration that SANG footpaths need to remain easily useable all year round and that while unsurfaced footpaths are preferable this may require some areas of surfacing or boardwalks in any seasonally wet areas.
- A recommendation that for the community orchard to qualify as part of the SANG area it would need to have a 'wild' feel which could be achieved through non-linear planting and combining it with areas of wildflower meadow.

- A request for justification of the 10% discounting applied to the SANG capacity (on the basis of current, informal public access).

Since then, Natural England has received two further, formal consultations from Wealden District Council on updated application information dated 1st December 2022 and 1st March 2023 but due to internal issues we have unfortunately been unable to respond to either.

Natural England did provide a brief, informal response direct to the appellant's ecological and SANG consultant Aspect Ecology dated 20th February 2023 (As reproduced at Appendix 5 of the letter from Aspect Ecology to Wealden District Council dated 21 February 2023). This was in response to an email from Aspect Ecology seeking Natural England's opinion on 3 potential SANG options making differing levels of use of the ancient woodland on site. Our response acknowledged the adjustments that had been made to the SANG design following our original advice and stated our preference for the option which limited new paths within the ancient woodland (provided that this was not likely to have any unintended consequences such as increasing unmanaged access elsewhere).

Since this informal response in February Natural England has provided no further verbal or written advice on this application until the provision of this Appeal Statement.

3. New information not yet commented on by Natural England

The further comments in this Appeal Statement are based on the following information submitted as part of the application (before appeal proceedings began):

- Letter from Aspect Ecology to Wealden District Council dated 21 February 2023 (which contains the key updated SANG design);
- Updated SANG and Woodland Management Plan by Aspect Ecology, February 2023 (to capture the SANG design updates) and
- Updated Report to Inform a Habitats Regulations Assessment (HRA) by Aspect Ecology, February 2023 (to capture the SANG design update). Otherwise referred to as the Shadow HRA.

More recently we have also received via an email from Aspect Ecology dated 4th July 2023 an updated SANG Overview Plan showing the inclusion of boardwalk along lengths of the SANG circular route (following further winter survey work and to address our earlier concern around seasonally wet ground reducing desirability of the SANG circular route).

4. SANG

In preparing this Appeal Statement Natural England has now fully reviewed the documents outlined above in Section 4. We appreciate the changes to the SANG design that have been made since we provided our original response in September 2022. These changes resolve a number of the concerns previously raised but we consider that the following matters remain outstanding and will need to be addressed through the appeal process:

- The SANG design should be amended to provide boardwalk along the full extent of the circular route where it passes through ancient woodland (not just through the wetter areas as currently proposed in the SANG Overview Plan (July 2023). This will help to manage the extent of visitor access within the ancient woodland.

- At present the SANG is currently proposed to offer capacity for 848 units (given a size of 13.2 ha discounted by 10% to account for existing, informal access). Given that the SANG makes use of ancient woodland (a sensitive and irreplaceable habitat) Natural England would recommend that the Inspector considers discounting its capacity further on ecological grounds. This is set out in Natural England's SANG Guidelines (August 2021) as one of the ways to allow sites of high nature conservation value to be brought forward as SANGs. There is no specific guidance on the appropriate level of discounting but one possibly would

be to effectively remove the 3.2ha of ancient woodland still within the SANG boundary from the SANG capacity calculations and then apply the 10% discount to the remaining area to take account of existing levels of use. This would still provide sufficient capacity for the Downlands development as currently proposed but with very little extra to attribute to other developments.

- Paragraphs 3.51-3.52 of the updated SANG Management Plan (Feb 2023) relate to long-term ownership and management of the SANG but do not confirm what this will be. Instead, several possible options are proposed including the future developer, Town Council, District Council or another organisation. Given the importance of the SANG being suitably managed and maintained in perpetuity in order to constitute effective mitigation for the recreational pressure impacts of the development on the Ashdown Forest SPA / SAC (for the lifetime of that development) Natural England advises that clarity on this matter must be secured as part of the appeal process. If the SANG is not to pass to a public body or well-established charity such as The Land Trust then the provision of 'step in rights' must also be secured to allow the District Council to take the SANG into their control if there is evidence that it is not being maintained as per the Management Plan.

5. Ancient Woodland

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

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

Natural England only provides bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances (e.g. significant direct loss), neither of which criteria applies here. Our standing advice is a material consideration when determining planning applications and carries the same weight as a bespoke response.

6. Habitats Regulations Assessment

Natural England agrees with the following conclusions within the applicant's HRA.

That the proposal is not likely to have a significant effect on the following sites which can therefore be screened out from further assessment:

- Castle Hill SAC – 17.3km distant.
- Pevensey Levels SAC and Ramsar site. It should be noted that the HRA contains several inaccuracies in relation to the Pevensey sites. On page 11 it states that the application site lies 1.3km from Pevensey Levels when the correct distance is some 17km. On the same page in relation to 'Hydrology and water quality' it states that a likely significant effect cannot be screened out but then goes on to conclude on page 12 that there will be no likely significant effect either alone or in-combination. A final error comes at the bottom of page 13 where Pevensey is incorrectly screened in for potential air quality impacts.

We agree with the HRA taking the following sites and pathways of impact through to Appropriate

Assessment:

- Ashdown Forest SPA / SAC for both recreational disturbance and air quality.
- Lewes Downs SAC for air quality.

Appropriate Assessment – Recreational Disturbance

Natural England does not currently concur with the conclusion of no adverse effect on integrity (AEOI) through the impact pathway of recreational disturbance on the Ashdown Forest SPA / SAC. This is on the basis that through this Appeal Statement we have recommended further modifications to the SANG design, capacity and long-term management from what has currently been assessed in the Shadow HRA.

It will be for the Inspector (as the 'competent authority' under the Habitats Regulations) to carry out their own Appropriate Assessment of the project (to include any changes that may result from this appeal process). Provided that our further recommendations regarding the SANG are taken forward we are satisfied that this Appropriate Assessment will be able to conclude no AEOI.

Appropriate Assessment – Air Quality

Natural England concurs with the conclusion of no adverse effect on integrity (AEOI) through the impact pathway of reduced air quality through increased traffic flows for both the Ashdown Forest SPA / SAC and the Lewes Downs SAC.