Sussex Wildlife Trust

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Sent by email only

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Date: 11 July 23

Town and Country Planning Act 1990
Appeal by: Gleeson Land and John Alison Land & Research Ltd
Planning Inspectorate Reference: APP/C1435/W/23/3321978
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.

Sussex Wildlife Trust (SWT) previously submitted an objection to planning application Ref: WD/2022/1637/MEA. We understand that following the refusal of the application by Wealden District Council (WDC) it has now been called into appeal by the applicant. Reference: APP/C1435/W/23/3321978

SWT maintains our objection to this application. SWT fundamentally believes that the level of development proposed for this site will lead to the deterioration of ancient woodland, which is contrary to national policy (Paragraph 180 (c) of the National Planning Policy Framework 2021). Given that there are no wholly exceptional circumstances for this development we feel this appeal should be refused.

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We are resubmitting our comments to the original application to the Planning Inspector for consideration (12th September 2022). We recognise that the applicant has responded to wide-ranging ecological comments made at the time of the original submission by both the council and other parties. We ask the Inspector to consider all the concerns originally raised relating to ecological impacts from the construction, delivery and occupation of the development.

In addition to our original comments, which are resubmitted below, we submit a further additional comments section. An absence of comment does not mean we support the applicant's response to our original submission.

Original submission comments

The Sussex Wildlife Trust (SWT) has recently become aware of application WD/2022/1637/MEA . We have viewed the information submitted online with the application and wish to submit the following **objection** relating to biodiversity.

Site context
SWT wishes to highlight that this site has been identified as unsuitable for development in the 2018 SHELAA for the Local Plan as a result of its landscape and biodiversity value. The site has also previously been turned down for development through a Public Inquiry process in 2009. Therefore, we do not support the development of this site on the grounds of impacts to biodiversity.

2018 SHELAA
Land at Downlands Farm, Snatts Road, Uckfield (site ref : 137/1410) is included with the Wealden DC 2018 SHELAA documentation as a site unsuitable for development. The reasons for the site not being suitable for development have been expressed in the SHELAA as:

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.*

2009 Public Inquiry
Downlands Farm was also refused permission for development following a public enquiry in 2009. The Inspector stated in section 53 of the decision notice that:

The conflict with development is most serious in the case of Downlands and the Secretary of State considers that the proposal is unacceptable in terms of landscape impact and traffic impact. She further considers that the overall balance of ecological considerations does not weigh in its favour. While the provision of affordable housing carries some weight in favour of the proposal, the Secretary of State considers that, overall, in the light of her conclusion on housing need, there are not sufficient material considerations in favour of the scheme to outweigh the conflict with the development plan.

Whilst we recognise that the current application details are different to the previous application, there has been a clear and considered precedent set against development on this site as a result of a number of

factors, including its biodiversity value. The surrounding areas, such as the Woodland Trust's Lake Wood Reserve, which sits adjacent to the application boundary are ecologically and functionally linked to the development site and have been continually monitored and observed as a result of their biodiversity. This is expressed in detail by the objection submitted to this application by **Dr Martyn J. Stenning M.Phil. D.Phil. MRSB. CSci.**

Biodiversity Opportunity Areas
SWT also wishes to emphasise that the application site sits within the Western Ouse Streams and Ashdown Forest Biodiversity Opportunity Area (BOA). Since the ascent of the Environment Act in Nov 2021 it has been clear that a Nature Recovery Network (NRN) will be fundamental to addressing the ecological and climate crisis. The development boundary has a number of designated sites surrounding it. West Park Uckfield Local Nature Reserve (LNR) is located approximately 100m to the south of the site, Lake Wood Local Wildlife Site (LWS) is directly adjacent to the development site, while Butchers Wood Local Wildlife Site (LWS) is functionally linked to the Downlands Farm site. Further to this the site sits within the impact risk zone for the Buxted Park Site of Special Scientific Interest (SSSI) which is located approximately 800m to the east of the site.

To wilfully encase these habitats in development when they have an important role to play in the support and delivery of a functioning ecological network, would be undermining the government's environmental ambitions to halt biodiversity loss by 2030, the requirements of the National Planning Policy Framework (NPPF 2021) paragraph 179 and the Wealden Core Strategy (2013) saved policy WCS12 Biodiversity .

Outline Application
We note that one part of the application is outline with all matters reserved apart from access. From the information presented with the application, SWT wishes to make the following comments in relation to the application and biodiversity.

Ancient Woodland
The presence of ancient woodland within the development site and the potential direct and indirect impacts to this irreplaceable habitat are of considerable concern to Sussex Wildlife Trust. We highlight to WDC that ancient woodland is recognised within the NPPF 2021 Paragraph 180 in which is states:

180. When determining planning applications, local planning authorities should apply the following principles: 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[63] and a suitable compensation strategy exists;

We recognise that the applicant's statement includes information that buffers to the ancient woodland will be incorporated and that further management for the ancient woodland will be brought in. We do not have confidence that these measures would be sufficient to address the deterioration in the quality of the habitat, especially when the two aspects of the application (full and outline) are considered in combination. Irreplaceable ancient woodland habitat will be under significant increased indirect and direct pressure and will also be accessible as part of the site's proposed Suitable Alternative Natural Greenspace (SANG).

The application is currently proposing buffers at a minimum of 15 meters for the ancient woodland, we suggest that the application needs to respond to the precautionary approach and ensure that the site would deliver buffers of 50 meters for this irreplaceable habitat. This is highlighted as an approach in the Woodland Trust's 'Planners' Manual for Ancient Woodland and Veteran Trees' (2019).

The development of this site will result in an increase in recreational pressure on the habitats that are being retained on the site both inside and outside the SANG boundary and potentially on adjoining sites such as Lake Wood (LNR/LWS). The SANG contains irreplaceable habitat in the form of ancient woodland that will be accessible to both walkers and their dogs. It does not appear that the impact on the woodland complex as a whole from this impact has been assessed. The presence of domestic pets within the development will also have the potential to cause considerable pressure on these irreplaceable habitats and the species they support as a result of increased predation and fouling.

The application has stated that the access and emergency access for the site will be located in areas labelled as mostly non-ancient woodland. When we look at the access and ecological information in combination, we note that the access points for development are proposed through areas of lowland deciduous woodland, which is a priority habitat and as such a material consideration and an important component of the woodland complex and recognised within the NPPF (2021) Paragraph 180.
SWT is concerned that the connectivity and function of the wider ancient woodland complex will be compromised by the access proposals. We highlight to Wealden District Council that the ecological surveys of these woodland compartments suggest mostly non-ancient woodland and lowland deciduous woodland priority habitat with clear ancient woodland characteristics. The Ancient Woodland Inventory is provisional and not definitive, therefore we question whether areas of priority habitat woodland within the application site would meet the definition of Ancient, and therefore constitute irreplaceable habitat. Even if this is not proven, the site has clearly been wooded for a significant period of time and includes rich floral and soil diversity.

We ask Wealden District Council to seek clarity on the buffer to the ancient woodland that surrounds the emergency access road and how it has been incorporated into the application.

Wealden District Council must also consider and assess hydrological impacts on the Downlands Farm site. The site contains ghyll woodland (Longwood Gill) and is a functionally and hydrologically connected to the Woodland Trust's Lake Wood Reserve, which contains a s*phagnum* peat fed lake. We are concerned that the increase in covered/impermeable surfaces coupled with locations of SUDs and diffuse pollution have not been assessed with regards to their impact on ancient woodland within the functioning landscape. We note that the Environmental Impact Assessment non-technical summary states in section 8 that the construction and complete development 'could *lead to damage of the Ancient Woodland, resulting in a local and permanent adverse effect of major to moderate significance.'*

Whilst the applicant has suggested that '*the drainage strategy demonstrates how there would be no material change to the hydrology within the Ancient Woodlands and the woodland brooks and the residual effects would therefore be negligible'*. We draw your attention to the objections and comments raised in relation to drainage from East Sussex County Council Lead Local Flood Authority and the Wealden Drainage Engineer, who request more detail including from the drainage strategy to determine impacts.

SWT is concerned that the application will lead to the deterioration of ancient woodland, which is contrary to national policy. Given that there are no wholly exceptional circumstances for this development we feel this application should be refused.

Bats and Dormice

We can see that Bat and Dormice Surveys along with a number of other protected species surveys have been conducted and presented in ES Appendix 7.1 . The Bat Transect C indicated its highest level of activity at location 7, which appears to be in the area of the access road. The non-technical summary of the Environmental Impact Assessment states in section 7.6 that with the completed development *there will be minor to moderate adverse effects on foraging and commuting bats and Dormouse*. However, we are unclear how the presence of these protected species on site have even been considered in the overall design and future monitoring. We have seen reference to a dormouse bridge over the access road but we do not seem to have located information that provides more detail about these features. Given that the access roads are seeking full permission we would ask Wealden District Council to ensure they have confidence in the level and detail of information presented regarding these protected species. Further to this given that bat species are using the site for commuting/foraging we have seen no information within the application that considers this ecological function against the indicative layout of the housing or the breaches in habitat that will occur as a result of the access road.

Biodiversity Net Gain (BNG)

SWT notes that a Biodiversity Net Gain (BNG) Assessment Report has been submitted with the application, which states that the application will seek to deliver a 27.33% increase in Biodiversity Units. We are concerned that the development of 424 residential units and associated infrastructure will not enable meaningful BNG to be delivered on a site that is already of value to biodiversity. It is our opinion that the recreational pressure and disturbance (both direct and indirect) that will result from the proposal will undermine any meaningful gains for nature being proposed.

We have not found it possible to fully study the validity of the metric presented because we were unable to find all the information required to assess the metric. For example:

Grassland:

We assume paragraph 5.12 of the Biodiversity Net Gain Assessment contains a typo and is referring to sites SI1-SI4 rather than SC1-SC4. Taking this to be true, this paragraph states that grassland area SI4 is classified as being in poor condition due to 'the presence of scrub invasion and the presence of undesirable species'. However, looking at the Habitat Condition Assessment Matrix SI4 has also been failed for criterion 1: 'The appearance and composition of the vegetation closely matches characteristics of the specific grassland habitat type (see UK Hab definition). Wildflowers, sedges and indicator species for the specific grassland habitat type are very clearly and easily visible throughout the sward. NB - This criterion is essential for achieving moderate condition for non-acid grassland types only.' It is not explained why this failure has happened given the broad nature of the UK Habs definition of 'other neutral grassland'. It is also not clear why condition 6 has not been judged in the table? Overall we question whether the existing condition of area SI4 should be moderate and not poor?

SI1 & 3 have been condition assessed as moderate as they failed to meet the criteria of 6-8 species per M_2. However, we have been unable to find reference to what species per M_2 were in the botanical surveys (although this information does appear to be present for SI4 in the appendix of ES 7.1). Without this information we cannot see if the grassland should already be condition assessed as good. Therefore, when the report suggests that semi-improved grassland will be in good condition within 15 years, we are unable to question if this is a true reflection on the gains to be achieved.

Given that the delivery of BNG for grassland within the area also designated SANG have the applicants factored in achieving a good condition with the presence of dogs and possible fouling within the habitat and the impact that could have on condition and how it will be achieved.

Ponds:
When the ES is looked at Table 4.2 of Appendix 7.1 briefly describes the 6 ponds existing on site. Paragraph 4.11.2 states that '*overall, the ponds are considered not to form important ecological features in their current form, although there is significant scope for their improvement*'. It also states that '*recommendations for their retention and enhancement are detailed at Chapter 6*'. However, chapter 6 is simply a summary of the ecological baseline and does not discuss enhancements.

However, when we then consider the habitat condition assessment matrix in the Biodiversity Net Gain Assessment, it assesses all 6 ponds as being in 'moderate' condition. Ponds p1 to p5 only fail on one criterion: '*Good water quality with clear water and no obvious signs of pollution. Turbidity acceptable if grazed by livestock*'. Within the BNG Report Table A-3 for Site Habitat Enhancements states that all 6 ponds will be enhanced to 'good' condition. Presumably the only way to achieve this is to ensure '*good water quality with clear water and no obvious signs of pollution*'. However, we cannot find any information to explain how this will be achieved and actions to this end are not referenced in the Schedule of Management works in the SANG and Woodland Management Plan. We therefore question the feasibility of delivering this gain.

Ancient Woodland:
The BNG report appears to deliver the biggest percentage of BNG from the enhancement of the ancient woodland. We question the incorporation of ancient woodland in the overall BNG percentage given that we do not feel that impacts have been addressed. While we recognise that the application is proposing improvements to management to improve condition, this does not address impacts from recreational disturbance to the habitat directly and the species using it. Therefore, we question the delivery of meaningful BNG.

Full Application

Suitable Alternative Natural Green Space (SANG)
We note that the second part of the application relates to the full permission for the SANG. It is our understanding that the SANG is intended to reduce pressure on the internationally designated site of Ashdown Forest SPA. The reduction in recreational pressure is primarily focused on dog walkers. Given that the SANG for this site also incorporates ancient woodland and this also comes with specific guidance relating to direct and indirect impacts on these irreplaceable habitats, we wish to understand the following matters and ask how Natural England has advised on matters relating to the SANG and ancient woodland.

We also wish to highlight that the SANG Guidance[1] from Natural England 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

[1] https://www.bracknell-forest.gov.uk/sites/default/files/2021-11/natural-england-sang-quality-guidance.pdf

are considered as SANGS, the impact on their nature conservation value should be assessed and considered alongside relevant policy in the development plan.'

Having looked at the plan WD-2022-1637-MEA_Plans_edp6170_d016-F-SANG_ Detailed Hard and Soft Landscape Design.

We can see that the proposals include *unsurfaced path with loose log edging - Footpaths to be lined with brash, approx. 0.5m high and aligned with, and set approx. 1m back from, the path to encourage people to stay on the route.* It appears that some areas of these footpaths are within areas designated as ancient woodland, as such SWT wishes to understand how the impacts on the ground flora of the ancient woodland have been avoided with the inclusion of such proposals? The SANG Management Plan with the application has stated in section 3.9.2:

Within woodland and grassland areas of the SANG there exists a network of existing unsurfaced desire lines and tracks, which already receives a limited amount of informal footfall, and means that the SANG can accommodate new recreational use with a minimal amount of path improvement and without the need for the creation of new paths through woodland.

Section 4.2.3 seems to suggest that this method of using existing paths in an informal but focused way will not impact the habitat from trampling. However, when this is looked at in conjunction with the statement relating to Access and Footpaths in section 5.3.2. *Visitors will be encouraged to let their dogs off the lead within the SANG, with facilities provided for collection of dog waste.* We are concerned that ancient woodland within the SANG has the potential to be impacted directly and indirectly by the intended use of the SANG.

How quickly will recreational impacts on the ancient woodland from inclusion within the SANG be recognised and what monitoring is in place for this in the ancient woodland, as we have no reference to this in section 6 (monitoring) with in the SANG Management Plan?

Reading the SANG Management Plan we highlight the statement from section 2.4.3 which states:

As such there will be 8.15ha surplus SANG capacity, which could serve an additional 424 dwellings arising from other developments.

As a result, does the direct and indirect impact on the SANG and especially the areas of ancient woodland have the potential to increase over time, if this SANG is intended to serve further developments? How will this potential increase in recreational use be captured in its future management and monitoring, as we see no reference to this in section 6 of the SANG Management Plan.

SWT has concerns that the SANG that is intended to reduce recreational impacts on the designated site of Ashdown Forest SPA has the potential to directly and indirectly damage and degrade irreplaceable habitat, contrary to the national policy. Areas of ancient woodland should not be included in the SANG and the SANG should not be designed to accommodate future unknown development.

In conclusion

The application has:
• Failed to adequately address the direct and indirect impacts on the irreplaceable habitats of ancient woodland, which is contrary to national policy and guidance.

• Not made it possible to consider the validity of the proposed Biodiversity Net Gain with the information able to view on the planning portal. As a result, we are unable to question if this is a true reflection on the gains to be achieved.
• Led us to question whether the inclusion of irreplaceable ancient woodland is compatible with SANG guidance issued by Natural England[1].
• Not clearly demonstrated how the presence of Protected Species (as surveyed, including Great Crested Newts, Dormice and Bat Spp.) have influenced the application, this is a material consideration.

We urge Wealden District Council to recognise the historic, current and future value of this site for biodiversity at a time of ecological and climate crisis and reject this application. The landscape must be able to provide the connectivity and function that is so desperately needed if we are to have a healthy and sustainable future. Downlands Farm fulfils this role, and it should not be undervalued and compromised. We therefore urge Wealden District Council to consider their responsibilities in relation to section 40 of the Natural Environment and Rural Communities Act 2006[2] and refuse this application.

Additional Comments

Since the original submission, the applicant's ecologist has responded to some of the ecological points raised by various parties. Below are SWT comments in response to a few of those points. However, please note that an absence of comment does not mean we accept the position of the applicant's ecologist.

Impacts to Ancient Woodland

- **Emergency Access Road**

The applicant submitted a response to WDC Biodiversity Officer's original submission, in which they cover a range of matters. One of the matters covered relates to the absence of buffers between the emergency access road and the ancient woodland, and this is a concern held by SWT and Woodland Trust. While we recognise that this small gap for the road is not designated as ancient woodland, it serves as an important connection between two areas of ancient woodland.

The applicant states in section 5.2 of their response and specifically 5.2.3 & 5.2.4 that

5.2.3
In terms of buffers zones, these are required where effects could occur that cannot be mitigated by other means. Examples include the dumping of garden waste, escape on nonnative species and informal garden extensions or informal accesses being created into ancient woodland. These effects could occur where housing is located adjacent to ancient woodland (and so require buffering) but do not arise from the emergency access proposal. Accordingly, no buffer is required in this instance.

[2] Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

5.2.4
Accordingly, no loss or indirect effects would occur in ancient woodland.

Natural England and Forestry Commission's standing advice for ancient woodland does not detail the scenarios in which a buffer to development may not be required.

We challenge the applicant's position that a buffer is not required. The ancient woodland standing advice[3] states that;

For ancient woodlands, the proposal should have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage (known as the root protection area). Where assessment shows other impacts are likely to extend beyond this distance, the proposal is likely to need a larger buffer zone. For example, the effect of air pollution from development that results in a significant increase in traffic.

You should not approve development proposals, including gardens, within a buffer zone.

SWT would state that a buffer zone would be required but not deliverable in the location of the proposed emergency access. SWT would consider that the emergency access would have impacts in line with those detailed in the aforementioned standing advice, including impacts on the roots of trees within the ancient woodland areas, breaking up working connections between woodlands, reducing adjacent semi-natural habitat, reducing the resilience of the woodland to change, and an increased need to maintain access.

We ask for advice to be sought from Natural England on the applicant's suggestion a buffer zone in this location for the emergency access road is not required. It is imperative that clarity on this is established to ensure that compliance with national policy is adhered to and impacts to ancient woodland are avoided.

- **Lighting of Fir Tree Grove**

We note the applicant's response to the WDC Biodiversity Officer, which seeks to offer reassurance to their concerns over lighting levels in the ancient woodland following the introduction of artificial lighting in order to support access. The applicant is referencing the lighting levels will not exceed 0.2 lux outside the boardwalk. We draw the Inspector's attention to the fact that an increase in light levels is listed as a direct impact to ancient woodland under NE standing advice. When this is coupled with the addition of access in the form of a boardwalk, this represent another impact pathway, and as such the cumulative impact of these change on the ancient woodland should be considered.

- **Drainage and Hydrological Impacts**

Sussex Wildlife Trust cannot provide detailed comments on the proposed drainage strategy. However, we ask the inspector to recognised that hydrological changes are list as one of the direct impacts within the ancient woodland standing advice. Therefore, any proposals and techniques for deploying those strategies must be consider in terms of their impact on ancient woodland both in the construction phase, operation and ongoing maintenance/ repairs required.

[3] https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions

Alterations to the Suitable Alternative Natural Greenspace SANG

We note that since the original submission the applicant has recognised the impacts its SANG proposals had on the ancient woodland habitat. As a result, they have made some changes to the SANG, reducing the size of the SANG and the length of pathway within the ancient woodland.

Whilst we can see the applicant's amendments to the SANG design through a revised submission of the Downlands Woodland Park - SANG and Woodland Management Plan, we cannot see any formal submission from Natural England to Wealden DC suggesting they are satisfied that all their original concerns raised in the letter from 27th September 2022 have been fully addressed.

SWT remains concerned that the informal pathways within the ancient woodlands are still being considered as part of the proposal and would suggest they are taken out of the formal SANG provision. The revised Downlands Woodland Park - SANG and Woodland Management Plan does state in section 5.2.7 - 5.2.10 that fencing will be used as boundary treatment for some particularly sensitive areas of woodland outside the SANG in order to protect them . Specifically, section 5.2.8 states that;

Such fencing will take the form of chestnut pale post and rail fence provided with a wire mesh ensuring that the boundary features remain dog-proof.

Will the use of mesh on the boundary treatments impede the access, movement and connectivity for other species using the woodland? Has the impact of this fencing proposal on species currently using the woodland been assessed by the applicant?

The proposal continues to provide more SANG capacity than is currently needed for this proposed development. This concerns SWT, as we feel this represents the potential for recreational pressure to increase over time.

In conclusion

Sussex Wildlife Trust maintains that the site will be unable to absorb the proposed development without impacts to the irreplaceable ancient woodland habitat. Whilst we recognise that the applicant has identified opportunities to improve the woodland's management, improving the condition of the woodland is not reliant on the wider development of the site and could be undertaken without this.

The development of the site represents an unacceptable impact on irreplaceable habitats and is contrary to national policy. Given that there are no wholly exceptional circumstances for this development we urge the Inspector to refuse this appeal.

Yours sincerely,
Laura Brook
Conservation Officer
Sussex Wildlife Trust