Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2022/0648/MAO**

Wealden District Council

DHA Planning Ltd
The Pinnacle
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Crawley
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RH10 1JH

Council Offices
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BN27 2AX

DESCRIPTION AND LOCATION OF DEVELOPMENT
OUTLINE APPLICATION FOR THE DEVELOPMENT OF 60 NO. DWELLINGS, ACCESS AND INTERNAL ROADS, PARKING, ANCILLARY STRUCTURES, LANDSCAPING AND OPEN SPACE, DRAINAGE AND OTHER ASSOCIATED WORKS. ALL MATTERS RESERVED APART FROM ACCESS.
LAND AT MOCKBEGGARS FARM, LONDON ROAD, UCKFIELD TN22 2EA

With reference to the proposals set out in the application numbered as above and shown on the plans submitted therewith, Wealden District Council, in pursuance of powers under the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), hereby **REFUSES TO GRANT PLANNING PERMISSION** for the said proposals, for the reasons stated below:-

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 and in accordance with Paragraph 11 (d) (ii) the adverse environmental impacts of the development significantly and demonstrably outweigh its social and economic benefits when assessed against the policies in the NPPF as a whole.

2. When the required on site mitigation and buffering to important habitats (Ancient Woodland and other natural features) is accounted for, together with key requirements (open and play space, space for on site surface water drainage), the developable area does not represent an efficient use of land as required by NPPF paragraph 8(c) and 125(c).

3. The site is located within a local ecological network of large ancient woodlands inter-dispersed with smaller parcels of ancient woodland, priority habitat deciduous woodland, fields, hedges, tree lines and scattered and linear development on the periphery of Ringles Cross and Budlett's Common.

   The site itself provides semi-natural connectivity between these habitats and is constrained by existing development on its north, south and eastern sides. The site currently provides connectivity in the landscape between large areas of semi-natural and irreplaceable habitat Paygate/Budlett's Wood, Budletts Common to the west (which in turn leads on to Shortbridge Stream and Lake wood LWS) and View's Wood and Buxted Park SSSI to the east.

Insufficient information has been submitted to demonstrate the proposed development would not result in adverse impacts on protected species (bats) known and within the application supporting evidence to be on, at or foraging over the site. Moreover, the applicants survey confirms high bat activity within the site and confirms use of the site by a number of light avoiding species including, myotis, brown-long-eared and barbastelle; the latter of which is an annex IV species of the European Habitats Directive (Animal and plant species of Community interest i.e. endangered, vulnerable, rare or endemic in the European Community, in need of strict protection), a rare bat that forages/commutes over a large area.

Whilst it is noted that the scheme includes an area indicated for bat mitigation, it is not clear how this would be affected by lighting from the proposed houses and movements to/from them in vehicles or from light emitted from adjacent developments, nor is it clear how the loss of the land from a foraging perspective is adequately mitigated or compensated.

The proposals do not show how the quantum of growth can be accommodated here as well establishing a coherent ecological network, resilient to current and future pressures. Nor would it maintain and enhance known networks of habitats and green infrastructure. Therefore the proposal would be contrary to paragraph 174 a b and d of the National Planning Policy Framework 2021

4. The development proposals would result in loss of landscape hedge and vegetation in order to provide necessary access (with required sight lines to serve the development). It will open up the site to development whereas at present the boundary treatment is an attractive and otherwise undisturbed natural habitats that supports protected wildlife, species and other flora and fauna.

   The loss of this feature and its replacement with a housing estate and associated access and other infrastructure would not add to the overall quality of the area, contrary to the National Planning Policy Framework 2021, paragraph 130 (a).

5. The delivery of housing on this site is contrary to the rural housing restraint policies within Saved Policies GD2 and DC17 of the Wealden Local Plan 1998 and WCS 6 of the Wealden Core Strategy Local Plan. The development by reason of its poor density (when key layout features are taken into account), adverse effect on ecology and landscape features, results in a development out of character with the local area and that would cause harm to recognised biodiversity, contrary to Saved Policy EN27 and WCS14. As such the development is contrary to the local plan should be refused unless material considerations indicate otherwise.

   The Council does not have a 5 year housing land supply. Footnote 8 of the NPPF would render the local plan policies on housing supply out of date limiting the weight that can be afforded to them in line with the degree of compliance with the NPPF. Restraint on unsustainable rural housing is resisted under the NPPF and as such the rural restraint policies can be afforded some weight.

   Weighing against the scheme is the unproven package of bat mitigation on a site where the applicants own evidence confirms high bat activity within the site and confirms use of the site by a number of light avoiding species including, myotis, brown-long-eared and barbastelle; the latter of which is an annex IV species of the European Habitats Directive (Animal and plant species of Community interest i.e. endangered, vulnerable, rare or endemic in the European Community, in need of strict protection), a rare bat that forages/commutes over a large area (very significant weight against scheme), the loss of an open green field has some intrinsic harm to the rural character of the Low weald (moderate weight), unacceptable loss of vegetation to road obviously not in keeping with the best elements of area and local distinctiveness (very significant weight).

Weighing in favour of the scheme is the contribution of the 60 units including affordable units, custom and self build. This carries substantial weight given the current lack of 5yr supply and particularly given the relatively sustainable nature of the location. The future occupants would also contribute to the established community and rural services the existing community rely on and this can be afforded moderate weight.

It is clear that the harm from this development of this semi-rural site significantly and demonstrably outweigh the benefits identified such that even if the presumption in paragraph 11 is applied, the proposal would be in conflict with the NPPF.

As such there are no material considerations that outweigh the conflict with the adopted local plan and the quoted paragraphs of the NPPF, and consent should be refused the proposal being in conflict with saved polices GD2, EN8, EN27 and DC17 of the Wealden Local Plan 1998, WCS12 and WCS 14 of the Wealden Core Strategy Local Plan 2013.

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

Ref.	Date Stamped.
S101 Rev B Site Location Plan	26 April 2022
S102 Rev A Site Survey Plan	26 April 2022
20179 / C101G Proposed Indicative Sketch Layout Plan	17 February 2023
20179 / C104 Proposed Indicative Amenity Space Plan	17 February 2023
20179 / C103D Indicative Land Use Parameter Plan	17 February 2023
Ecological Appraisal	9 March 2022
Energy Statement	9 March 2022
Flood Risk Assessment (Including appendices)	9 March 2022
Transport Assessment (Including appendices)	9 March 2022
Consultation Assessment	9 March 2022
Planning Statement	9 March 2022
Landscape & Visual Impact Assessment	9 March 2022
Arboricultural Survey	9 March 2022
Arboricultural Development Report	9 March 2022
Heritage Statement	9 March 2022
Design & access Statement	9 March 2022
Transport Technical Note Nov 2022	10 November 2022
Transport Technical Note Jan 2023 (response to Highways comments)	13 January 2023
Transport Technical Note Jan 2023 (response to Town Council comments)	13 January 2023
Transport Technical Note Feb 2023	3 February 2023
Travel Plan Statement	17 February 2023

REASON: For the avoidance of doubt.

IMPORTANT: See Notes overleaf
DATE OF ISSUE: 22 June 2023

Stacey Robins
Head of Planning & Environmental Services

NOTES

Appeals to the Secretary of State

- If the Applicant is aggrieved by the decision of the Local Planning Authority (LPA) to refuse permission for the proposed development or to grant it subject to conditions, then an appeal may be lodged with The Planning Inspectorate (PINS) under Section 78 of the Town and Country Planning Act 1990.
- Appeals must be made on a form which is obtainable from:
  The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN
  Tel. No. 0303 444 5000
  www.gov.uk/appeal-planning-inspectorate

Appeal Timescales

- Householder planning application or minor commercial application:

  12 weeks from the date on the decision notice

  However, if an enforcement notice has been served for the same or very similar development the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 12 weeks).

  NB – if the LPA have failed to determine the householder planning application, or for an appeal against the grant of permission subject to conditions, please follow the time limits under "Planning application" below.

- Planning application:

  6 months from the date on the decision notice, or
  6 months from the expiry of the period which the LPA had to determine the application.

  However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

  NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If a longer period has been agreed with the LPA, the time limit runs from that date.

Further information

- The Planning Inspectorate has discretionary power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice to appeal.
- The Planning Inspectorate is not required to entertain an appeal if it appears that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- The Planning Inspectorate does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction issued by the Secretary of State.

Purchase Notices

- If either the LPA or Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the land has become incapable of reasonably beneficial use in its existing state nor rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.