Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2022/1637/MEA**

Barton Willmore now Stantec
26 Kings Hill Avenue
Kings Hill
West Malling
Kent
ME19 4AE

Council Offices
Vicarage Lane
Hailsham
East Sussex
BN27 2AX

DESCRIPTION AND LOCATION OF DEVELOPMENT
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

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 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	24/06/2022	Volume 2 - Appendix 1.1

Documents Submitted for WD/2022/1637/MEA	Date Submitted	Version/Issued/Report No
Location of Information within ES		
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	24/06/2022	6170_d016f

Documents Submitted for WD/2022/1637/MEA	Date Submitted	Version/Issued/Report No
Landscape Design		
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 Topography	24/06/2022	Volume 1 - Figure 6.6
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	24/06/2022	Volume 1 - Figure 3.3

Documents Submitted for WD/2022/1637/MEA	Date Submitted	Version/Issued/Report No
Green Infrastructure Parameter Plan		
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

Documents Submitted for WD/2022/1637/MEA	Date Submitted	Version/Issued/Report No
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: Reason 5 relates to GCNs and common ground that GCN ponds were identified through the survey work completed with the application. That pond is 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 reasons 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".

IMPORTANT: See Notes overleaf
DATE OF ISSUE: 21 April 2023



Stacey Robins
Head of Planning & Environmental Services

Application No. WD/2022/1637/MEA

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.