

Appeal Decision

Inquiry held on 24th-26th October, 31st October, 7th-9th November and 14th -16th November 2023

Site visit made on 13th November 2023

by **Anne Jordan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

Appeal Ref: APP/C1435/W/23/3321978

Land at Downlands Farm, Uckfield, TN22 3PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Gleeson Land and John Alison Land and Research Ltd against the decision of Wealden District Council.
- The application Ref WD/2022/1637/MEA, dated 24 June 2022, was refused by notice dated 21 April 2023.
- The development proposed is a 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.

Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made both on behalf of the appellant and on behalf of the Council. These are the subject of separate decisions.

Preliminary Matters

3. The application is made in hybrid form with full permission sought for an area of Suitable Alternative Natural Greenspace (SANG), and outline permission sought for residential development. The outline part of the scheme provides details of access for approval. All other matters are reserved. The application is accompanied by a masterplan showing a layout for the site which is referred to as indicative¹. It is also accompanied by a Land Use Parameter Plan, a Green Infrastructure Parameter Plan and a Scale Parameter Plan. The Council and Appellant agree that these plans serve to confirm the extent of development and green infrastructure areas within the site, and to provide details of building heights. However, as permission is not sought for scale or layout, these plans can only be taken to be indicative.

¹CD2.6 - Drawing number 1309.02

4. The Inquiry sat for 10 days. Closing statements and costs applications were made in writing after the formal sessions. The National Planning Policy Framework (the Framework) was revised on the 19th December 2023 after the final written submissions had been made. The views of the Council and appellant were sought and neither wished to alter their submissions in the light of these revisions. I have based my decision on the policy contained within the revised Framework.
5. The fifth reason for refusal relates to the potential effects of the proposal on Great Crested Newts. Survey work which supports the application indicates that a pond within the site is likely to be affected by the appeal scheme. Since the refusal of the application the parties have agreed that mitigation proposed in respect of these protected species could be made appropriate through obtaining an NE license² and on this basis the Council did not defend this reason for refusal.
6. The eighth reason for refusal relates to the provision of affordable housing. The Council confirmed at the Inquiry that subject to the provision of the legal agreement to secure these matters, they were not defending the eighth reason for refusal.
7. During the Inquiry I heard from a number of local residents. Their evidence was in some cases accompanied by supporting submissions which expanded upon their original responses at the time of the application. These have been accepted as Inquiry documents and are listed as such in the Schedule appended to this decision.
8. A completed legal agreement has been submitted following the Inquiry sessions and this contains a number of obligations. I have taken this into account in reaching my decision.

Main Issues

9. Accordingly, the main issues for the appeal are:
 - The effects of the proposal on Ancient Woodland,
 - The effects of the proposal on protected species and whether the proposal provides adequate mitigation in relation to the potential effects of the proposal on Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC);
 - The effects of the proposal on the highways network including whether the scheme provides safe and suitable access for all users;
 - Whether the proposal would be in an appropriate location, having regard to local and national policies which advocate development in locations which are accessible to local services and restraint to development in a countryside location;
 - The effects of the proposal on heritage assets, including non-designated heritage assets and historic landscape character.

² CD3/51

Reasons

Background Matters

10. The Local Plan comprises Saved Policies from the Wealden Local Plan (LP) which was adopted in 1998, and the Core Strategy Local Plan (CS) which was adopted in 2013. The Council is currently in the process of producing a new Local Plan which will replace the current Core Strategy, but this is still at an early stage and the Council are not relying on any emerging policies in addition to those in the adopted plans.
11. The housing land supply position is agreed by the parties to lie between 3.29 and 3.92 years³.

The Effect of the Proposal on Ancient Woodland

12. The appeal site includes areas of woodland designated as Ancient Woodland. These are known as Shermanreed Wood, Longwood Gill, Thirty Acre Shaw 1 & 2, Budlett's Wood and Fir Tree Grove and together they bound the site on three sides to the west, south, south-east and north. Shermanreed Wood extends into the site to the north in a broad swathe. Longwood Gill is a narrow and steep sided ghyll woodland which extends into the centre of the site running west-east. Thirty Acre Shaw lies to the west of the site and along with other woodland runs alongside the A22. Budlett's Wood lies to the north of the appeal site and forms part of the proposed Strategic Alternative Natural Greenspace (SANG). Fir Tree Grove lies to the south-east of the appeal site. Lake Wood lies just beyond the southern boundary of the appeal site. The Ancient Woodland in and around the site is connected, either directly or via adjoining Priority Habitat deciduous woodland. There is no dispute between the main parties as to the extent of Ancient Woodland identified.
13. Based on the submitted plans the development would comprise a SANG to the north of the site, with housing located in the centre and south of the site, to be located within the existing agricultural fieldscape around the wooded protrusions of Longwood Ghyll and Shermanreed Wood. The plans are accompanied by an arboricultural survey which shows the position of all veteran and other notable trees within the woodland and across the site, including details of trees for removal to facilitate proposed access arrangements for pedestrians and cyclists at Fir Tree Wood and for the vehicular access and emergency vehicular access points through areas of non-Ancient Woodland within the wooded area adjoining the A22.
14. Standing Advice in relation to planning applications⁴ in Ancient Woodland is provided by Natural England and the Forestry Commission. This sets out that there must be wholly exceptional reasons to approve development which would lead to the deterioration of Ancient Woodland. The guidance doesn't define deterioration but it does include a list of direct and indirect effects that they consider can lead to it. Whilst the Standing Advice is guidance and not policy, it reflects policy in the Framework and like Planning Practice Guidance is intended to direct decision makers as to how development impacts should be assessed in relation to Ancient Woodlands.

³ Housing Land Supply and Affordable Housing Statement of Common Ground

⁴ CD9/3

15. The Council consider that the proposal would cause harm to the Ancient Woodland in a number of respects. Some of these concerns are shared with the Forestry Commission. I deal with the effects of the proposal on biodiversity including fragmentation, within the protected species section of the decision and deal with the other potential effects in turn below.

Fir Tree Grove

16. The proposals include a pedestrian route through this stretch of Ancient Woodland which would take the form of a 3M wide wooden walkway installed using screw piles. The walkway would require the removal of 62 trees⁵ which have been identified as being of low or moderate quality and which are either younger trees or non-native species. The walkway route has been assessed for woodland indicator species and 6 of these have been identified for relocation using hand tools. These are not identified as being vulnerable to relocation. The appellant has also indicated that the piles to support the walkway would be located to avoid tree roots.
17. The Council's concerns relate to the removal of trees and the effects the walkway may have upon the quality of the soil structure beneath the boardwalk. The walkway would be 3M wide and would stretch for around 100M through the Ancient Woodland. The identified scale of tree-removal along the route would be substantial. Further trees lie within close proximity of the proposed route. Even if I accept that the walkway could be installed without harm to any existing trees which adjoin the route, the presence of the walkway would, in the long-term, require the management of these trees along the route and could lead to pressure for further removal. Furthermore, though stretches of the route would be elevated, the area to be covered would have reduced capacity to accommodate ground flora.
18. I note that tree removal is a normal part of silviculture, and that the loss of an individual tree or the insertion of a single pile may be potentially undertaken without leading to harm to the woodland. However, it does not follow in this case that the works when taken in their totality would not be harmful. Having regard to the size of Fir Tree Grove, the extent of tree removal and ground coverage proposed, and the longer-term implications for management, I am of the view that taking into account the mitigation measures associated with this element of the proposals relating to Fir Tree Grove, the works would lead to a deterioration of irreplaceable habitat.

The SANG

19. The SANG is to be served by a wooden walkway which would pass through a section of Ancient Woodland to the north. This will also require the removal of up to 20 trees and the relocation of 20 coppice stools. The walkway would be around 1.5M wide and it is estimated to be around 464M with a length of 166M in the bracken covered glade⁶. Although I note that the works may have a beneficial effect in parts of the woodland, for example, by reducing the effects of erosion from footfall in places, the area that is covered would not provide a habitat for flora for the duration of the path's installation.
20. I note that the provision of a walkway was suggested by Natural England but is not supported by the Forestry Commission. Natural England's primary remit,

⁵ CD2/31

⁶ para 7.168 ES CD1/14

and the reason they are consulted on planning applications of this nature, is to provide guidance on whether the proposal would provide appropriate mitigation in relation to the effects on Sites of Special Scientific Interest (SSSI), in this case in relation to recreational disturbance in Ashdown Forest. They do not provide advice on Ancient Woodlands unless they form part of an SSSI and this is clear from their consultation response⁷. Instead, the Natural England response directs the decision maker to take account of Standing Advice in relation to Ancient Woodlands. They also make clear in the first paragraph of their response that:

"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."

21. In this regard, although identifying boardwalks as a potentially less intrusive solution to access than other surfacing, Natural England have distanced themselves from any endorsement of use of the site in relation to its impacts on the Ancient Woodland. As such, I take from their suggestion of a boardwalk that they considered such a scheme could be implemented successfully, and would be less intrusive than other surfacing. I also note the examples given to me where Ancient Woodlands have been used for formal recreational purposes and have successfully used boardwalks. Nevertheless, in this case, taking into account the length of the proposed boardwalk, and so the area to be lost from use for flora, I am not convinced that the works would have an overall neutral or beneficial effect on the woodland.
22. I also take into account the recreational disturbance that would occur from use of the Ancient Woodland within the SANG by those visiting the site to walk their dogs. Use of the SANG would not be limited to residents with a parking area provided for use off Snatts Road and a further area within the residential development shown on the indicative plans. I am unconvinced by the appellant's case that dog waste would be largely confined to the area immediately around the car park. Dogs would not be entirely restricted to the path and not all owners would act responsibly. As a result some enrichment would occur from dog-waste left by dogs in the woods. Whilst it is difficult to quantify the extent to which this would occur, and I note that the existing paths are already used by walkers and dog owners, adopting a precautionary approach, and taking into account the size of the area proposed for access, the extent of tree loss and the potential effects of noise, trampling and litter from increased footfall from visitor numbers, the proposal would have an overall harmful effect on this Ancient Woodland and some deterioration would be likely to occur. I return to the issue of recreational disturbance in relation to the residential use below.

Recreational and Residential Disturbance and other Impacts

23. The Natural England Guidance advises that a Buffer Zone of a minimum of 15M is provided between new development and Ancient Woodlands. Whilst the 15M is set out as a recommended minimum, the guidance goes on to say that the size of the Buffer Zone will depend on the scale and type of development and the character of the area. It recommends that Buffer Zones are planted as

⁷ CD12/1

woodland or a mix of scrub, grassland, heathland and wetland. It also advises that larger Buffer Zones may be needed where the surrounding area is less densely wooded or close to residential areas. In this regard, although it is not recommended that access to Buffer Zones is prohibited, they are intended to ensure not only that RPAs to individual trees are protected, but also that other potential impacts, such as noise, air or light pollution, which may impact on species which live within the Ancient Woodland are avoided.

24. The indicative plans show the disposition of development on site. The arboricultural assessment shows tree constraints superimposed onto a worked-up layout. It is not clear how many dwellings this would provide, as some of the layout includes apartments, and it does not, as far as I can tell, reflect the provision of custom and self-build housing. Nevertheless, taking into account the need for play and open space provision and the restrictions caused by the position of woodland, access points and surface water features, I consider it to be a reasonable approximation of the form development would take on site and so I find the plan to be adequate for assessing the capacity of the site. The plan shows Buffer Zones that in some cases are more generous than 15M. However, it also shows a number of instances where the interface between housing and the woodland has the potential to cause intrusion.
25. Longwood Ghyll is a long, narrow and steep-sided wooded valley which protrudes into the centre of the development site. Although the steepness of its sides provides some degree of enclosure, I noted on site that within parts of the wood its narrowness allows a clear perception of the fieldscape on both sides and this leaves it especially vulnerable to change. The proximity of development to both the north and south would be clearly apparent when within large parts of Longwood Ghyll. In this regard, it seems to me that in the case of Longwood Ghyll, there is a clear case for providing a much more generous Buffer Zone than the minimum 15M, particularly at the "neck" of the woodland where other than the width of a narrow footpath, it links with the swathe of woodland that contains Thirty Acre Shaw.
26. Furthermore, to the northern edge of the proposed housing adjacent to Shermanreed Wood, the indicative plan shows a long stretch of housing which although shown separated by a distributor road, due to the relative proximity and number of dwellings involved would have the potential to cause significant noise and light intrusion into Shermanreed Wood, even with the extent of buffer proposed. Notwithstanding the details provided on the "Dark Areas Map", car headlights for vehicles entering or leaving property would have the potential to shine directly into the woodland. This would also occur towards the eastern end of Lake Wood and the western side of Fir Tree Grove, where the relatively sparse nature of the woodland periphery would render it particularly vulnerable to intrusion. Given the proximity of dwellings I do not consider measures to limit light intrusion from, for example, street lighting, would effectively mitigate these impacts.
27. I have considered whether the above conflicts could be removed when finalising a layout for the site. However, the physical and hydrogeological constraints of the site⁸, and the predefined access points largely dictate the disposition of development within it. Added to that the requirement for custom and self-build housing and play and open space provision, I do not consider

⁸ Oral evidence of Mr Jenkins when asked how far the SUDs ponds could be moved.

that the amount of development proposed provides much scope for providing more generous Buffer Zones in these locations. I am also sceptical as to whether supplementary planting along the woodland edge would fully mitigate negative impacts. Given that areas shown as Buffer Zones will also contain Sustainable Urban Drainage (SUDs) basins and informal green space and in some cases may immediately adjoin roads or residential plots it is unclear to what extent they could be densely planted. This leads me to the view that the impacts of noise and light intrusion arising from the development would be likely to cause some deterioration in the quality of the woodland habitat for some fauna. It would also diminish the quality of experience of the woodland for anyone visiting the woodland, although I recognise that there is very limited, if any formal access to these woodlands.

28. I have taken account of the potential impacts of predatory pets and invasive species from the proximity of residential use to the Ancient Woodland. Whilst this is hard to quantify, residential use will bring with it a proportion of household pets including outdoor cats that can kill small mammals and birds. Claims that cats do not kill Dormice and only kill old or sick birds is unsubstantiated. The likelihood of predation is increased in instances with large numbers of dwellings and where Buffer Zones are modest. Likewise the transfer of INNS⁹ from domestic gardens. This underlines for me the need for the proposed development to take an appropriately precautionary approach to the interface between development and the Ancient Woodland which I do not consider has been demonstrated by this scheme.
29. Concern has also been expressed that residents of the development would have an adverse impact on the Ancient Woodland through increased footfall via unauthorised access. I was advised at the Inquiry that entry to the woods would be restricted to identified points and that the boundary would be otherwise closed in to prevent residents and others freely entering the Ancient Woodland. Whilst I share residents' views that fences can be broken and their efficacy dependent upon maintenance, I have limited evidence that even in such cases the occasional use of the woods by residents would lead to their deterioration.

Drainage

30. The Natural England Guidance allows for the provision of SUDs within Buffer Zones provided the works do not impact upon Root Protection Areas (RPAs).
31. SUDs basins are to be provided largely around the periphery of the proposed residential development, along the edges of the woodlands. As the surface water drainage plan intends to mimic natural flows the position of the SUDs basins is broadly fixed, but, as I was advised at the Inquiry¹⁰, provides some scope for minor repositioning. The tree survey accompanying the submission shows SUDs basins within the identified 15m Buffer Zone recommended in the Standing Advice but, according to the arboricultural survey, outside the RPA of any veteran tree. As the layout of the scheme is not a matter before me I am conscious that the SUDs could, in any case, be moved outside the RPA. Furthermore, the installation of SUDs would use directional drilling under parts of the woodland to provide drainage pipes from the SUDs basins to the existing surface water features. It was explained to me at the Inquiry that the

⁹ Invasive Non-Natural Species

¹⁰ Oral evidence of Mr Jenkins

diameter of these pipes would be relatively narrow, and these could be guided to ensure they avoided the roots of any identified trees.

32. I note that this technique has been used successfully elsewhere and has been accepted by other Inspectors. I note that the level of engineering required within the woodland to support drainage would be much less than that feared by the Council. Nonetheless, the fact remains that the drainage proposed involves intrusion in the form of engineering works into and around the Ancient Woodland where previously there was none. Taking into account the number of basins and pipes proposed, particularly in and around Longwood Ghyll, I accept that the potential for error is higher than the more modest schemes considered by my colleagues in other appeals. Nevertheless, neither the position of the SUDs ponds, nor the drainage pipes to serve them are yet fixed and could be altered to protect tree health if required.
33. Residents have raised concerns as to whether the proposed drainage would alter existing off-site surface and sub-surface flows to Lake Wood. The Lake is fed by some surface flows and from the underlying aquifer. The aquifer will extend over a substantial distance and so I am confident that development on the site would not significantly alter the hydrogeological flows in the area. In terms of localised impacts arising from a diversion of flows along the northern boundary I was shown on my site visit water loving plants growing on sandstone protrusions on the northern edge of the lake which were being fed by water which was seeping through the rock. However, these were located some distance from the watershed which would run above the steeply sloping woodland above the lake. It seems to me more likely that these woods and the run-off from them are the source of water for these species and that any additional run-off from within the development site, or from the underlying aquifer makes a marginal contribution in terms of water supply to these plants.
34. Residents have raised concerns as to how foul sewerage will be provided. The indicative plans show that a system could be provided without infringing on the Ancient Woodland or the Buffer Zones and notwithstanding the concerns of residents relating to the efficacy of a pumped system, I am satisfied that subject to normal maintenance arrangements the system could run effectively to serve the needs of the development.
35. Taken together I am satisfied that the proposed drainage would not lead to harm to the Ancient Woodland and that a drainage scheme could be effectively implemented for the site.

The Effects of Mitigation

36. The development includes a Woodland Management Scheme which sets out measures which are intended to improve the condition of the Ancient Woodland by bringing it into beneficial management. The guidance is clear that management plans constitute compensation, as do measures to improve the condition of woodland or removal of INNS and that compensation should only be considered to partially compensate for loss or damage. Whilst I note that within the management plan there are actions that on their own would constitute avoidance or mitigation, I am of the view that even if implemented effectively these would not ensure that deterioration would not occur. Furthermore, whilst I agree that the long-term management of the various Ancient Woodlands on the site would be beneficial, compensation measures,

either direct or indirect cannot negate identified deterioration elsewhere in the Ancient Woodland.

37. I take into account that the removal of trees can be carried out as part of maintenance works in Ancient Woodlands and in some cases would not require planning permission. Be that as it may, it doesn't follow that the removal of trees in this case should be considered as maintenance or that the trees in question would be removed if the development before me did not take place. I therefore see no merit in the argument that the effects on the woodland would not be significant.
38. It was put to me at the Inquiry that works to facilitate recreational access were in line with the government policy¹¹. Whilst this would be a benefit of the scheme the same document also emphasises the importance of conserving Ancient Woodlands and the threats to this from inappropriate development and I have also taken this into account.

Conclusions on Ancient Woodland

39. The proposed access works at Fir Tree Wood would cause deterioration to this Ancient Woodland. The submitted scheme has also failed to demonstrate that the development would not lead to deterioration in the quality of the Ancient Woodlands as a habitat for wildlife, as a result of the effects of light and noise pollution and predation. I add to this the impacts of recreational disturbance arising from the development of the SANG.
40. The Framework is clear that where deterioration of irreplaceable habitat has been identified there must be wholly exceptional reasons to approve the development. I have considered whether the provision of housing where there is an absence of 5-year housing supply and a severe shortage of affordable housing constitutes an exceptional reason. Even if I were to adopt the land supply figure put to me by the appellant I have concluded that it does not. Whilst the examples given of such circumstances in footnote 67 to the Framework is not a closed list, they nonetheless indicate that exceptional reasons are likely to be where the development needs to be in a specific or limited location, such as essential infrastructure. Housing, whilst badly needed, is less restricted in where it can be located and I have no evidence before me that it cannot be located elsewhere in the District. I therefore do not consider the need for housing in the circumstances of the case before me to constitute an exceptional reason.
41. It follows that the proposed development would fail to comply with national policy set out in the Framework. I've been referred to a number of policies of which I consider Policy EN13 of the Wealden Local Plan 1998 (LP) and WCS12 of the Core Strategy (CS) to be most relevant. These seek to resist proposals which would prejudice the ecology of Ancient Woodland and so I find conflict with them.
42. Notwithstanding this, in relation to the drainage for the site I find no conflict with policies EN1 and CS2 of the LP which together require that sites are adequately drained.

¹¹ Keepers of time: ancient and native woodland and trees policy in England Government's statement on England's ancient and native woodland and ancient and veteran trees - May 2022

The Effect of the Proposal on Biodiversity including Protected Species

43. The site is made up of predominantly grassland, scrub and woodland, with woodland forming adjoining habitats to the north, west and south. The woodlands are recognised as being Priority Habitat although the appellant has stated that a number of areas do not meet this classification including Fir Tree Grove and some secondary woodland. The Council are concerned that the proposals will impact upon the quality of the habitat provided by the woodlands through direct loss of habitat, fragmentation and deterioration of the quality of the woodland through the indirect effects of development. To an extent, as a key purpose of Ancient Woodlands is to provide a valuable natural asset which is important for wildlife the considerations above in relation to the effects of the proposal on Ancient Woodland as a habitat are intertwined with considerations in relation to biodiversity. Nevertheless, I deal below with those remaining matters which relate to biodiversity.
44. The appeal is supported by a baseline ecological appraisal. This is supplemented by additional survey work including an additional Bat Survey. Residents have raised particular concerns in relation to the effects of the proposal on bats. The observations of residents¹² that the portion of the site proposed for residential development provides foraging routes for various bat species appears to have been borne out by the survey work undertaken by the appellant which shows the woodlands being used for foraging by a range of bat species including rare Barbastelle and Myotis¹³ bats and for these routes to extend across the central portion of the site. The ecology witnesses dispute how sensitive these species are to light and disturbance. I was also advised that they forage at a "landscape scale" with other foraging routes available in the wider locality. Nevertheless, in light of my reservations about the capacity of the site to accommodate the quantum of development and to provide appropriate buffers, I cannot conclude that the development would not erode the quality of the habitat available to what the parties agree are rare bat species.
45. The stretch of woodland along the A22 connects with the Ancient Woodland of Lake Wood to the south and Longwood Ghyll and Shermanreed Wood to the north. This stretch of woodland contains portions of Thirty Acre Shaw which are also Ancient Woodland. In this regard there is a continuous stretch of woodland to the north, east and south of the site all of which is identified as Priority Habitat. The development would be accessed by a new road through woodland to the south-east of the site, with a further emergency access from the A22 in the centre of the site, level with Longwood Ghyll. In both locations the sections of woodland to be removed to facilitate access are not considered to be Ancient Woodland, nonetheless both would involve tree removal and loss of habitat.
46. The appellant advises that in both cases a continuous tree canopy would be maintained and has provided indicative drawings of how this could be achieved in relation to the main vehicular access. These measures are intended to ensure that impacts on Hazel Dormice are mitigated, however, a continuous

¹² ID02

¹³ Myotis Bechstein

tree canopy is not shown on the main access drawings¹⁴ which show provision of a "Dormouse Bridge". I have no convincing evidence that the scheme shown on the indicative drawings submitted would be effective. It is intended that lighting to both accesses would be designed to ensure no adverse impacts on foraging routes for bats. The highways authority has expressed concern that such measures may not be appropriate in terms of highway safety. Whilst it is possible that an appropriate solution could be found, on the evidence put to me I am not assured that the effects on these protected species would be adequately mitigated.

47. Concerns have also been raised in relation to the value of the site for invertebrates and other species. I note that the adjoining Lake Wood has been the subject of extensive study by Dr Stenning, which has led him to question some of the findings of the appellant's survey work at the appeal site. Whilst I have no reason to doubt Dr Stenning's findings for Lake Wood, I am conscious that he has not carried out an equally extensive survey across all of the appeal site. I therefore have no compelling reason to assume that the appellant's submissions in relation to invertebrates are inaccurate.
48. The scheme includes two Biodiversity Net Gain (BNG) assessments, the second of which captures the most up to date Biodiversity Metric. The second assessment concludes that the development would provide that a net gain of some 23.8% in habitat units and 146.4% in hedgerow units¹⁵. The Council have expressed concerns as to how the assessment was calculated and it does appear that the second assessment uses an incorrect condition assessment for Fir Tree Grove. Furthermore, the first assessment appears to overstate how far some improvements can realistically be achieved, such as the removal of INNS. In any case, the assessment is based on the assumption that no deterioration to the Ancient Woodland would occur as a result of the development, which I have found not to be the case. As mandatory BNG does not apply to this proposal, these matters are relevant only insofar as the weight to be attributed to BNG as a benefit of the scheme.
49. The Council and appellant agree that mitigation proposed in respect of Great Crested Newts could be made acceptable through obtaining a Natural England license and on this basis the Council did not defend this reason for refusal. I agree that any impacts on this protected species could be avoided by measures put forward in the scheme.
50. The SANG is intended to mitigate the recreation impacts of the development on the Ashdown Forest SAC. As I have identified above, this element of the scheme would have some harmful impacts, which would lead to some deterioration of the Ancient Woodland. The Framework is clear that development which would lead to the deterioration of an Ancient Woodland should only be approved for exceptional reasons.
51. The SANG is necessary to make acceptable the impacts of the residential element of the scheme. I have not found the residential scheme to constitute an exceptional reason to justify the harm identified and it therefore follows that the SANG which supports the scheme cannot be justified either. Neither have I been provided with any specific evidence of development elsewhere which would be supported by the SANG.

¹⁴ Appendices to Mr Baxter's Proof PDF page 293 - 352

¹⁵ CD1.59 p43

52. Although it was put to me at the Inquiry¹⁶ that there is insufficient evidence to demonstrate that SANGs in general provide acceptable mitigation for the impacts of recreational disturbance on the Ashdown Forest SAC, even if I were drawn to this argument, this matter would not, in the event, alter my findings.
53. Accordingly, taking into account the above matters, on the second matter I conclude that the proposal would fail to provide adequate mitigation in relation to the potential effects of the proposal on Ashdown Forest SPA and SAC and would fail to make adequate provision for protected species. I've been referred to a number of policies of which I find Policy EN15 of the LP and WCS12 of the CS to be most relevant. Together these seek to ensure ecological networks and habitats are maintained and to resist development or land use changes which would be likely to adversely affect the nature conservation value of protected areas including the Ashdown Forest SPA and SAC in accordance with the Habitats Regulations 2018 and with national policy outlined in the Framework.

Highway Safety

54. Since the planning application for the scheme was refused the Council have confirmed that measures secured through the S106 are sufficient to respond to their concerns in relation to the effects of the proposal on traffic flows within Uckfield Town Centre. The remaining highways issues in dispute are dealt with below in turn.

The Access onto the A22

55. The site would be accessed via a new roundabout on the A22. Immediately north of this, at a distance of around 20M, is an existing layby which I am advised is used by HGVs. The separation distance between the exit from the roundabout and the entry point of the layby falls short of the 55M recommended in guidance¹⁷. This recommends that a separation of 1.5 times the stopping sight distance should be provided and is based on the assumption, agreed by the parties, that traffic leaving the roundabout would be travelling at a speed of around 20 MPH.
56. I note that the guidance is intended for Trunk Roads and is not mandatory for "A" roads such as the A22. Nevertheless, in the absence of other available guidance, and taking into account the character of the A22 in this location and the nature of traffic that uses it, I consider it to be a relevant consideration in assessing the likely safety of the proposed road configuration. I accept the appellant's view that those leaving the roundabout will be travelling at a lower speed than cars presently using this stretch of road. However, the introduction of the roundabout would also introduce potential conflict in traffic movements between accelerating and decelerating vehicles. A vehicle exiting for the layby would not be accelerating away from the roundabout as expected by a vehicle behind and this would, to my mind, taking into account the relatively limited distance in which the manoeuvre would take place, increase the potential for rear shunts. The provision of an additional lane would not negate this risk. Furthermore, although potentially less likely, the arrangement gives rise to the

¹⁶ Submissions of Mr N Daines on behalf of the Council for the Protection of Rural England

¹⁷ Design Manual for Roads and Bridges CD 169 The design of lay-bys, maintenance hard standings, rest areas, service areas and observation platforms.

risk of “side-swipes” with approaching vehicles switching lanes to the far side lane to avoid a rear shunt but encountering an overtaking vehicle.

57. I take into account that the separation distances on the exit from the Blackdown Roundabout to the service station are similar. However, although traffic at the Blackdown Roundabout is likely to be at significantly higher volumes than that using the appeal site access, it seems to me that a driver approaching a well sign-posted service area will be alert to drivers in front potentially exiting in a way that a driver approaching a lay-by may not. In this regard I do not find the comparison helpful.
58. I have considered whether such a manoeuvre would be frequent and so whether the risk is largely theoretical, or easily avoided by drivers paying due care and attention. Although the layby is unlikely to be heavily used, its juxtaposition with the roundabout nonetheless gives rise to a hazard which should reasonably be avoided and which would not provide a safe standard of access for users of the A22.

The Pedestrian Crossing Point on Rocks Road.

59. The pedestrian access through Fir Tree Grove is estimated by the appellants to be used by 90% of the pedestrian trips to and from the site. This will comprise a stepped pedestrian walkway and a shared pedestrian and cycle path which includes switchbacks to accommodate the level difference between the main site and the access from Snatts Road and Rocks Road. The crossing point from the site across Rocks Road is to be located at the junction of Rocks Road. The parties agree¹⁸ that based on an average speed check of approaching traffic the visibility splay at the pedestrian crossing should be 59M.
60. The land rises away from the access along Rocks Road and I noted on site that the verge is heavily vegetated with some parts appearing to be solid rock which rises to a substantial height. The submitted plans show provision for a switch-backed cycle and pedestrian access with guardrail within the visibility splay. The level to which this may obstruct views of oncoming vehicles was discussed at length at the Inquiry. It is not unusual for pedestrian walkways to form part of visibility splays and I do not consider that this in itself would be an impediment to visibility.
61. However, of more concern are the substantial rocky obtrusions which form the existing verge, beyond the proposed walkway but within the visibility splay. The submitted plans show that only vegetation will be removed from this area, which taking into account the levels involved and the topography as noted on site would not provide the visibility splays required. Therefore, as proposed the scheme would fail to provide the visibility splays shown on the access plans. Whilst I note another application could be made, I am required to consider the access details as put to me. Furthermore, as access is a matter for approval, it would not be appropriate to defer consideration of the matter by imposing a condition.
62. Furthermore, in order to prevent falls from the elevated cycleway/walkway a safety rail is required adjacent to Rocks Road. This would be erected at height and would be a permanent feature. I note that a “Visiguard” rail is proposed, which allows some visibility through it in direct views through the structure.

¹⁸ CD1/9 Transport Statement of Common Ground

Nevertheless, the rail would be erected around the curve of the bend¹⁹ so it is unclear to me to what extent this would allow visibility of the crossing point for traffic coming downhill towards the crossing. For those standing at the crossing it is likely to cause some impediment of uphill views.

63. I have considered whether the obstructions identified would undermine highway safety. The parties do not dispute the estimated vehicle speeds using the road. However, I noted during my site visit that at least some of the traffic rounding the corner was travelling at significant speed, having not yet entered the speed restricted area. Those using the proposed crossing point would have limited time to decide whether to cross and would also be required to make a judgement not only in relation to traffic travelling downhill, but also traffic approaching from behind from the direction of Snatts Road. This crossing point is identified as serving 90% of the pedestrian trips to and from the site. It would also form part of the walking route to the local primary school and so would be used by relatively young children, some of whom may be unaccompanied. In this context I consider it imperative that the scheme provides at least the minimum required unimpeded visibility splays for pedestrians using the crossing. Taking into account the site topography as evidenced on site I am not persuaded that the proposed scheme has demonstrated that the pedestrian access shown on the plans would provide a safe means of accessing the site for all users.

Other Highways Matters

64. The proposal also includes a scheme of works to facilitate pedestrian and cycle movements between Rocks Road/Church Street. Even taken as a whole, when considered in the light of my grave concerns relating to the safety of the crossing point and the perceived attractiveness of the pedestrian access through Fir Tree Grove, set out below I am not persuaded that these works would make much difference to a resident's decision as to whether to walk or use the car and so in the context of the scheme proposed I see little benefit from their implementation. Nevertheless, insofar as they form part of the proposed scheme I do not consider the works to form an impediment to highway safety and have no objection to them.
65. The appellant has made much of the Road Safety Audit (RSA) and what they perceive to be inconsistencies on the part of the advice given by Highway's Officers. Be that as it may, the Council are not bound to accept the findings of the RSA and it is clear to me from the consultation responses provided that the Highways Authority were not content with the scheme as proposed.
66. On the third matter I therefore conclude that the proposal would fail to provide safe access for all users. I have been referred to a number of policies of which I consider Policies TR3 and TR13 of LP to be most relevant. Together these seek development that provides safe access, including safe and convenient pedestrian routes and does not create unacceptable traffic conditions. The proposal would fail to comply with this requirement and would also fail to comply with the Framework which seeks safe and suitable access for all users and states that developments with an unacceptable effect on highway safety should be refused.

¹⁹ Drawing No 2001061-131 G

67. The parties agree on measures to mitigate the impacts of increased vehicular traffic in the town centre and I have no reason to question their necessity or effectiveness. I therefore find no conflict with WCS7 of the CS.

The Location of Development and its Accessibility

68. Saved policies GD2 and DC17 of the LP seek to resist development outside defined development boundaries. The proposed development would lie within open countryside, adjacent to, but outside, the defined boundary of Uckfield and so would conflict with these policies. However, the boundary was established in a document of some age, dating from 1998 when the Plan sought to meet a much lower housing requirement. It is a matter of agreement between the parties that the Council cannot currently demonstrate a 5-year supply of housing land. For these reasons and for the purposes of this appeal, I consider Saved Policies GD2 and DC17 of the LP to be out of date. Any conflict with them is therefore afforded only limited weight.
69. The site is located on the edge of the built-up area. Travel distances²⁰ from the site to the town centre were agreed between the Council and the appellant. The sole point of vehicular access would be directly onto the A22 which serves as a by-pass around the town. The route into town would be via the Copfarm roundabout onto Belfarm Road estimated to be between around 2.3km and 2.8KM. The road has an 60MPH speed limit and I noted on site that it is relatively busy. The proposals include provision for a cycleway and footway, which would be separated from the main carriageway. However, given the length of the route and its proximity to the busy highway it is unlikely to be attractive to pedestrians, although a dedicated cycleway would provide a reasonable alternative for some cyclists, depending on weather and lighting.
70. Vehicular access to the housing would not be provided from Snatts Road. In this regard the pedestrian linkages through the site towards the town centre are particularly important both in providing a sustainable means to access services and in seeking to assimilate the development into the existing urban fabric of the town.
71. Pedestrian access to the housing is proposed via 2 points. The primary pedestrian access would be via Fir Tree Grove²¹. This would comprise a stepped access from the junction of Rocks Road and Snatts Road with a switch-backed cycle route which would be usable by those unable to use the steps. This would link to a wooden walkway through the Ancient Woodland. The walkway would extend to approximately 100M and would be approximately 3M wide. The submitted indicative plans²² show it as a semi-enclosed space the lighting for which would be directed inwards along the walkway to minimise the level of light intrusion on protected species.
72. Although I note the Plan is indicative, it was acknowledged during verbal evidence²³ that in order to reduce potential impacts upon protected species it would be necessary for the walkway to be designed to minimise light spill into Ancient Woodland and to prevent path users from wandering off the path. In

²⁰ CD1.9 Transport Statement of Common Ground

²¹ The appellants estimate that 90% of the pedestrian traffic would use this route Proof CD1/23 para 7.69

²² CD2.19 Fir Tree Grove proposed Boardwalk - Ref 20001061-137 B

²³ Evidence of Mr Mellor and Mr Baxter

considering the safety and surveillance of this stretch of pathway I was advised that the route would be well lit. However, the restrictions imposed by the need to reduce light-spill along the route mean that users of the path would have a limited view into the surrounding woodland. The woodland part of the walkway would provide a direct line of sight and would be wide enough for those using it to pass at a generous distance. Nevertheless, it is not clear to me to what extent users of the path would be able to clearly see into the area around them. This section of the route would extend to around 100M. The route would also be enclosed which may also be perceived, by some users, as providing limited opportunities for escape. In these circumstances, it seems to me that outside daylight hours it would not be perceived as a hospitable or inviting route to use on foot.

73. The parties dispute whether the gradient at Fir Tree Grove would be attractive to users. It is clear to me that the gradient from Rocks Road for both cyclists and pedestrians would deter some from using the route, particularly as it comes at the end of a steady climb from the centre of town. Although a committed cyclist or regular walker would not be deterred, a casual user would be less inclined to tackle the climb. Nevertheless, insofar as the scheme seeks to respond to the constraints of the site, I am not critical of the measures proposed to facilitate cycling to and from the site.
74. The secondary access point would be via Snatts Road and Downland Copse. This would cross over Snatts Road where footpath improvements would be implemented and would then pass through the adjoining residential development using existing pedestrian routes. The most direct route, at around 1.6KM to 2.1KM, would utilise the public right of way than crosses woodland via some existing steps and then skirts the rear of dwellings at Hunters Way to join the pedestrian route through The Drive. Although passable at present the route is in parts overgrown, poorly lit, narrow and subject to extensive littering and dog-fouling. In parts it passes to the rear of private gardens where widening or lighting works may impact on existing residents. However, even if I were to assume that the route, including that part along Snatts Road, could be widened and improved to a satisfactory standard, and lighting provided along all if its length, it is uphill from town, is not overlooked for significant parts and requires the use of steps. These factors, along with the length of the walk, would deter many casual users. It would be inaccessible for some, including those pushing a pram, and after dark would not be perceived as safe by many.
75. The parties agree that subject to the provision of a financial contribution to ensure that the development is served by an hourly bus service to Uckfield town centre, the development would be appropriately served by public transport. This is to be secured through the legal agreement. Notwithstanding this, the provision of an hourly bus service would not, to my mind, mitigate the very serious deficiencies in the pedestrian routes to the town. I add to this my concerns expressed above regarding the safety of pedestrians crossing Rocks Road. Despite the relative proximity of the site to the settlement, the nature of the links proposed would deter walking as a means of sustainable travel. Instead, it appears to me to be more likely that future occupiers would rely on the private car for even relatively short trips from the site. I therefore conclude that the proposal does not provide safe and suitable access for all users and would not reduce dependence on the private car.

76. I have been referred to a number of policies of which I consider policies EN1 of the LP and WCS14 of the CS to be most relevant. It would not support sustainable development aims by making it easier to travel by more sustainable modes of transport. In this regard the development would fail to reflect guidance in the Framework, Policy EN1 of the LP and WCS14 of the CS which seeks to achieve a sustainable pattern of development. The Framework sets out that this can be achieved by providing homes that are served by a genuine choice of transport modes and which facilitates walking as a means of doing this.

Heritage Assets

77. The Grade II listed Oast House, the Grade II listed Buckswood Grange, Grade II listed Barn at Downlands Farm (Swallows Barn) all lie within a short distance of the site. The Maresfield Conservation Area lies across the valley, 900M to the north of the Appeal Site. There are also a number of other assets close to the site which the Council consider to be non-designated heritage assets. These comprise Partridges Oast, Lake Wood and Chicory Cottage. I deal with these below in turn.
78. The Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest when considering whether to grant planning permission for development which affects the setting of a listed building. This duty is reflected in the Framework which subsequently goes on to categorise any harm to the significance of a heritage asset as either 'substantial harm to or total loss of significance of an asset' or 'less than substantial harm to the significance of an asset'. The Framework also required decision makers to take account of the effects of development on the significance of non-designated heritage assets and advises that a balanced judgement will be required having regard to the scale of any harm or loss.

Buckswood Grange

79. The Grade II Listed Buckswood Grange lies to the south of the Appeal Site. Known formally as The Rocks it is a Victorian mansion constructed in 1838 in the Tudor style and was designed by the noted architect Sydney Smirke for the Streatfeilds, a notable local family. The original estate would have comprised all of the appeal site and extensive lands to the south of the asset, now developed for housing. The remaining curtilage comprises an extensive part of the original private gardens to the house which are separated from the appeal site by Rocks Road.
80. The property was latterly used as a school and in 2003 was converted into flats. It has a striking and intricately designed exterior with tall Tudor style chimneys, stone quoins and surrounds to the windows and doors surrounds and decorative detailing to the brickwork.
81. The significance of Buckswood Grange (or The Rocks) is derived from the appearance of the building, through its associations with the history of Uckfield as the home of a prominent local family, and in the survival of those parts of its setting that comprise the original estate, largely within the building's

immediate curtilage but also the wider setting including Lake Wood, which is described below, and which is linked to the Buckswood Grange site by a tunnel and formerly by a pedestrian footbridge (now destroyed).

82. The development would lead to the loss of the open fields that comprised Downlands Farm. This formed part of the wider designed landscape of the Rocks Estate and remnants of the carriageway which served The Rocks through the appeal site are still legible. However, the vast majority of the original estate has now been fragmented and developed and Buckswood Grange is separated from the Downlands farmlands by Rocks Road which forms a physical and perceptual barrier. Without knowledge of the history of the area it is not at all evident that the farmlands were associated with Buckswood Grange and so their loss would not have been perceived as impacting upon the historic landscape and would have only a very limited impact on the significance of the asset.
83. The proposed pedestrian access arrangement to the site via Fir Tree Grove would be visible from the entrance to the Buckswood Grange complex. These works would erode the existing sylvan setting of the site. However, these views would also comprise the boundary treatments, parking and modern outbuildings that form part of the Buckswood Grange complex and so this would amount to only limited harm, on the lesser end of the scale of less than substantial harm.

Lake Wood

84. Lake Wood lies to the north of Rocks Road and is linked to the Buckswood Grange site by a foot-tunnel. It is managed by the Woodland Trust and forms part of the designed landscape of The Rocks. It was designed using the natural sandstone outcrops as a backdrop for exotic planting within a woodland garden and has largely been left to develop naturally over time, with some recent intervention to remove intrusive species. The Council have identified the site as a non-designated heritage asset, and its significance lies in its status as part of the Rocks Estate and as a very well-preserved example both of part of a wider designed landscape and as a self-contained and visually pleasing Victorian designed garden in its own right.
85. The proposal would locate residential development to the north of Lake Wood not far from the northern woodland boundary. I heard evidence from residents at the Inquiry regarding the potential impacts of the proposed development on the Lake Wood Site. I deal with the potential impacts of hydrogeology and biodiversity elsewhere in my report. Residents also expressed concerns that increased noise and activity from the development and recreational disturbance would have an adverse impact on Lake Wood.
86. I visited Lake Wood both accompanied by the parties and on three other occasions unaccompanied. It is undoubtedly a special place for those who are fortunate enough to visit regularly. It seems to me that it is likely that future residents, who would live close to the wood and the lake, would also want to enjoy the space too, the lakeside setting being particularly attractive for dog-walkers. In this regard I understand residents' fears that notwithstanding measures to prohibit direct access to the site, incidences of residents accessing Lake Wood from the site would be difficult to prevent.

87. Nevertheless, I have no evidence that increased visits to Lake Wood would occur to any great extent. Although the asset is close to the proposed properties as the crow flies, dog-walkers aside, most residents are not in reality motivated to go for a casual walk on a regular basis. Those who do would have formalised access to the SANG, which as it would provide a wooden walkway would be more attractive in winter months and would likely be preferred. In this regard, although the development would be likely to increase footfall to Lake Wood, in respect of the effects this would have on the historic integrity of the asset, I am not convinced that this would occur to such an extent that it would fundamentally harm the character of the space or diminish its significance as an historic asset.
88. I noted on site existing noise intrusion from the A22 towards the west of the woods. However, further away from the A22 this was not notable. The proximity of residential development to the north is likely to lead to some increased noise in the area immediately adjacent to the development site. The development would be visible from the northern portion of Lake Wood and at night light spill from the development would be intrusive in an otherwise unlit environment.
89. As the development would lie in open countryside which formed part of the historic estate and the agricultural hinterland to the more formally designed parts of the Rocks Estate it would erode the historic setting of Lake Wood. This would only be evident within the northern parts of the woodland, as the Lake itself is a secluded space, largely free from external intrusion.
90. I attribute some limited weight to the harm these impacts would cause to the asset, commensurate with the extent of the asset that would be impacted and the significance of the non-designated asset.
91. I have also considered whether harm to Lake Wood should be taken into account in determining the level of harm that would accrue to Buckswood Grange, Lake Wood forming part of the setting of the listed asset. However, even taking this harm into account it would not alter my assessment of the harm that would occur to Buckswood Grange as a result of the development.

Chicory Cottage

92. Chicory Cottage lies at the southern end of the appeal site. It comprises a detached dwelling which sits in substantial grounds below the level of the main appeal site adjacent to Fir Tree Grove Ancient Woodland. The building is believed to have originally been former butler's quarters for staff working at The Rocks. Although originally a modest structure it had been extensively enlarged and altered and the original form of the building is barely evident. The Council concede that the structure has limited architectural interest but consider the significance of the asset to lie in its status as part of the Rocks Estate. However, any historic links between Buckswood Grange and Chicory Cottage are no longer evident. Although the buildings are located close together they do not have the physical appearance of being designed together. Furthermore, based on the evidence put to me I do not consider that the historic associations claimed for the building are sufficient to warrant it to be of particular importance or value.
93. The proposals would see the building demolished to facilitate pedestrian and cycle access to the site and the total loss of the asset. As I consider the

building to be of very limited, if any, historic significance I attribute only very limited weight to the harm that would arise in this case.

Swallows Barn at Downlands Farm

94. The Grade II listed Barn at Downlands Farm, also known as Swallows Barn lies to the east of the appeal site, immediately adjacent to the proposed pedestrian route from the site towards Snatts Road. It forms part of a group of buildings which formed part of Downlands Farm. The group is shown on the Historic Environment Record as a medieval farmstead group with later additions including a 19th century Oasthouse.
95. Swallows Barn is a traditional Sussex barn which dates from the 16th Century with a 17th Century extension to the south. It is a two-storey timber framed structure with a steeply sloping clay-tiled hipped roof which is visible in views from the site. It was converted to residential use in the 1990s and whilst this has significantly altered its exterior, the agricultural origins of the building are still clearly evident. The significance of the asset lies in the antiquity of parts of its structure and as a relatively well-preserved vernacular building of its type.
96. The building now sits in a well-defined residential curtilage and although it lies adjacent to the farm track has no physical or functional link with the adjacent agricultural hinterland. Nevertheless, due to the agricultural appearance of the building the historic linkage to the appeal site as part of a wider agricultural holding remains clearly evident. Glimpses of the building are available from the appeal site along the farm track and it is evident in shared views with the open fields of the appeal site in the foreground. In this regard the asset derives some of its significance from its wider setting, particularly the agricultural appearance of the appeal site.
97. The development would fundamentally change the open and undeveloped appearance of the site in the vicinity of the asset from open countryside to suburban development, which although likely to be well landscaped, and retaining existing woodland, would nonetheless no longer be perceived as agricultural land. In this regard the perceived historic linkage with the surrounding hinterland would be less evident. This would cause some limited harm to the significance of the asset which in the terms of the Framework would be classified as less than substantial.

Oast Cottage

98. The Grade II Listed Oast Cottage lies to the east of the appeal site, at the end of the farm track. It was built in the 17th Century as a farmhouse and later subdivided into two farm labourers' cottages for Downlands Farm. It sits in an extended curtilage that includes a substantial area of orchard and is not clearly visible from the public realm. Although significantly altered in the 20th century its origins as a former farmhouse are evident from both the configuration of the building, its materials and modest detailing and it remains an attractive vernacular building.
99. The extensive curtilage to the property means that it is more removed from the development site than its immediate neighbours, despite lying adjacent to the proposed SANG. Nevertheless, insofar as it is clearly a former agricultural property which would have had historic linkages to the agricultural hinterland,

and the development of the adjacent site would lead to a loss of that use, the scheme would lead to some erosion of the asset's wider setting. This would lead to less than substantial harm to the asset, albeit on the lesser end of the notional scale.

Partridges Oast

100. Partridges Oast is defined as a non-designated heritage asset by the Council. It comprises two former farm buildings, including an Oast roundel which have been converted and extended. The property sits in an extended residential curtilage. Although the original structures have been significantly altered, the buildings retain some historic significance as they form part of the cluster of building including Oast Cottage and Swallows Barn which made up the original Downlands Group. The profile of the Oast, which is visible from the appeal site, also signposts the agricultural origins of the property. As with the rest of the Downlands group the wider agricultural setting of the property contributes to the building's significance.
101. Insofar as the development of the site would remove the agricultural elements of the building's current setting, this would cause some limited harm to its significance.

Maresfield Conservation Area

102. The Maresfield Conservation Area, is located approximately 900m to the north of the appeal site and the site is visible from the southern section of the conservation area. From here there are extensive views of the surrounding countryside, including views of the South Downs.
103. I noted during my site visit that the development site was clearly visible from the recreation ground in the south of the conservation area and so forms part of its wider rural setting. The existing open setting is one of the attributes of this part of the conservation area which contributes to its significance.
104. Due to the relative prominence of the site, just below the ridge development on the site, even if well landscaped, it would be very evident as built form and visible across the valley. Nevertheless, the development would form only a small component of the view from the south of the conservation area. Furthermore, the proportion of views from the conservation area which would be impacted by the development would be relatively small. These factors lead me to the view that whilst the development would be visible, its effects on the conservation area when taken as a whole would not be notable. In this regard it would not have a material effect on the significance of the conservation area as a heritage asset.
105. Spring Cottage, a non-designated heritage asset located on London Road to the north of the appeal site, is not considered by either the Council or the appellant to be affected by the appeal proposals and I find no reason to disagree.

Conclusion on Heritage Assets

106. The proposal would lead to less than substantial harm to Oast Cottage, Swallows Barn and Buckswood Grange. The Framework indicates that where less than substantial harm is found, then this should be weighed against the public benefits of the scheme. It would also cause some harm to the

significance of Lake Wood, Partridges Oast and Chicory Cottage as non-designated heritage assets and I also attribute this harm some limited weight against the proposal.

107. Amongst other things the proposal would provide 424 dwellings, including affordable dwellings, in a district with no 5-year supply of housing land. This benefit alone would outweigh both the individual and collective harm identified to both designated and non-designated heritage assets.
108. The Council have referred to Policies EN1 and EN27 of the Local Plan. These relate to general matters of sustainable development and design and so are not specifically related to the impacts of the proposal on heritage assets. The Council have also referred to Strategic Objective SP02 of the CS. This objective seeks to ensure that the intrinsic quality of the historic environment is protected. Although the proposal would conflict with this objective it would not conflict with national policy as set out in the Framework.

Other Matters

109. Although the Council object to the loss of countryside, they have not raised specific concerns regarding the landscape impact of the development, or its impact on the character of the area, although this is a concern for some residents. I noted on site that it was very enclosed, and that as a consequence it was not notable in close range views around the site. The woodland provided an effective screen to the north south and west and from the east and due to the limited access from Snatts Road, and its position on a ridgeline above the site the main part of the development would be almost entirely screened from the public highway. Access via Fir Tree Grove would introduce a built element where there is currently none, but in the wider suburban context of this part of the site this would not be incongruous. Whilst it is noted that the small number of residents backing onto the site would lose an attractive view of open countryside, the distances involved would mean that this would not amount to a loss of amenity.
110. In longer range views across the valley the site would be notable as urban form "spilling" over the largely unbroken ridgeline. Due to the existing visibility of the fieldscape on rising land and the amount of urban form proposed I do not accept that it would be assimilated into the landscape to the extent put forward by the appellant. Instead, I consider that the scheme would have a small but nonetheless harmful effect in views from the west. In this regard, although the proposal would not have a material impact in localised views, it would cause some limited harm to the wider landscape.
111. Some residents have also raised concerns in relation to the effects of the proposals on the local infrastructure and services. The education authority has confirmed that no provision would be required to meet education needs and no need for health care provision was identified during the course of the application. These matters do not therefore weigh against the proposal.

The Planning Balance and Conclusion

112. The proposal would provide 424 dwellings of which 35% would be affordable and a further 5% would be custom and self-build. I attribute substantial weight to the supply of this housing as a benefit. It would also bring some economic benefits during construction and through the contribution future residents

would make to the local economy. As the provision of the SANG would lead to harm to the Ancient Woodland, I do not consider it to be a benefit of the scheme. Furthermore, as I am not assured that the BNG calculation is soundly based I cannot attribute it any positive weight.

113. The appellant has also cited high quality design and a commitment to climate resilient development as a benefit of the scheme. As these are matters which the Framework identifies as being key components of sustainable development I consider these to be neutral factors which do not weigh in favour of the proposal. Other than the SANG, the development will provide public open space within the development that could be used by non-residents. I have no firm details of the nature of this and so do not know how attractive it might be to local residents. Accordingly, I attribute it only some limited weight. It would also provide some woodland management which the appellant has stated is not currently taking place. Having regard to the submissions of the appellant regarding the need for long term management of the woodland on site I attribute this matter moderate weight.
114. The proposal would cause harm to Ancient Woodland. It would also fail to provide adequate mitigation in relation to the potential effects of the proposal on Ashdown Forest SPA and SAC and would fail to make adequate provision for protected species. The Framework directs that on both the matter of Ancient Woodland and in relation to harm to the Ashdown Forest SAC there is a clear reason to refuse the development. I add to this that the proposal would fail to provide acceptable vehicular or pedestrian access to the site. Individually and collectively these matters carry very substantial weight. Furthermore, I add to this the more limited harm in relation to heritage assets and harm to landscape. Overall, I find that the proposal would conflict with the development plan as a whole.
115. Even if I were to accept the appellant's submissions in relation to the deficit in housing land supply, the extent of affordable housing need locally, and the extent of economic deprivation in the District, the matters which weigh in favour of the proposal, whilst substantial, do not provide firm grounds for departing from national policy in paragraph 11d(i) of the Framework in relation to either harm to Ancient Woodland or the failure to provide adequate provision in regard to the European Protected Site. Furthermore, the harm that would arise from the proposed pedestrian and vehicular access to the site in terms of highway safety, and its general accessibility would significantly and demonstrably outweigh the identified benefits.
116. Therefore, having regard to all other matters raised, the appeal is dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Victoria Hutton of Counsel

She called:

Heather Hall BArch MSc - Heritage Officer Wealden District Council

Roger New BSc MSc CMICE - Project Manager at GTA Civils and Transport on behalf of East Sussex County Council

David Massheder BA(Hons) Dip.Arb Cert Arb (RFS) - Tree & Landscape Officer Wealden District Council

Gabrielle Graham BSc MSc MCIEEM - Managing Director SWT Ecology Services

Graham Kean BSc Hons - Engineer and Countryside Officer Wealden District Council

Stacey Robbins BA(Hons) DipTP - Head of Planning and Environmental Services Wealden District Council

FOR THE APPELLANT:

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Assisted by Joel Semakula of Counsel

He called:

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Joshua Mellor BSc(Hons) MSc MRTPI, Planning Associate Director at Stantec

INTERESTED PERSONS:

Francis Wallis – Local Resident

Councillor J Love - on behalf of Uckfield Town Council

Deborah Millard – on behalf of Downlands Action Group

Mr Bell – Local Resident

Councillor Manvell – Uckfield Town Council and Wealden District Council

Guy Misrahi -Local Resident

Nick Daines- on behalf of the Council for the Protection of Rural England

Catherine Acres-Douglas – Local Resident

Dr Dawson – Local Resident

Vivien Blandford- on behalf of Downlands Action Group

Mr Hall -Local Resident

Dr Thompson – Cuesta Consulting on behalf of Down Lands Action Group

Dr Martyn Stenning - on behalf of Downlands Action Group

Jarod Hardcastle – Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID01 – Written Submission of Mr Richard Williams
- ID02 – Batscan Survey Report 31st August 2021 - Mr J Bell, Gormastone
- ID03 – Appellants Opening Statement
- ID04 – Council's Opening Statement
- ID05 – Appellant's Appearance List
- ID06 – Statement from Uckfield Town Council
- ID07 – Statement from Cllrs Lowe and Manville
- ID08 – Speaking Notes Mr Daines
- ID09 – Submission from Elisabeth Dawson
- ID10 – Statement from Vivienne Blandford
- ID11 – Rocks Road Crossing Visibility Splays ESCC Submission
- ID12 – Catalogue Excerpts - Store Fittings Direct – Visirail Guardrail Panel
- ID13 – CD116 Geometric Design of Roundabouts – Highways England
- ID14 – Forestry Commission Response regarding the Boardwalk
- ID15 – Written Submission Dr Stephen Hall
- ID16 – Written Submission Dr Alan Thompson
- ID17 – Written submission Mr Chris Daniels – Local Resident
- ID18 – Paper Copy Drawing No 40-1020-03-A
- ID19 – Consultation response Natural England 31st October 2023
- ID20 – Photographs of Emergency Access Route
- ID21 – Correspondence relating to directions drilling from A E Yates
- ID22 – Updated Appendix AB9 – Ecology Proof Mr Baxter
- ID23 – Updated Draft S106 14 November 2023
- ID24 – Appeal Ref APP/C1235/W/19/3230484 Morning Mills Farm, Willingdon
- ID25 – Updated Schedule of Conditions 14 Nov 2023
- ID26 – Appeal Ref APP/U2235/W/21/3278941 The Finches Maidstone
- ID27 – Appeal Decision Ref APP/A1910/W/10/W/10/3275429 Lilas Wood Tring
- ID28 – Appeal Decision Ref APP/V3120/W/17/3190461 Badbury Hill, Farringdon
- ID29 – Note from RSK Geosciences – Comments made on Hydrology, Downlands Farm.
- ID30 – Aspect Ecology Bat Addendum Report 13th Nov 2023

- ID31 – Submission from J Chattaway – Local Resident
- ID32 - Submission from Dr Dawson – Local Resident
- ID33 – Submission from Ms Zoe Brown Local Resident
- ID34 –Updated S106 Agreement 16th November 2023
- ID35 - Updated Schedule of Conditions following Round Table Session Dated 16th Nov 23.
- ID36 – ESCC Travel Plans for Development February 2020
- ID37 – Wealden District Council – Infrastructure Funding Statement (IFS) 2021-22
- ID38 - Wealden District Council - Statement of Community Involvement July 2020
- IN39 – Review of Bat Addendum Report prepared by Surrey Wildlife Trust dated 23 November 2023
- IN40 – Costs Application on behalf of Wealden District Council and East Sussex County Council
- IN41 – Appellants’ Response to the Council’s Cost Application & and Counter-Application for Costs
- IN42 - Response to the Council’s ‘Review of Bat Addendum Report’ prepared by Aspect Ecology dated 30 November 2023
- IN43 – Certified Copy of S106



Costs Decision

Inquiry held on 24th-26th October, 31st October, 7th-9th November and 14th -16th November 2023

Site visit made on 13th November 2023

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

Costs application 1

**Costs application in relation to Appeal Ref: APP/C1435/W/23/3321978
Land at Downlands Farm, Uckfield, TN22 3PU**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wealden District Council for a full award of costs against Gleeson Land and John Alison Land and Research Ltd.
 - The inquiry was in connection with an appeal against the refusal of planning permission for 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.
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Costs application 2

**Costs application in relation to Appeal Ref: APP/C1435/W/23/3321978
Land at Downlands Farm, Uckfield, TN22 3PU**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Gleeson Land and John Alison Land and Research Ltd for a partial award of costs against Wealden District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for 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.
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Decisions

Costs application 1

1. The application for an award of costs is refused.

Costs application 2

1. The application for an award of costs is refused.

Procedural Matter

2. The costs applications were made in writing after the Inquiry closed following a prescribed timetable.

Costs application 1

The submissions for Wealden District Council and East Sussex County Council (ESCC)

3. The appellant contends that Gleeson Land and John Alison Land and Research Ltd acted unreasonably because:
 - The evidence provided by the Appellants to defend the safety of the main access and the pedestrian and cycle access in Fir Tree Grove is so obviously deficient that the appeal cannot succeed;
 - The case presented by the Appellants on loss or deterioration of Ancient Woodland was manifestly unreasonable. The appellant refused to accept the latest version of the Standing Advice (2022) and PPG; and the reasons put for there being no loss or deterioration as a result of boardwalks were unjustified and contradictory. As such the appellants case cannot succeed on the basis upon which it has been put.

The response by Gleeson Land and John Alison Land and Research Ltd

4. The appellant responds that:
 - The Council's case for costs does not take into account the totality of the Appellants' highways case and their criticisms focus on early comments from the highways authority. The Appellants' case is supported by an independent Road Safety Audit (RSA) which the Council's evidence did not criticise.
 - The Council has misrepresented the highway authority's concerns as regards the Main Access and Fir Tree Grove Access.
 - With regard to Ancient Woodland the Council's contention that the Appellants acted unreasonably is unjustified and contradictory. Planning Practice Guidance should not be treated as policy and is open to interpretation. The appellants reasons for there being no loss or deterioration as a result of boardwalks is supported by robust evidence and reflects the advice of statutory undertakers.

Reasons

5. Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
6. The costs application hinges on whether the appellants were clearly pursuing an application which could not reasonably be granted and that in doing so did

not exercise their right of appeal in a reasonable manner. Whilst I refer below to “the appellants”, this relates to the case put to me collectively by the appellants’ professional witnesses and Counsel.

7. Firstly in relation to the pedestrian access at Fir Tree Grove. I noted on site that the visibility splay would be obstructed by both the proposed “Visirail” and the topography of the site. These factors were not made explicit in the consultation response from ESCC or the Committee Report. Whilst these are clearly evident from a site visit the advice from ESCC makes no mention of visibility through the Visirail and refers only to the removal of vegetation, not rock. The Council’s highways proof refers to topography but does not expand on this point at any length. It is also not clear from the Council’s written case that they considered the Rocks Road visibility splay was not capable of being implemented. This matter was brought out at the Inquiry through evidence in chief and cross-examination. It is therefore possible that in making and advancing the appeal the appellants formed the view that achieving an adequate visibility splay was a resolvable issue and so was not one of the matters on which the appeal turned.
8. In relation to the access at the A22. It is the case that at the point of refusal it isn’t clear how far the Council were relying on comments from October 2022 or March 2023, which it is understood were available to the appellant on the day of planning committee. However, both sets of comments conclude that the application is deficient in relation to both the Fir Tree Grove and A22 access points and so I do not consider that this supports the appellants’ case. The appellants sought to respond to the Council’s concerns through the production of an RSA in July 2023 after the application was refused. As I stated in my decision, the Council are not bound by the findings of the RSA and in the event I agree with the Council’s conclusions in relation to the safety of the A22 access. However, the decision whether to apply the guidance in the DMRB¹ was a judgement based on the material factors in this case and so I do not think the appellants were entirely unreasonable in arguing that the distance to the layby was safe and suitable in this case.
9. In relation to Ancient Woodland, part of the appellants’ case was that guidance in Standing Advice should be disapplied because it was “irrational”. Whilst this is a brave stance to take, it is, in the event, a professional opinion and the PPG and Standing Advice issued by the Forestry Commission is not policy. Furthermore, the advice of Natural England in their consultation responses to employ a boardwalk may have to some extent provided the appellant with the erroneous impression that Ancient Woodland within the SANG could be brought into use without harm, and that this approach could similarly be employed in Fir Tree Grove. Whilst it is clear to me from the evidence before me that very real harm would occur, in light of the advice from Natural England it was not entirely unreasonable for the Appellants to reach a view that they may have had some chance of success at appeal.
10. All of the above leads me to the view that although there are very clear and unambiguous reasons to dismiss the appeal, the Appellants clearly substantiated their case at the Inquiry and did not act unreasonably in bringing the appeal. For these reasons I do not consider that unreasonable behaviour

¹ Design Manual for Roads and Bridges

resulting in unnecessary or wasted expense has been demonstrated and the application for costs is refused.

Costs application 2

The submissions for Gleeson Land and John Alison Land and Research Ltd

- The Council failed to adequately substantiate its reasons for the costs application, duplicating issues raised at the "Bird In Eye" appeal and so acted unreasonably.

The response by Wealden District Council and East Sussex County Council (ESCC)

- The issues involved in this case are fact-specific and therefore the Appellants' reliance upon another appeal decision is misplaced.
- the Appellant's costs response does not deny that as a matter of fact its 59m visibility splay at Fir Tree Grove is blocked by rocks and trees. This being the case, the costs application is reasonable.
- The Appellants have not demonstrated that they have incurred additional costs as a result of responding to the Council's costs application.

Reasons

11. The cost application asserts that the Council's application for costs was not adequately substantiated and that unnecessary and wasted expense has arisen in responding to it.
12. The issues put to me by the Council clearly relate to the appeal before me. Whilst similar issues may also have been at play at "Bird in Eye" that appears to me to be largely irrelevant as to whether the Council's stance was relevant in this case. Although, in the event, for the reasons set out above, I have decided not to award costs to the Council, the application for costs was clearly set out and substantiated. I therefore do not consider the application made by the Council to be unreasonable.
13. For these reasons I do not consider that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated and the counter application for costs is refused.

Anne Jordan

INSPECTOR