For: Planning Committee South  
Date: 23 April 2020

WD/2018/2608/MAO - UPPER HORSELUNGES, PARK ROAD, HELLINGLY, BN27 1PA

Summary of Proposal

Major Application - Outline application for:-  
OUTLINE APPLICATION FOR 10 FLATS

Received date: 27 June 2019
8/13 week date: 30 March 2020
Parish: Hellingly
Ward: Hellingly
Grid Ref: 558797 111362

Link to website:  

Recommendation

Outline planning permission BE GRANTED, subject to the following conditions:-

1. Permission is granted subject to the subsequent approval by the Local Planning Authority of the detailed particulars of the layout, scale and appearance of the buildings to which this permission relates and the landscaping of the site before any development is commenced, such matters being reserved from the permission. STD1A

   REASON: To meet the requirements of Articles 2 and 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

2. Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved. STD2

   REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990.

3. (a) Application for approval of the matters reserved for subsequent approval must be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of this outline permission; and

   (b) the development to which this permission relates must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. STD3

   REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990.
4. Prior to any works associated with the development hereby approved a detailed scheme for highway mitigation works to include the following:

- A new vehicular access into the site with dropped kerbs and tactile paving on either side.
- Improved pedestrian linkages at the site access with new footways provided on the west side of Park Road to the north and south of the site.
- Dropped kerbs and tactile paving provided on Park Road to the north of the site access to provide a pedestrian crossing point.

Shall be submitted to an approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved scheme and completed prior to first occupation of any of the dwellings.

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road and in order to secure a satisfactory standard of development, having regard to Saved Policies TR3 and TR16 of the Wealden Local Plan.

5. No development shall commence other than the access works until the vehicular access serving the development has been constructed in accordance with the approved drawing (7795/103).

REASON: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway in the interests of the visual amenities of the locality having regard to Saved Policy TR3 of the adopted Wealden Local Plan.

6. Before preparation of any groundworks or foundations for the dwellings, the new access(es) shall be completed to base course level, together with the surface water and foul sewers to the approval of the Local Planning Authority in consultation with the Highway Authority. HW11 (M)

REASON: In the interests of highway safety and the amenity of the locality having regard to Saved Policy TR3 of the adopted Wealden Local Plan.

7. No part of the development shall be first occupied until visibility splays of 2.4 metres by 120 metres to the north and 2.4 metres by 70 metres have been provided at the proposed site vehicular access onto Park Road in accordance with the approved plans. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 600mm.

REASON: In order to provide visibility for vehicles entering and leaving the site in the interests of and for the safety of persons and vehicles using the development and the adjoining road having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 109 and 110 of the National Planning Policy Framework 2018.
8. No work shall be carried out on site for the development hereby approved, until full written details for a Code of Construction Practice has been submitted and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction including protection of retained features and surface water bodies on or adjacent to the site, control of run-off, application of design controls for construction equipment and construction vehicles, vehicle routing, wheel washing facilities, sheeting of lorries during transportation of construction materials, provision of water sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities and waste disposal. The approved Code of Construction Practice shall be implemented throughout the period of work on site. C04 (M)

REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to Saved Policies EN27 and TR3 of the adopted Wealden Local Plan.

9. No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:

- The anticipated number, frequency and types of vehicles used during construction,
- The method of access and egress and routeing of vehicles during construction,
- The parking of vehicles by site operatives and visitors,
- The loading and unloading of plant, materials and waste,
- The storage of plant and materials used in construction of the development,
- The erection and maintenance of security hoarding,
- The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- Details of public engagement both prior to and during construction works.

REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998.

10. No development approved by this permission shall be commenced until full details of the proposed means of foul drainage disposal have been submitted to and approved in writing by the Local Planning Authority. The approved drainage
works shall be completed prior to the completion or occupation of any dwelling on site, whichever is the sooner. DF01

REASON: In order to secure a satisfactory standard of development, having regard to Saved Policy CS2 of the adopted Wealden Local Plan.

11. No development shall take place until full details of the surface water drainage scheme, have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme should be confirmed as deliverable by an assessment of the site’s potential for disposing of surface water by means of a sustainable drainage system. The submitted details shall include the following:

i. Provide full information about the design storm period and intensity and the method employed to delay and control the surface water discharged from the site to include a clear indication as to where the roof water is to be routed. This should include hydraulic calculations to the satisfaction of the Lead Local Flood Authority.

ii. Supply detailed plans, layouts and sections of the proposed drainage system and construction details of any non-standard features.

iii. Provide a management and maintenance plan for the development which shall include the arrangements for the setting up of any necessary company/association to secure the operation of the scheme throughout its lifetime.

REASON: To reduce the risk of flooding, both on and off site, to improve and protect the water quality and improve habitat and amenity having regard to the guidance set out in the National Planning Practice Guidance and any Local Plan Policies where appropriate according to the Local Planning Authority, for example WCS14 of CSLP, saved Policy CS2 of the Wealden Local Plan.

NOTE: Attention should be given to non-statutory technical standards for sustainable drainage systems, the ESCC 'Guide to Sustainable Drainage Systems in East Sussex' and the total costs of implementing.

12. Details for the long term maintenance arrangements for any parts of the drainage system which will not be adopted (including ponds, ditches, swales, permeable paving, land drains) to be submitted and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings hereby permitted. The submitted details should specify the responsibilities of each party for the implementation of the SUDS scheme, a timetable for implementation, provide a management plan and maintenance plan for the lifetime of the development which should include arrangements for adoption by any public authority or statutory undertaker and any other arrangement to secure the operation of the scheme throughout its lifetime. The management and maintenance arrangements shall be carried out in accordance with the approved details over the period specified. DS05 (M)
REASON: To ensure the satisfactory maintenance of unadopted drainage systems in accordance with Saved Policy CS2 of the adopted Wealden Local Plan and the Wealden Design Guide, Chapter 4, Sections 8 and 9.

13. Before development commences a full Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details. TP05(M)

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 127, 170 and 175 of the National Planning Policy Framework 2019 and the Wealden Design Guide, Chapter 3, Section 6.

14. Before commencement of any works associated with the development hereby approved, tree protection fencing which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction - Recommendations, for the protection of those trees, shrubs and natural features not scheduled for removal shall be submitted to an approved in writing by the Local Planning Authority. The approved fencing shall be erected in the positions approved and thereafter retained until such completion of the development, to the approval of the Local Planning Authority. Hereafter, the fencing shall be referred to as the ‘approved protection zone’.

The following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:-

(i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

(ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

(iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

(iv) No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.

(v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.
(vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'. TP01

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998.

15. No works shall take place for the development hereby approved until a detailed ecological enhancements scheme, which shall include a programme for the implementation of the works and long term management, shall be submitted to and approved in writing to the Local Planning Authority. This detailed scheme shall include:

(i) Appropriate ecological enhancements,

(ii) Measures specifically to address retention and enhancement of the site's ecological connectivity through ecological corridors and networks,

(iii) Works to all areas of retained habitat and an agreed future management and maintenance strategy for all habitats on the site,

Thereafter, the scheme shall be completed in accordance with the approved plans and programme to the satisfaction of the Local Planning Authority and the management and maintenance arrangements shall be carried out in accordance with the approved details over the period specified. LA11 (M)

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to Saved Policies EN14 and EN27 of the Wealden Local Plan.

16. No development shall take place until there has been submitted to and approved by the Local Planning Authority a wildlife management plan, to include as appropriate detailed proposals for the protection of bats, birds, reptiles, great crested newts, badgers and dormice, and measures for the mitigation of any harm to them likely to be caused by the development. The works and other measures forming part of that plan shall be carried out in accordance with it. NC08

REASON: To ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development and the Wealden Design Guide, Chapter 2, Chapter 3, Section 15.
17. This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:

<table>
<thead>
<tr>
<th>Ref.</th>
<th>Date Stamped</th>
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<tbody>
<tr>
<td>1718/050/05A</td>
<td>24 December 2018</td>
</tr>
<tr>
<td>Arboricultural Report 4546/17-01</td>
<td>5 December 2018</td>
</tr>
<tr>
<td>Preliminary Ecological Appraisal</td>
<td>1 February 2019</td>
</tr>
<tr>
<td>Bat Report</td>
<td>7 June 2019</td>
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<tr>
<td>SuDS Drainage Statement</td>
<td>27 June 2019</td>
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<tr>
<td>Transport Report</td>
<td>18 June 2019</td>
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REASON: For the avoidance of doubt.

NOTE: Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations or Section 73 of the Act for minor material alterations. An application must be made using the standard application forms and you should consult with us, to establish the correct type of application to be made.

NOTE 1: The developer is required to contact the Council as Street Naming & Numbering Authority, in writing, enclosing a Site Layout Plan and the commencement of work on site, to agree a scheme of house/street naming and numbering, and for the allocation of postcodes. Please contact the NLPG Officer, IT Department, at the above address. STN8

NOTE 2: The applicant is advised that it is an offence under Section 161 of the Highway Act 1980 to deposit anything on a highway the consequence of which a user of the highway is injured or endangered. It is strongly recommended that during any form of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided and used within the site, to prevent contamination and damage to the adjacent roads.

NOTE 3: The upgrade works to the access and footway require alteration to the existing highway network and must be undertaken by the Highway Authority or its appointed agents. An Agreement under Section 278 of the Highways Act 1980 will be required.

The local Highway Area office will need to be contacted prior to commencement of work on the access.

Western Area Office
The Broyle
Ringmer
Lewes
East Sussex BN8 5NP
0345 60 80 193
NOTE 4: The applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning consent for a development does not provide a defence against prosecution under European and UK Wildlife Protection Legislation. You are advised that it may be necessary, shortly before development commences, for the applicant to commission an Ecological Survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, Natural England should be consulted. NCN2

NOTE 5: The Local Planning Authority strongly recommends that detailed designs submitted at the Reserved Matters stage include planting of new hedgerow to the site's Park Road frontage and that the site layout provides space between building(s) and the Park Road boundary, in order to protect street scene.

Reason for Referral

This application is being referred back to committee in order to update the resolution in light of the outcome of the Stage 1 hearing sessions into the Examination of the Submission Wealden Local Plan 2019.

Executive Summary

Members resolved at Planning Committee South on 7 November 2019 to grant planning permission for this development subject to the completion of a legal agreement and conditions.

Following the Stage 1 hearing sessions into the Examination of the Submission Wealden Local Plan 2019, the Inspector wrote to the Council advising that the Plan was unsound, could not proceed and should be withdrawn. The plan has since been withdrawn following resolution at full council on 19 February 2020.

As a direct result of this, the original recommendation is amended to reflect the changed policy position which deletes the requirement for a S106 agreement to secure a financial contribution towards a strategic package of mitigation measures to ensure there is no adverse impact on the Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar site.

The condition relating to securing appropriate mitigation measures on site from the emerging plan is also deleted, as is a condition controlling unit mix.

In order to accommodate the concerns of the Committee regarding the proximity of the units to the road the application has reduced the quantum of development by one unit to 10 (to give a net gain of 9) to facilitate this (albeit the indicative details do not show a set back for the northern block the southern unit being removed).

This report also provides an update regarding the policy situation with regard to the principle of development having regard to the withdrawn plan. All other matters
remain as per the original officers at the November meeting for which the report is appended in full.

It is recommended that planning permission is granted subject to the proposed conditions.

1. **Statutory Bodies and Residents - Responses**
   
   All as per the November 2019 PCS report. (Appended)

   **Other third party responses (including local residents)**

   All as per the November 2019 PCS report. (Appended)

2. **Other Relevant Responses/Issues**

   All as per the November 2019 PCS report. (Appended)

3. **Relevant Planning History**

   All as per the November 2019 PCS report. (Appended)

4. **Details of Case**

   **The Application Site**

   The site is a single private dwelling with a number of outbuildings set. It has an existing vehicular access with trees to the southern boundary. There is new development to the NW with further development consented to the east.
The Development Proposals

Outline consent is sought for the erection of 10 flats. All matters however are reserved apart from access. The proposed access involves removal of the front boundary vegetation and movement of the access to secure appropriate visibility.
Policy Framework

The up-to-date approved ‘development plan’ for Wealden District Council comprises the following documents:

- The Wealden District Council (incorporating part of the South Downs National Park) Core Strategy Local Plan (adopted 19 February 2013)
- The Affordable Housing Delivery Local Plan (May 2016)

On 28 March 2013 an application was made to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 challenging the validity of the Core Strategy on the grounds that it failed to comply with the requirements of Directive 2001/43/EC on the Assessment and Effect of Certain Plans and Programmes on the Environment and the implementing Environmental Assessment of Plans and Programmes Regulations 2004. This was dismissed by Order dated 21 February 2014. However, an appeal on 3 grounds was made to the Court of Appeal. On 7 October 2014, the Court of Appeal dismissed Grounds 1 and 2 relating to the housing numbers in the Core Strategy (original ruling was upheld).

Ground 3 related to whether the Council had considered reasonable alternatives to the use of a 7 km zone in relation to the provision of SANGS. On 9 July 2015 in response to a Court of Appeal decision, the Council has made changes to its Core Strategy Policy WCS 12 relating to Ashdown Forest.

Prior to the Court of Appeal Judgement Policy WCS12 provided that any net increase in residential development between 400m and 7km would be required to mitigate its recreational impact through the provision of Suitable Alternative Natural Green Space (SANGS) and on-site visitor management measures. The reference to the 7km zone of influence and the specific mitigation identified in this policy has now been removed. However all planning applications will continue to be subject to the Habitat Regulations which protect the Ashdown Forest Special Protection Area (SPA).

The rest of the Core Strategy is unaffected therefore remains intact as part of the adopted development plan for the purposes of this application.

Certain policies of the Wealden Local Plan (1998) have been 'saved' via Direction of the Secretary of State dated 25 September 2007, under the provisions of Paragraph 1(3), Schedule 8 of the Planning & Compulsory Purchase Act 2004. Annex 1 of the National Planning Policy Framework confirms that these 'saved' policies still form part of the development plan.
Under ‘saved’ policies EN1 (sustainable development) and EN27 (layout and design) of the Wealden Local Plan 1998, the Council has also formally adopted the Wealden Design Guide, November 2008, as a Supplementary Planning Document. Some ‘saved’ policies and the design guide continue to have material weight where they are in compliance with the NPPF and CSLP (having regard to paragraph 216 of the NPPF).

The Council had proposed a new Local Plan. This was submitted for independent examination on the 18 January 2019. Following the Stage 1 hearing sessions into the Examination, the Inspector wrote to the Council advising that the Plan was unsound, could not proceed and should be withdrawn. The plan has since been withdrawn following full council resolution on 19 February 2020.

Relevant Policies

The National Planning Policy Framework (NPPF) in force from February 2019 is a material planning consideration when assessing and determining planning applications. Due regard has been had to any relevant national policy guidance, in particular paragraphs 1-2, 7-12, 38, 47-50, 54-56, 59, 73, 77-79, 83, 96, 103, 108-111, 117-118, 122, 124, 127-128, 130, 148, 153, 155, 157, 170, 175-177, 178, 182, 184, 189-190, 192, 193-199, 212-213 of the NPPF.

Transitional provisions of the NPPF confirm that policies within the adopted Wealden Local Plan 1998 saved under the Planning and Compulsory Purchase Act 2004 continue to form part of the Local Plan.

- Saved Policies GD2, EN1, EN2, EN8, EN27, DC17, TR3 and TR16 of the adopted Wealden Local Plan 1998.
- Policies SPO1, SPO3, SPO7, SPO8, SPO13, SPO14, SPO15, WCS6, WCS7, WCS8 and WCS14 of the Wealden Core Strategy Local Plan 2013.

Principles of Development

The application site is located outside the defined development boundary for Hailsham within the Low Weald landscape character area. It is in the SD3 strategic development area in the WCSLP 2013.

Main Issues/Policy Issues

Presumption in Favour of Local Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) states ‘If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise’. This therefore provides a presumption in favour of the development plan.
Section 70(2) of the Town and Country Planning Act states ‘In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations’

Development should therefore be determined in accordance with the Local Plan unless material considerations indicate otherwise.

Currently for the purposes of Section 38(6) of the PCPA 2004, the current development plan for the area in which the application site is located comprises the Policies of the Wealden Local Plan 1998 which were saved in 2007 and the Core Strategy Local Plan which was formally adopted on 19 February 2013.

The site is outside any development boundary in the 1998 plan. Policies within the 1998 plan resist new housing development in the countryside which is not essential for agriculture or forestry needs or has some other similar justification for a rural location (such as rural affordable housing exception sites) as set out in saved Policies GD2 and DC17 of the Wealden Local Plan 1998. Outside of the development boundaries, residential development is generally resisted in accordance with Policy GD2. The proposed application does not comply with any of the exception polices in the 1998 Local Plan.

The adopted Core Strategy Local Plan 2013 accepts that the development boundaries contained within the 1998 Local Plan will have to be breached to deliver the level of housing required. The site is in the strategic development area SD3 for Hailsham in the WCSLP. The quantum of development in SD3 has already been delivered. These units would be in excess of the housing numbers in the WCSLP and therefore would also be contrary to the WCSLP.

The proposed development is therefore contrary to the adopted local plan and should be refused unless material considerations indicate otherwise.

The NPPF 2019 is a relevant material consideration.

**NPPF**

The NPPF is a material consideration setting out the Government’s planning policies for England and how these are to be applied (para1 and 2).

Para 11 sets out that plans and decisions should apply a presumption in favour of sustainable development. For decision making this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

11 d(i) sets out that the presumption does not apply to development where there is a clear reason for refusing the development as set out in the NPPF. Footnote 6 sets out reference to such policies. One such policy are those in relation to habitat sites. As set out within the report, there is potential for impacts to the integrity and conservation objectives of three such European protected sites. However, there are not clear reasons to refuse the development on grounds relating to these following the appropriate assessment contained within this report.

As such, for the purposes of decision making in relation to the NPPF the presumption does apply in this instance and the ‘significant and demonstrable’ test of 11 d(ii) along with the presumption in favour is invoked. Footnote 7 in the NPPF confirms that out of date policies would include housing policies where the Council does not have a 5yr supply. Wealden does not have a 5yr housing land supply and the saved and adopted policies GD2, DC17 and WCS6 would, for the purposes of the NPPF, be considered out of date for decision making purposes. This significantly limits the weight that can be afforded to them.

The NPPF gives weight to policies in existing plans under Paragraph 213 according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

For policy purposes, the site falls outside any development boundary in the local plan and can for the purpose of decision making be considered a rural location. Para 79 of the NPPF deals with rural housing. This seeks to prevent isolated new housing in rural areas. Consideration of isolation is for the decision maker. This is not an isolated site. Wider issues of sustainability under the three strands of sustainable development identified under para 8 of the NPPF are contained within the main body of the report. Notwithstanding any conclusion on the ‘isolation’ point for para 79 development could still be unsustainable.

Housing Land Supply

Paragraph 73 of the NPPF requires local authorities to identify a supply of specific deliverable sites to provide a minimum of 5 years worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than 5 years old. The five-year supply of sites additionally requires a 5% buffer to ensure choice and competition in the market for land, 10% where the local planning authority wishes to demonstrate a five year of deliverable sites through an annual position statement or recently adopted plan to account for any fluctuations in the market during that year and where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%.
As set out in the Authority Monitoring Report December 2019, the Council can currently demonstrate 3.67 years supply of housing land.

Paragraph 11d of the NPPF advises that where there are no relevant development plan policies, or the policies which are most important for determining the applications are out of date which includes applications for housing where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework take as a whole. With regard to the application site, the special emphasis in the presumption in favour of granting planning permission in such circumstances (Paragraph 11) does not automatically apply because of Footnote 6 and the application of policies in the Framework under Paragraphs 175 and 177.

However, with a positively concluded Appropriate Assessment (see main body of report) the presumption in favour is engaged.

Even if that is wrong, or the competent authority for the Appropriate Assessment reaches a negative conclusion (disengaging the presumption in paragraph 11 of the NPPF), there can be no doubt that the shortfall in the supply of housing land is a material consideration that weighs heavily in favour of allowing the proposed development.

**Consideration**

It is clear that whilst the proposal does not comply with the Wealden Local Plan 1998 or Wealden Core Strategy Local Plan 2013 it is sustainable development under the NPPF not being isolated and having reasonable alternatives to the private car. It is located in an area that has significant growth permitted around it such that it clearly falls within the built up area of Hailsham. The withdrawal of the plan does not change this conclusion which was clearly set out in the original recommendation.

The reduction of a unit gives the ability to lessen the amount of the development on the frontage without knock on impacts to the amenities of residents behind. This reduction is appropriate following the original resolution and would still achieve a good use of the site in terms of dwelling numbers, particularly given they will be smaller flats.

It has been confirmed via the sewer mapping that the site does not drain to the Station Road network to the north but drains to the south towards the Hailsham North Waste Water Treatment Works.
Habitat Regulations Assessment

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 requires that where a plan or project is likely to result in a significant effect on a European site, and where the plan or project is not directly connected with or necessary to the management of the European site, as is the case here, a competent authority is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of its conservation objectives. In so doing, an assessment is required as to whether the development proposed is likely to have a significant effect upon a European site, either individually or in combination with other plans and projects.

Assessment of likely significant effects on the SPA

The qualifying feature underpinning the SPA designation is the concentration of Dartford warbler and European nightjar. The conservation objectives for the SPA can be summarised as ensuring that the integrity of the site is maintained or restored as appropriate so that it continues to support the population and distribution of its qualifying features.

Natural England’s (NE) supplementary advice on conserving and restoring site features for the Ashdown Forest SPA (See Planning Practice Guide (PPG) Paragraph: 002 Reference ID: 65-002-20190722) identifies recreational disturbance as one of the principle threats to ground nesting birds. Research and assessment undertaken by the Council supports this by demonstrating that increased recreation can result in damage to the bird’s habitat through trampling and erosion. Moreover, the presence of people can disturb ground nesting birds during their breeding season (Feb - Aug). Dog walking can be particularly problematic in this regard, especially if dogs are let off their lead.

The application proposal would facilitate a permanent increase in the number of people living within a short drive of the SPA. The Ashdown Forest is an attractive semi-natural area which is close to the application site. However, evidence in the form of visitor surveys carried out for the Council demonstrates that it is residents living within 7km of the Ashdown Forest are likely to visit it. The application site is beyond the 7km distance and as such, the evidence held does not provide a pathway of effect for recreational disturbance.

Given the above analysis, an Appropriate Assessment, in accordance with Regulation 63 of the Habitats and Species Regulations, is not required to consider the implications of the proposal for the integrity of the SPA in view of the conservation objectives.

Assessment of likely significant effects on the SAC

The qualifying features underpinning the SAC designation are the presence of European dry heath, North Atlantic wet heath and great crested newts. The conservation objectives for the SAC can be summarised as ensuring the favourable conservation status of its qualifying features by, amongst other things, maintaining or restoring qualifying habitats.
NE’s supplementary advice on conserving and restoring the SAC, linked to the PPG, explains that the heathland habitat of the Ashdown Forest is sensitive to changes in air quality. Exceedance of ‘critical values’ for air pollutants may modify its chemical substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of typical heathland species. Accordingly, the application development could result in an impact pathway to the SAC if it contributes to an exceedance in critical values.

The heathland habitat in the Ashdown Forest SAC is vulnerable to atmospheric pollution from several sources including vehicle emissions from motor vehicles. There is a potential impact pathway from increased traffic flows associated with new development on the roads which go through, or run adjacent to, the SAC. Many of the characteristic plants, mosses and lichens of heathland habitats are adapted to nutrient poor conditions and extra input of nitrogen can disadvantage these characteristic species in favour of others with a greater tolerance of higher nitrogen levels.

The Council had proposed a new Local Plan to 2028 which sought to deliver 14,228 homes and 22,500 square metres of business floor space. Considering the effects of that quantum of growth, NE is satisfied that will not adversely affect the integrity of Ashdown Forest Special Area of Conservation (SAC), Lewes Downs SAC and Pevensey Levels SAC and Ramsar from air quality impacts. NE’s advice regarding air quality is that this conclusion can be reached without mitigation measures being needed under the specific requirements of the Habitats Regulations. The advice is based on the evidence provided, their expert knowledge of the particular characteristics, interest features and management of the designated sites in question and professional judgement.

NE has also advised that where an existing national, regional or local initiative can be relied upon to lead to the reduction in background levels of pollution at a site, the competent authority should assess the implications of a plan or project against an improving background trend. Air quality monitoring indicates improvements in vehicle technology will come forward and this is a further material consideration to inform any screening stage.

The development proposed is also considerably less than the quantum of growth promoted in the Submission Wealden Local Plan 2019, which was declared unsound on the basis of failed duty to cooperate. For the reasons set out above, when considered on its own or in combination, the proposed development would not adversely impact on the integrity of the protected European Sites.

5. **Conclusion**

The site is in an area of rural restraint under the local plan policies and consent should be refused unless material considerations indicate otherwise. In this instance the NPPF footnote 7 would render these adopted policies of limited weight owing to the lack of 5yr supply. For the purposes of para 79 the site is not isolated rural development and there are realistic alternatives to the private car for future occupiers. As such the principle of development of the site for housing is accepted.
As previously considered by Committee, the access has been shown to be acceptable. The indicative details show the development can be appropriately accommodated subject to further detailing at Reserved Matters stage. The proposal can provide for acceptable parking, does not result in significant adverse impacts to established residential amenities and would secure development that would not significantly harm the character of the area. As such it is recommended permission be granted as per the original resolution.

6. Contact points and references

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