

Delegated Officer Recommendation

Case Officer: RF **Date:** 04 August 2020
Consults Expiry: 23 March 2020
Site Notice Expiry: 18 June 2020
Advert Expiry: 3 April 2020
Neighbour Expiry: 15 June 2020
Expiry Date: 20 April 2020
Extension of Time:
BVPI Category: Minor

WD/2020/0249/F

ERECTION OF TERRACE OF FIVE TWO STOREY DWELLINGS WITH PARKING AND AMENITY SPACE.

FORMER GOLDEN CROSS INN CAR PARK, DEANLAND ROAD, GOLDEN CROSS, CHIDDINGLY, BN27 4AW

Parish: Chiddingly

Received Complete: 24 February 2020

LB ref:

Cons Area:

Recommendation - Approval

Case Officer **Initials** RF **Date** 3/8/20

Pre-commencement conditions agreed with applicant? ☒ (tick)

CIL Liability checked by Officer **Initials** RF **Date** 3/8/20

CIL Liable ☒ Yes ☐ No

CIL Exemption Claimed ☐ Yes ☒ No

Team Leader/Senior **Initials** CEB **Date** 4/8/2020

Authority to Delegate Required? YES **Date** 23/7/20

Fields filled in on Custom screen on Datawright? ☒ (tick)

Admin

Decision notice checked **Initials** BH **Date** 04.08.20

CIL Liability Notice Issued YES **Date** 04.08.20

Reason CIL Notice Not Issued:

- ☐ Less than 100 m²
- ☐ Not Residential
- ☐ No increase in floor area
- ☐ Other:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date on which this permission is granted. STD4A

REASON: To meet the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004

2. 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: To prevent obstruction to the road during construction works with regard to Saved Policies TR3 and EN27 of the Wealden Local Plan 1998. With regard to regulation 35 of the Development Management Order 2015, it is essential in the interests of the convenience and safety of other road users that this matter is dealt with by the pre commencement format as it also relates to demolition works. With regard to Regulation 35 of the Development Management Order 2015, it is essential in the interests of highway safety that the condition adopts the pre-commencement format.

3. 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 SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy CS2 of the adopted Wealden Local Plan 1998. With regard to regulation 35 of the Development Management Order 2015, it is essential in the interests of demonstrating that acceptable drainage can be provided to support the development that this matter is dealt with by the pre commencement format.

4. No development approved by this permission shall be commenced until full details of the proposed means of surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be completed prior to the substantial completion or occupation of the dwellings on site whichever is the sooner. DS01

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 199. With regard to regulation 35 of the Development Management Order 2015, it is essential in the interests of demonstrating that acceptable surface water drainage can be provided to support the development that this matter is dealt with by the pre commencement format.

5. The development shall implemented in accordance with the approved Arboricultural report. 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 Policy EN12 and EN14 of the adopted Wealden Local Plan 1998.

6. Before any above ground works associated with the development hereby approved (other than demolition), a scheme of landscape proposals shall be submitted to and approved in writing by the Local Planning Authority, which shall include full plans and specifications for all hard and soft landscape works and indications of all existing trees and hedgerows on the land, including those to be retained.

All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion or first occupation of the development, whichever is the sooner. LA01

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN14 and EN27 of the Wealden Local Plan 1998, coupled with the requirements of paragraphs 127 and 170 of the National Planning Policy Framework 2019.

7. The external materials, including windows, used in the construction of the development hereby approved shall be as detailed within the permitted application particulars and shall be retained permanently as such, unless prior written consent is obtained from the Local Planning Authority to any variation. MA11

REASON: To safeguard the appearance of the building and the visual amenities of the locality and to comply with SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy EN27 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 127 of the National Planning Policy Framework 2019.

8. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no buildings, structures or works as defined within Part 1 of Schedule 2, classes A - E inclusive of that Order, shall be erected or undertaken on the site. PD01

REASON: To enable the Local Planning Authority to regulate and control the development of land in the interests of residential amenity having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN27 and TR16 of the adopted Wealden Local Plan 1998.

9. Before any above ground works a noise report to address traffic noise impacts to the dwellings and identify necessary mitigation measures (such as improved double glazing) shall be submitted and approved in writing by the district planning authority. The development shall be carried out in strict accordance with the approved details which shall be fully complete prior to occupation of any dwelling and thereafter retained.

REASON: To enable the Local Planning Authority to regulate and control the development of land in the interests of residential amenity having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy EN27 of the adopted Wealden Local Plan 1998.

10. Before first occupation of the dwellings hereby approved, the car parking spaces and turning area shown on drawing no 2018/002/PL5 shall be provided, and thereafter shall be retained for such purposes to the satisfaction of the Local Planning Authority. PC09

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 SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN27, TR3 and TR16 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 104 and 110 of the National Planning Policy Framework 2019.

11. No part of the development shall be occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing (Ref: 2018/002/PL1 Rev. F).

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or 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 2019.

12. No part of the development shall be first occupied until visibility splays of 2.4 metres by 43 metres have been provided at the proposed site vehicular access onto Deanland 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 2019.

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

Ref.	Date Stamped. STN4
2018/002/PL1 Rev F	4 February 2020
2018/002/PL2 Rev A	4 February 2020
1:2500 Site Plan	4 February 2020
2018/002/PL5	4 February 2020
Arboricultural Report	4 February 2020
Planning Statement	4 February 2020
Transport Report	4 February 2020

REASON: For the avoidance of doubt.

The local planning authority's reasons for its decision to grant planning permission are set out in the officer's report which can be viewed on the Council's website at www.planning.wealden.gov.uk

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.

14. INFORMATIVE: The applicant is advised that the existing public highway to be incorporated into the development must be formally stopped up to remove the highway rights over it. This process must be successfully completed prior to any highway land being enclosed within the development. In order to commence the stopping up order process the applicant will need to contact the Highway Land Information Team (01273 482316).

Furthermore, there is a potential legal concern regarding the original deed of covenant for the land on which the development is proposed. Whilst this would not affect the planning consent, any outstanding legal concerns could impact on the deliverability of the site. As such, the applicant is advised that this concern should be formally resolved prior to the commencement of works on site.

Executive Summary

The site is a carpark to the former Golden Cross Inn. It is still used for car parking. The area is hardsurfaced and has a vehicular access to the Deanland Road.

Full planning consent is sought to erect 5 dwellings on the site with associated parking and turning (to include replacement parking for the flats in the pub conversion). It is a resubmission of the recently refused application that was dismissed at appeal.

The development plan has a statutory status as the starting point for decision making. It has been demonstrated that the residential development proposed is contrary to Local Plan Policies GD2 and DC17 of the WLP 1998 and WCS6 of the WCSLP and the application should be refused unless material considerations indicate otherwise in line with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004. The two most relevant other material considerations are the NPPF and the previous appeal decisions.

Balancing the conflict with the local plan policies set against the other material considerations, it is recommended that full planning permission be granted, as the harm from the unsustainable nature of the location through lack of alternatives to the private car do not significantly and demonstrably outweigh the benefits of the housing towards meeting the undersupply.

1. Statutory Bodies and Residents - Responses

1. ESCC - Highway Authority - I have no objection to this planning application subject to the conditions outlined below.

The applicant is proposing to construct five two-storey dwellings on the site of the former Golden Cross Inn car park off Deanland Road, Golden Cross. Parking spaces would be provided for the proposed development and the existing parking use from the adjacent flats. It is noted that ESCC have commented on a previous iteration of the proposed development, citing insufficient and substandard parking as reasons for refusal. This application has largely addressed the previously raised concerns, and is considered acceptable in principle. I would not wish to raise highways objections, subject to the imposition of conditions.

It is also noted that, whilst not a planning concern, there is a potential legal issue surrounding the deed of covenant at the site, which should be resolved before any construction works begin.

Site Location

The site is located in Golden Cross on the A22 near Hailsham. The area is predominantly rural, whilst the immediate site has been considered as forming part of a small cluster of development.

Access

The proposed vehicular access is off Deanland Road. Adequate visibility splays have been demonstrated on the submitted plan (2018/002/PL1). Pedestrian access would be via the existing footpaths along the A22. The footways, whilst narrow and occasionally overgrown, are acceptable in this instance.

Trip Generation and Impact

The applicant has not supplied trip generation figures in the requested Transport Report. Based on an expected trip rate of 5-6 trips per day per two-bedroom dwelling, this development would generate an expected 25-30 trips per day. This is not considered to have a substantial impact on the local highway network, and would be considered acceptable in this instance.

Car / Cycle Parking Provision

The applicant is proposing 5 parking spaces for the proposed development and 4 parking spaces for use of the adjacent flats, with 3 additional visitor parking spaces. Using the ESCC parking calculator for Chiddingly and East Hoathly Ward, the expected parking demand for this development is for 7 vehicles, and 4 for the existing flats. The proposed parking provision is therefore considered sufficient to accommodate the expected parking demand.

ESCC's Guidance for Parking at Residential Developments stipulates that each bay should be a minimum of 5m x 2.5m and an additional 0.5m will be added to either or both dimensions where the space is adjacent to a wall or fence. Each of the proposed bays measures 5m x 2.5m, though it appears there is a fence along the northern boundary of the parking area. This fence appears offset from the parking bay itself and would give an effective width of approximately 2.8m. This is considered acceptable in this instance. Furthermore, it is assumed that the western and southern boundaries of the parking area will be flush, and there will not be a wall present. If walls are proposed, then the bays in these locations should be widened or lengthened appropriately.

The applicant is proposing a cycle store in the garden of each dwelling. This is considered acceptable and should be secured by condition.

Accessibility

A similarly sized development adjacent to this site was considered to be acceptable in terms of pedestrian and public transport accessibility in an appeal report (Ref. WD/2016/2787/F). As such, it would be difficult to justify a refusal on this basis.

Construction

Given the strategic nature of the A22, a Construction Traffic Management Plan would need to be provided with details to be agreed. This would need to include management of contractor parking to ensure no on-street parking occurs during the whole of the construction phase. This would need to be secured through a condition of any planning permission.

Land Ownership

Furthermore, there is a potential legal concern regarding the original deed of covenant for the land on which the development is proposed. Whilst this would not affect the planning consent, any outstanding legal concerns could impact on the deliverability of the site. As such, the applicant is advised that this concern should be formally resolved prior to the commencement of works on site.

Conclusion

It is considered that the application is in a sustainable location, with negligible impact caused by the additional trips. The access onto Deanland Road is acceptable, and

sufficient visibility splays have been demonstrated. The parking provision proposed is considered sufficient to accommodate the expected parking demand, and should be of sufficient size if the boundaries of the parking bays are not proposed to be fenced or walled.

I would not object to this application, subject to the inclusion of the conditions detailed below.

Recommended Conditions

1. No part of the development shall be occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing (Ref: 2018/002/PL1 Rev. F).

Reason: In the interests of road safety.

2. No part of the development shall be first occupied until visibility splays of 2.4 metres by 43 metres have been provided at the proposed site vehicular access onto Deanland 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 the interests of road safety.

3. No part of the development shall be occupied until the car parking has been constructed and provided in accordance with the approved plans. The area[s] shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To provide car-parking space for the development.

4. No part of the development shall be occupied until cycle parking spaces have been provided in accordance with the approved details. The area[s] shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

5. No part of the development shall be occupied until the vehicle turning space has been constructed within the site in accordance with the approved plans. This space shall thereafter be retained at all times for this use.

Reason: In the interests of road safety

6. 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 routing 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 highway safety and the amenities of the area.

Informatives

The applicant is advised that the existing public highway to be incorporated into the development must be formally stopped up to remove the highway rights over it. This process must be successfully completed prior to any highway land being enclosed within the development. In order to commence the stopping up order process the applicant will need to contact the Highway Land Information Team (01273 482316).

2. WDC - Waste Management -

We have no objection to the proposed development. However, the following points need to be considered.

Each dwelling has been provided with adequate storage for 1 x 180 litre refuse bins and 1 x 240 litre recycling bin.

Residents will be required to move the bins from the storage point within the boundary of the property, to a suitable collection point at the edge of the property (off Deanland Road on the scheduled collection day).

3. WDC-Rother - Pollution Control -

The proposed development is adjacent to an A class road, and I have concerns regarding noise levels in the rooms facing the road. I would like to draw the applicant to the Planning Noise Advise Document Sussex, which can be found on the Councils website.

Although I do not have any objections in principle to this application, I would like to recommend the following conditions –

1) During construction and demolition phases, no audible works shall take place other than within the hours Monday to Friday 08:00 to 18:00 hours, Saturdays 08:00 to 13:00 hours and not at all Sundays Public or Bank holidays.

2) Before construction, a noise report shall be submitted and approved in writing by the district planning authority, it will be required to address noise levels, the impact of traffic noise and must identify mitigation measures (such as improved double glazing).

3) All works shall ensure compliance with guidance found in British Standard BS5228 -2009 Code of practice for noise and vibration control on construction and open sites.

4. Chiddingly Parish Council -

This is still an overdevelopment of the site and, again, insufficient parking space has been allowed for. Most two bedroom houses will have two cars. This will result in parking on the road, which carries HGV traffic from the Deanland industrial estate. On these grounds, this council objects to the development. Should WDC be minded to approve the amended plan then East Sussex Highways should be asked to install

double yellow line on both sides of the road from the junction with the Chalvington road until at least 50 metres beyond the bend.

Response to Parish Council:

The previous appeal established that the design and layout was acceptable and no highway issues were identified in relation to the scheme dismissed at appeal. The Highway Authority maintain no objection to the current application.

5. Cllr Draper

In this case, given our current situation I, having discussed this with Chair of PCS, reluctantly agree with your summation and agree to your delegated decision of Approval

Other third party responses (including local residents).

8 letters of objection summarised as follows:-

- This will result in parking on the blind bend and cause a highway safety issue.
- Bus services are too infrequent.
- There are no local services.
- The footpath will become inaccessible.
- There are already too many parked vehicles on the road 5 houses will seriously worsen this.
- The fencing off of the car park has caused problems with vehicles parking on the road.
- There is nowhere for builders and contractors to park.
- The same scheme has already been refused and dismissed at appeal.
- Parking on the pavement will obstruct users of the footpath.
- This is an overdevelopment and out of keeping with the area.

3 letter of support:-

- This is a good use of brownfield land.
- Housing is needed in the area.
- The proposal will enhance the area.

2. Other Relevant Responses/Issues

None Received.

Pre-Application Matters

None.

3. Relevant Planning History

Application No.	Description	Decision and Date
WD/1974/3496/F	NEW CAR PARK	APPROVED 01/05/1975

Application No.	Description	Decision and Date	
WD/2015/0232/F	CHANGE OF USE OF GROUND FLOOR AND BASEMENT INTO 1 NO. ONE-BEDROOM FLAT AND 2 NO. TWO-BEDROOM FLATS WITH ASSOCIATED PARKING FOR EIGHT VEHICLES.	APPROVED 02/04/2015	
WD/2018/0407/F	ERECTION OF TERRACE OF FIVE TWO-STOREY DWELLINGS WITH PARKING AND AMENITY SPACE.	APPEAL 29/11/2019	DISMISSED

A full history for the wider caravan park site and pub can be viewed on the electronic file. Also of relevance is the applications on land to the north of the pub that have had permission granted for housing via appeal under WD/2016/2787/F.

The previous scheme under WD/2018/0407 was refused for the following reason:-

The delivery of housing on this site is contrary to the rural housing restraint policies within Saved Policies GD2 and DC17 of the Wealden Local Plan 1998 and WCS 6 of the Wealden Core Strategy Local Plan.

The proposal does not comply with the Draft Wealden Local Plan 2018 being in conflict with emerging policies WLP 4, WLP 10, and RAS 2 as new unsustainable development outside of the areas identified for rural development within the draft plan and outside of any settlement within the settlement hierarchy.

The new residential occupation would create new trip generators for vehicular movements across the Ashdown Forest, Lewes Downs and Pevensy Levels SAC leading to in combination impacts to these from increased deposition associated with traffic movements through these SAC leading to a likely significant effect to the integrity of the European Protected Sites with no ability to mitigate for this through emerging policy AF1 as the scheme is not policy compliant.

The Council does not have a 5yr housing land supply. Footnote 7 of the NPPF would render the local plan policies on housing supply out of date limiting the weight that can be afforded to them in line with the degree of compliance with the NPPF. Unsustainable rural housing is resisted under the NPPF and as such the rural restraint policies can be afforded some weight.

As unsustainable rural dwellings with no realistic alternatives to the private car to access services the proposal would represent unsustainable development under the NPPF. There are also no important rural services in the immediate locality that could benefit from additional residents. This proposal does not relate to rural development that would allow an existing settlement/community to thrive.

Given the need for an Appropriate Assessment the presumption under para 11 of the NPPF does not apply. Applying a standard balancing exercise it is clear that the weight to be afforded to the delivery of 5 units in terms of housing supply and support to the existing rural services in the area and short term economic benefit of the construction phase are outweighed by the significant impacts in terms of sustainability from new build dwellings in this isolated rural location where residents will be wholly reliant on private vehicle trips to access even the most basic of services, lack of existing rural services that could benefit from the housing and impacts to the integrity and conservation objectives of European Protected Sites.

Given the location of the site outside of any defined settlement there is no presumption for redevelopment for housing in the emerging plan nor NPPF despite the fact it is brownfield, focus in the NPPF being on commercial reuse of such sites (i.e brownfield sites not in a settlement).

As such there are no material considerations that outweigh the conflict with the adopted local plan and consent should be refused the proposal being in conflict with saved policies EN1, GD2, and DC17 of the Wealden Local Plan 1998, WCS6, WCS12 and WCS 14 of the Wealden Core Strategy Local Plan 2013, Emerging policies AF1, AF2, WLP4, WLP7, WLP10 and RAS2, of the Draft Wealden Local Plan 2018 and paras 2, 7, 8, 48, 77, 78, 84, 103, 108, 118, 175, 176, 177 of the NPPF.

4. Details of Case

Site

The site is a carpark to the former Golden Cross Inn. It is still used for car parking. The area is hardsurfaced and has a vehicular access to the Deanland Road.

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 19th February 2013)
- The Wealden Local Plan (adopted December 1998) (Saved Policies).
- The East Sussex and Brighton & Hove Waste Local Plan (adopted February 2006) (Saved Policies).
- East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan (adopted 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 resolution at Full Council on 19th February 2020.

Constraints

The application site is located outside any defined development boundary within the Low Weald landscape character area and is in the setting of a listed building (Golden Cross Inn).

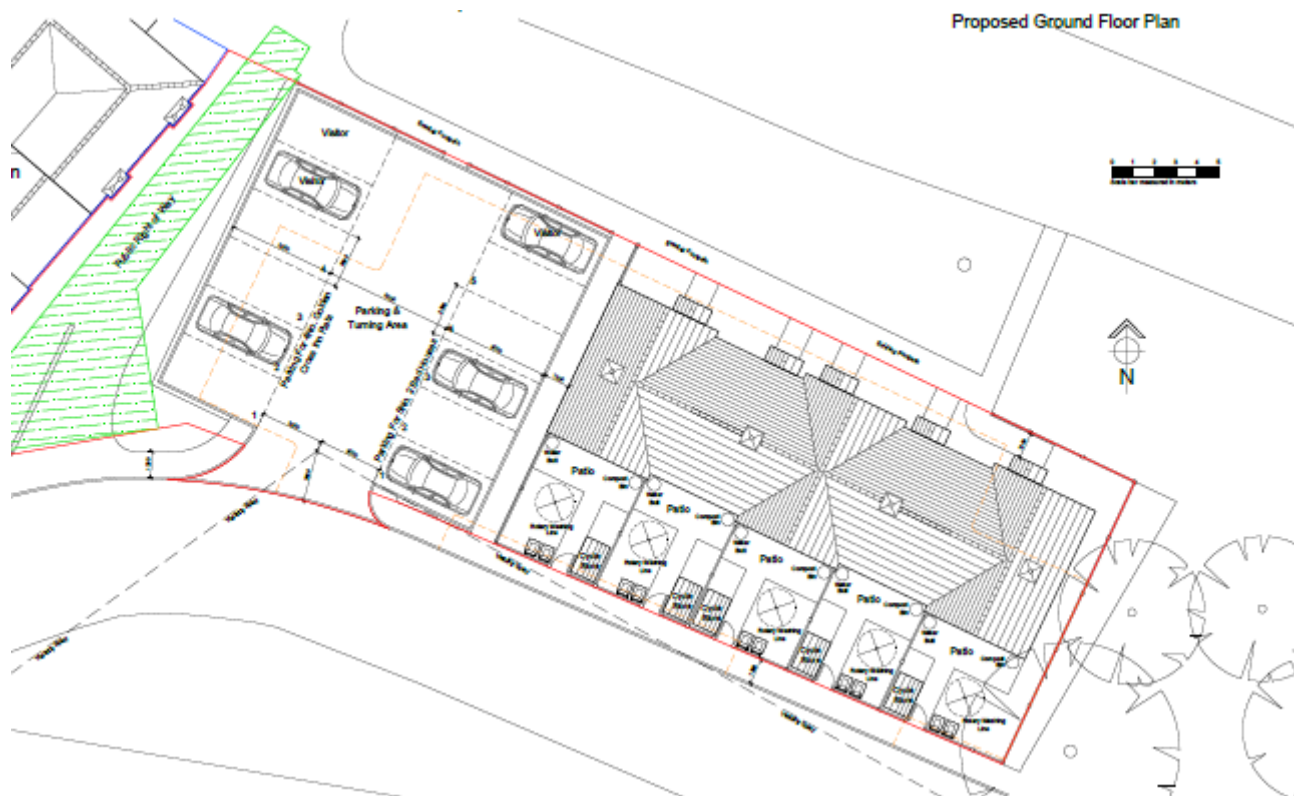
Relevant Policies

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, 84, 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.

- Saved Policies GD2, DC17, TR3, TR16, EN1, EN8, EN12, EN14, EN27, and CS2 of the adopted Wealden Local Plan 1998.
- Strategic Planning Objective SPO1, SPO2, SPO3, SPO7, SPO8, SPO9, SPO13 and Policies WCS6, WCS7, WCS12 and WCS13, WCS14 of the Core Strategy Local Plan 2013
- Wealden Design Guide 2008 (adopted Supplementary Planning Document), Chapter(s) 2, 3 and 7

Proposal

Full planning consent is sought to erect 5 dwellings on the site with associated parking and turning (to include replacement parking for the flats in the pub conversion). It is a resubmission of the recently refused application that was dismissed at appeal.



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 falls well outside any development boundary within the Wealden Local Plan (1998). It also has not in an area identified for development under the Core Strategy. As such the site falls outside any statutory development boundary. 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 policies 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. Policy WCS6 seeks provision of at least 455 dwellings across the Service, Local and Neighbourhood Centres in the District. Golden Cross is classified within the settlement hierarchy as an unclassified settlement so would not be identified for any of this housing.

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

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.

Since the previous appeal the impacts to the Ashdown Forest SAC with the failure of the plan have fallen away. There is no direction to refuse consent based on the NPPF 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. This is a material difference to the position as considered under the previous scheme.

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 site would result in dwellings next to existing development in the form of the converted pub, recently consented dwellings, caravan park and other commercial buildings. Based on the Court of Appeal decision in *Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610* determining if the provision of homes on this site would not result in isolated development within a rural area. 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.

Previous Appeals

Of relevance is the previous appeal decision to the north of the site where an Inspector found on a greenfield site that the lack of 5yr supply engaged the presumption in favour test and that the harm from the development did not significantly and demonstrably outweigh the benefit. This was under the previous NPPF. In summary the harm was identified as:-

- Limited options for transport modes alternative to the private car

- Lack of rural services in the immediate area and need to travel further afield to access services.

The benefits being:-

- Proximity to the bus stop and limited bus provision.
- Contribution to housing supply
- Economic benefit of construction phase and subsequent spend in local services

Selected extracts from that appeal decision on weighting can be found here.

'The area has a limited range of services and facilities. I have found that residents of the proposal would have a limited choice of sustainable modes of transport and that there would be high dependency upon the use of private vehicles. Furthermore, employment opportunities within the area are relatively limited. In combination, these adverse impacts carry substantial weight.'

Set against this harm are the social and economic benefits of addressing the under supply of housing in the District and I attach moderate weight to the provision of an additional four units. There would also be a modest benefit to the local economy during the construction phase and through continued use of the local services. I consider that in these particular circumstances the appeal site is located close to a bus stop which would encourage and support the use of public transport which is a positive factor. There are a number of small clusters of development along the A22, varying in terms of their character. The appeal site is seen within the context of an existing built environment. It is not isolated and the development of the site would not encroach into the open countryside. Cumulatively these factors weigh in favour of the proposal and I attach substantial weight to them.'

I have found that the appeal site conflicts with the WLP and WSCLP in respect of the strategy for delivering housing in suitable locations. However, in the particular circumstances of this appeal I find that overall the adverse impacts identified above do not significantly and demonstrably outweigh the social and economic benefits. Consequently the presumption in favour of sustainable development applies. In this case, it is a material consideration which outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it.'

Applying the presumption in favour test it was concluded at the time that the proposal should be allowed, this follows a previous refusal which was supported at appeal on the same site, the differing factor being the decline in the 5yr supply position.

Since that appeal the NPPF has been revised, the majority of which would retain the general presumption that development should not be isolated in rural areas and that there should be some realism to the level of alternatives to the private car to access services. However it is clear here that the site does not have reasonable alternatives to the private car and would need to use this to access services most likely to be in the urban areas of Hailsham or Uckfield.

Turning to the other material difference here this site is also brownfield. The NPPF does encourage reuse of brownfield land but there is no explicit reference that this should be for residential purposes, indeed the only reference to brownfield land in rural areas is under para 84 in relation to supporting a prosperous rural economy and commercial re-use. 118(c) refers to making use of such land within settlements for homes and other uses. As set out by the original Inspector for the 2014 appeal scheme Golden Cross is nothing more than an area of residential development along the road akin to much other development spread along the A22 and that there is good reason it is not a defined settlement in the then WLP and WCSLP. For the purposes of this application it is clear that the NPPF does not support reuse of all brownfield land in rural locations for housing, giving emphasis in the explicit rural sections to employment use and limiting residential use to sites within settlements.

With the two differing appeal decisions on the site to the north relating to the differing 5yr supply position, it is clear that there is a fine balance to the acceptability of housing in Golden Cross. The area is accepted as an unsustainable location with no significant local rural services and limited alternatives to the private car to access services which are likely to be in the main urban locations.

These matters were all fully explored through the recent appeal on the current appeal site. That appeal is the most recent and was concluded in full sight of these previous decisions to the north of the pub.

This recent appeal decision is of particular relevance given it relates to the same site and scheme as is proposed here (APP/C1435/W/19/3223713). This appeal decision did not apply the presumption in favour due to the then Habitat Regulation matters that have fallen away. That decision clearly accepted the position that the proposal in terms of the principle for residential development would not comply with the local plan. In summarising the planning balance the Inspector set out:

24. I recognise that the proposal would involve the reuse of brownfield land and would make a positive contribution to housing supply. I give this moderate weight. However, whilst there is a bus route, the area has limited facilities and services, which I give substantial weight. I am also unable to conclude that the proposal would not harm the integrity of European designations, which I find overriding in this case.

These weighting factors reflect those of the previous allowed appeal in terms of moderate weight to the housing supply and substantial weight against from the unsustainability of the location due to lack of services and alternatives to the private car. Similar benefits to the economy can be assumed also as to the appeal scheme to the north where the combined matters of acceptability in other regards and proximity to the bus stop cumulatively resulted in substantial weight in favour of the scheme. That test on the appeal to the north found that that balance the substantial weight to the lack of services and alternatives to the car did not significantly and demonstrably outweigh the moderate weight to the housing supply in combination with the other matters that weighed substantially in favour of approval. With the presumption now applying it seems that the lack of 5yr supply and weighting to be applied would conclude that particularly given this site has additional benefits of being brownfield land that the conclusion would be that this current scheme should now be considered favourably when set against the NPPF given the Inspector overriding concern was the impact to the European Sites that has now fallen away.

There is a further appeal of some relevance a short distance away along Chalvington Road. The Inspector here referred to the two appeal decisions set out above:-

38. Other appeal decisions are cited by both parties, which I have had regard to. In terms of this decision the most relevant are the two recent appeals involving housing development at Golden Cross as these are the closest to the site. One appeal, cited previously, was ultimately allowed and the other in the second appeal the tilted balance was not enacted due to issues with Habitats sites; the circumstances here are different as the Council withdrew this concern in the course of the appeal.

Repetition of the previously allowed appeal within the locality of Golden Cross would deliver additional unsustainable housing within an area accepted as having no services of significance etc. Uncontrolled growth within the A22 corridor on the back of this (there being many other dismissed appeals on sustainability grounds along the length of the A22 to the Boship roundabout) would frustrate the drive to sustainable development within the NPPF.

However this site is very close to the allowed site now built out and originally formed part of the same planning unit. The car park is a disused brownfield site. Redevelopment of this for housing would deliver some units towards meeting the undersupply of housing and some economic benefits both through construction (limited and short term) and spend in the immediate facility by the site (limited). It is accepted that substantial weight is afforded to the lack of alternatives to the private car. However on this very planning balance where the presumption in favour is engaged the moderate weight to be afforded to the benefits to housing supply have been accepted as not being significantly and demonstrably outweighed by the lack of alternatives to the private car and access to rural services.

Whilst the proposal is contrary to the Local Plan the NPPF and the previous appeal decisions on the site and to the north of the site, with the removal of the harm to the European Sites, are material considerations which indicate consent should be granted despite the conflict with the Local Plan.

Clearly it is unusual to have a situation where a positive resolution is made for an identical scheme so soon after a dismissed appeal however in this particular instance the failure of the plan in relation to the position set out in regard of harm to the European Protected sites is of great significance given this matter results in the presumption in favour being applied now. That balance has already been shown to be in favour of approval to the north of the site in a previous appeal such that in this particular set of circumstances there is a clear position that departure from the recent appeal decision is warranted.

Listed Buildings

The Council has a duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990). This requirement is reinforced by the National Planning Policy Framework (NPPF), which at Chapter 16, sets the national agenda for 'Conserving and enhancing the historic environment'. This, in particular requires the significance of any heritage asset to be identified and assessed that may be affected by a proposal (including by development affecting the setting of a heritage asset) and for this to

inform future change in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

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 taken 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.

5. Assessment & Conclusion

Design/ Impact on Street Scene or Wider Landscape

The cottage style terrace of units reflects those allowed at appeal on the north side of the pub. Development along the A22 is linear, being a sporadic spread of dwellings fronting the road of which the dwellings subject to the application would form part of. The dwellings would appear around the junction adjacent to the pub conversion and opposite the petrol station and housing and commercial sites. The new dwellings

would reinforce the character of the area. The existing site has no significant contribution to the character of the area. The fencing to the rear gardens would be somewhat harsh but reflects the similar situation around the caravan park and in the context of the proximity to the busy A road would not warrant refusal. The appeal established that the impact to the character of the area etc was acceptable.

Consideration of Statement of Heritage Significance

The former pub is a listed building that once sat on a crossroads with the site of the car park being unrelated to the pub. Whilst the carpark related to the pub historically it has little if any significance and the building would retain the setting as a road side inn (albeit now in residential use). The parking area position allows for the side elevation to continue to be viewed with the front elevation and with other similar development permitted to the north there would be no harm to the setting of the listed building. This is the conclusion within the submitted heritage statement also and no heritage matters were raised during the appeal by the Inspector.

Access & Parking

The Highway Authority are satisfied with the parking and access arrangements. The car park as a private car park could be ceased at any time and any other informal parking demand being met currently would not represent a reason to withhold consent. Matters of the covenant referred to are separate to planning.

The site does have access to a bus service but as with the previous appeal (and others along the A22) the bus service is not accepted as a reasonable alternative to use of the private car. Cycling and pedestrian access to the facilities has equally been discounted the A22 being undesirable for cycling and the narrow footway being undesirable for pedestrian use to access services further afield.

Trees/Landscaping

The site has little landscaping on it. Details can be secured via condition. The submitted arboricultural information shows an uncomfortable relationship with the trees to the south. The acceptance of the removal of one tree and appropriate replacement planting to secure trees that would have a compatible relationship with the dwellings is appropriate to facilitate development of the site subject to other planning policy considerations.

Impact on Adjoining Properties

The dwellings are set a sufficient distance from neighbouring dwellings to prevent any direct loss of light, outlook or privacy (including the flats in the converted pub which would be to the far side of the parking area). Any noise and disturbance from residential occupation would not be unacceptable and traffic movements in relation to the fact the site is close to the busy A22 would not cause noise amenity issues.

Future occupiers would have small gardens and would be fronted onto a busy A road. Nonetheless similar sized plots have been permitted to the dwellings recently allowed to the north of the pub and further occupiers would be aware of both the restricted plot size and proximity to the busy road such that they would not represent a reason to withhold consent. Condition is recommended to secure noise mitigation

measures (i.e. glazing thickness) for the proposed dwellings to safeguard the amenities of future occupiers.

Flood Risk Assessment

The development is in floodzone 1 and is not restricted in relation to floodrisk. The site is already impermeable and as such any surface water scheme should improve the situation providing some attenuation to run off rates.

Developer's Contributions

The residential development will bring with it proportional demands upon infrastructure. *National Planning Practice Guidance (NPPG) section 2b -011-20140612 sets out that whether CIL is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms.* In this instance *these requirements are expected to be responded to by the CIL payment, to deliver improvements set out in the Councils IDP and Regulation 123 List*

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 floorspace. 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 Pevensy 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.

Summary

The development plan has a statutory status as the starting point for decision making and proposed development that conflicts with the Local Plan should be refused unless material considerations indicate otherwise. It has been demonstrated that the residential development proposed is contrary to Local Plan Policies GD2 and DC17 of the WLP 1998 and WCS6 of the WCSLP.

Development should be refused unless material considerations indicate otherwise. The two most relevant other material considerations are the NPPF and the previous appeal decisions as set out in detail above in the Policy section are such considerations.

Weighing in favour of the scheme is the contribution towards meeting the undersupply of housing for the District. This carried moderate weight in the previous appeal scheme to the north and in the recently refused scheme on this site. There is also potential for future residents to help sustain existing services within the location albeit these are very limited through additional spend. There will also be some short term economic stimulus from the construction phase. These matters carry only limited weight. These matters combined in the appeal to the north were found to weigh substantially in favour of approval under the NPPF.

Weighing against the proposal is the development in an unsustainable location where future occupiers would have no suitable alternatives to the private car to access the vast majority of the necessary services for day to day living (likely to be in the nearest urban settlements). These matters carry substantial weight. Residents would also not be able to access all day to day facilities within the locality itself and would be required to travel (albeit with sustainable transport options available) to other, primarily urban areas to access services/facilities.

The previous appeal on this site identified that the 5 units would carry moderate weight in favour with the lack of alternatives to the private car etc carrying significant weight against. That reflects the conclusions on the appeal to the north of the pub also. The most recent appeal on this site was because of the habitat regulation issues a standard planning balance applied such that clearly the substantial weight against outweighed the moderate weight in favour. As the habitat regulation matter is not applicable following withdrawal of the plan as set out in the SAC section above the titled balance now applies such that any harm has to significantly and demonstrably outweigh the benefits for permission to be withheld. That balance has already concluded on the site to the north that permission should be granted the moderate weight to the housing supply not being significantly and demonstrably outweighed by the significant with to be afforded to the lack of alternatives to the private car.

The development plan has a statutory status as the starting point for decision making. It has been demonstrated that the residential development proposed is

contrary to Local Plan Policies GD2 and DC17 of the WLP 1998 and WCS6 of the WCSLP and the application should be refused unless material considerations indicate otherwise in line with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004. The two most relevant other material considerations are the NPPF and the previous appeal decisions.

Balancing the conflict with the local plan policies set against the other material considerations it is recommended that full planning permission be granted the harm from the unsuitable nature of the location through lack of alternatives to the private car not significantly and demonstrably outweighing the benefits of the housing towards meeting the undersupply.