

Delegated Officer Recommendation

Case Officer: RF **Date:** 22 June 2021
Consults Expiry: 25 May 2021
Site Notice Expiry: 20 May 2021
Advert Expiry: 14 May 2021
Neighbour Expiry:
Expiry Date: 22 June 2021
Extension of Time:
BVPI Category: Large scale
Major

WD/2021/0344/MAO

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS FOR THE ERECTION OF 11 NO. RESIDENTIAL DWELLINGS, INCLUDING 4 NO. UNITS OF AFFORDABLE HOUSING (36%) AND 12 NO. LIGHT INDUSTRIAL COMMERCIAL UNITS, INCORPORATING AREAS OF OPEN SPACE AND ENHANCEMENT LANDSCAPING.

LAND TO THE NORTH-WEST OF FIR GROVE ROAD, CROSS IN HAND, HEATHFIELD, TN21 0QL

Parish: Heathfield & Waldron

LB ref:

Received Complete: 23 March 2021

Cons Area:

Recommendation - Refusal

Case Officer **Initials** RF **Date** 22/6/21

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

CIL Liability checked by Officer **Initials** RF **Date** 22/6/21

CIL Liable Yes No

CIL Exemption Claimed Yes No

Team Leader/Senior **Initials** EM **Date** 22/6/21

Authority to Delegate Required? YES NO **Date** 22/6/21

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

Admin

Decision notice checked **Initials** GJ **Date** 22/06/2021

CIL Liability Notice Issued

	NO
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Date

22/06/2021

Reason CIL Notice Not Issued:

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

1. The delivery of housing and commercial development on this site is contrary to the rural and commercial restraint policies within Saved Policies GD2 and DC17 of the Wealden Local Plan 1998 and WCS 6 of the Wealden Core Strategy Local Plan. The development is not sustainable when set against Saved Policy EN1. The proposal fails to conserve or enhance the High Weald AONB or protect the wider character of the area contrary to saved policies EN6 and EN27 and has not proven that the site can be adequately drained of surface water or that development can occur without harm to protected species and important habitat and biodiversity contrary to saved policy CS2 and WCS12 of the Core Strategy. Development contrary to the local plan should be refused unless material considerations indicate otherwise. In this instance the NPPF is the other material consideration assessed in the reasons for refusal 2-4. The conclusion of these is that 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 GD2, EN1, EN27, EN6, CS2 and DC17 of the Wealden Local Plan 1998, WCS6, WCS 12 and WCS 14 of the Wealden Core Strategy Local Plan 2013, and paras 7, 8, 11, 77, 78, 83, 102, 103, 104, 108, 163,170,172,175, 193,196 of the NPPF.
2. The development would result in major development in the High Weald AONB that would cause significant harm to the natural beauty, character, appearance and surviving historic landscape of the High Weald AONB. No exceptional circumstances have been demonstrated nor any wider public benefits identified that would outweigh this harm. In line with para 172 and footnote 6 of the NPPF the NPPF directs refusal.
3. The development would give rise to less than substantial harm to the significance of the designated heritage asset of Glovers Grade II (at the very upper end of this scale) against which no public benefits have been found to outweigh this. In line with para 196 and footnote 6 of the NPPF the NPPF directs refusal.
4. In the event that the directions to refuse under para 172 and 196 were not, based on an alternative assessment, sufficient to direct refusal it is clear that notwithstanding the fact that the Council does not have a 5yr housing land supply that the harm to the AONB and Heritage Asset would be sufficient to meet the footnote 6 test of disapplying the presumption in favour of sustainable development under para 11 of the NPPF. As such any assessment would be taken by a standard planning balancing exercise.

Weighing in favour of the development is the contribution to the 5 yr housing land supply and affordable housing provision (moderate weight given the unsustainable nature of the location of these and the fact the wider mix does not meet local housing need), contribution to the rural economy (limited weight given the unsustainability of

the location and the fact the units do not relate to expansion or establishment of rural business more so just commercial units in an unsuitable location with no overriding 'target; for delivery as in the case of housing). Short term economic benefits from the construction phase can be attributed limited weight with the longer term economic construction being given moderate weight from the commercial units towards in part sustaining the rural economy.

Weighing against the proposal is the fact there are no reasonable alternatives to the private car for the commercial or residential units and there would be no significant support to existing rural services the community rely on. These matters carry significant weight against the proposal. Significant harm to the AONB as set out in the report have been identified that must be given great weight under the NPPF such that this carries very significant weight against the proposal. Harm to the designated heritage asset must also be attributed significant weight with the level of harm identified being significant. The failure to be able to demonstrate appropriate drainage of the site could be delivered without increasing floodrisk elsewhere is moderate. The lack of appropriate survey work to establish the biodiversity and ecology of the site and potential impacts and or mitigation for harm to these as part of development can be afforded significant weight given the importance of preserving the ecology intrinsically but also in the context of protection of those features important to the AONB.

It is plainly clear that the harm from the development outweighs the benefits of the development, in fact even were it necessary to apply the presumption in favour (which it isn't) it is clear that the harm significantly and demonstrably outweighs the benefits the proposal not being sustainable development when assessed against the three strands of sustainability in the NPPF and the document as a whole.

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

Ref.	Date Stamped.	STN4R
Planning Statement/Design & Access Statement	10/2/21	
Transport Statement	10/2/21	
Preliminary Ecological Report	10/2/21	
2049-02	10/2/21	
Arboricultural Report	10/2/21	
2049-03	10/2/21	
flood risk assessment & drainage strategy	10/2/21	
2049-01A	23/3/21	
2049-04A	23/3/21	
HER Report	23/3/21	
Heritage Statement	23/3/21	

REASON: For the avoidance of doubt.

Executive Summary

The application site is a rectangular parcel of land measuring approximately 2ha within the High Weald Area of Outstanding Natural Beauty (AONB). The site fronts Fir Grove Road.

The application seeks outline planning permission with all matters reserved apart from access for the erection of 11 dwellings, four of which would be affordable and 12 light

industrial units. Two access points are proposed one serving the commercial element and one serving the residential element.

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

Turning to the NPPF there are compelling reasons to withhold consent. These are complex in nature given the multiple constraints on development and are set out in detail with the report and summary section.

The case is clear the proposal fails to comply with the local plan and there are no other material considerations that would indicate consent should be issued, that namely being the position set out in respect of the NPPF in detail with the report. As such refusal is recommended for this wholly unsuitable development of this rural greenfield site in the High Weald AONB.

1. Statutory Bodies and Residents - Responses

1. ESCC - Highway Authority - Object.

This outline application with all matters reserved except access seeks approval for erection of 11 residential dwellings and 12 light industrial commercial units. The submitted information does not demonstrate that this site is sustainably located for residential or commercial use and with this in mind I object to the development proposal for the following reasons:-

1. The proposed development is poorly placed in terms of sustainable transport modes due to the lack of non-car travel choices for residents and would therefore be contrary to paragraphs 102 and 104 of the National Planning Policy Framework.

The site is located on the northern side of the Firgrove Road (C13). Firgrove Road fronting the site is subject to the national speed limit where speeds are permitted to reach 60mph. Based on the existing speed limit on this stretch of road, Design Manual for Roads and Bridges (DMRB) recommends the visibility splay requirements for any new access in this location to be 2.4m x 215m in each direction. Details of a speed survey carried out from the 10th to the 16th December 2020 have been submitted to support the reduction of these splays. The results of the speed survey indicate 85%tile speeds of 37.5mph northeast bound and 39.7mph southwest bound.

The speed survey was conducted in December 2020 which is not classed as a neutral period and given the restrictions in place last year an additional speed survey should be provided. The survey should be taken in a 'neutral' i.e. typical month, where the variation across a day and week is evident. It should also be noted that CA185 updated guidance on the use of wet and dry weather speeds when determining visibility splays and it is now considered more appropriate to add on 4kph (2.5mph) should the survey be carried out during wet weather periods. On the basis that the weather was mixed during the survey the original data will need to be reassessed, full details of individual speeds should also be included rather than the summary.

Two access points are proposed; the proposed access serving the residential element is shown as 5.5m in width with junction radii of 6m which is appropriate for accommodating two-way vehicle movements. A swept path has been provided which demonstrates that the access is suitable to accommodate refuse vehicles. A 2m wide footway has also been proposed to connect into the site from the commercial access with a continuation to the proposed Right of Way (Footpath 90) which runs along the northern site boundary.

The proposed access serving the commercial units is shown at 7.3m in width with junction radii of 8m which is considered appropriate for the size of vehicles requiring access. The Road Safety Audit has suggested that an exit taper on the north eastern radii be provided to prevent vehicles overrunning the verge. Although this has been incorporated into the design this can be considered further at design stage.

Parking

Details of parking have been shown indicatively on the proposed site plan with the size of units also suggested. Two spaces have been indicated for the 3 bed units in a forecourt area and on plot spaces including a garage have been specified for the 5 bed units. I am satisfied there is sufficient space within the site to accommodate adequate parking, but it should be noted that parking spaces would need to meet the required minimum dimensions of 2.5m x 5m to be counted towards the overall provision and garages (which are less likely to be used for parking) only count as 1/3 of a parking space. As this application is for outline purposes the proposed size of units can be altered as such parking can be covered by condition with details to be submitted to and agreed at Reserved Matters stage. Visitor parking should also be provided within the development.

It is suggested that each dwelling will be provided with 2 cycle space, this meets with the East Sussex County Council parking guidelines; however, it should be noted that if garages are to be used for cycle storage the dimensions will need to increase to 3m x 7m to accommodate.

In accordance with the ESCC guidance for parking at non-residential, the B1 use should be provided with 1 space per 35 to 40 sqm. The proposed units equate to 960sqm, which demands between 24-28 spaces. The proposed site plan shows an over provision with 36 space plus an additional 11 disabled spaces. On the basis that we would not want any overspill this provision is accepted; however, it is unlikely that 11 disabled spaces will be required.

Turning

A vehicle tracking plan has been provided to demonstrate that the access is suitable to accommodate the largest refuse vehicle. Details have not been provided to show how the refuse/emergency vehicle can turn within the site. As the design at this stage is subject to change an amended plan would be required at reserved matters.

Accessibility

In terms of location, the proposed development is isolated from local good and services.

It is accepted that there are a number of services within 5km cycle distance, however, not all residents/employees would be willing to cycle, and the nearest shop is 1.4km from the site with no pedestrian facilities along the majority of Firgrove

Road. Although a footway connection can be reached within 900m of the site it is not considered acceptable to walk this distance along the highway verge. The nearest bus stop is 1km from the site located on the B2102 and as such public transport cannot be safely reached by footway provision as such this development would be car reliant and would therefore not conform to guidance in the NPPF.

Trip Generation and Highway Impact

The TRICS database has been used to determine the level of traffic likely to be generated by the development proposal. Using this information it has been estimated that the proposed development is likely to lead to approximately 15 two-way vehicle trips in the weekday AM peak period (0800-0900): 13 two-way vehicle trips in the weekday PM peak period (1700-1800) and around 151 two-way daily weekday vehicle trips. The above trip rates are similar to those derived from my own use of the TRICS database and with this in mind I am satisfied that this provided a robust assessment of the level of traffic likely to be generated by the development proposal.

Road Safety Audit

An interim desk top Road Safety Audit has been carried out to support the application, the problems highlighted include risk of pedestrians and cyclists falling into ditch adjacent to the access and risk of large vehicles overrunning the kerbed junction shoulder. The recommendations include culverting the ditch and providing an exit taper on the northern access. Both suggestions have been included within the design.

It is noted that concerns have been raised in relation to road safety at the junction with the B2102 from both Firgrove Road and Warren Lane. Having assessed the accident data over the past 5 years there have been, 2 accidents reported at the Firgrove Road/B2102 junction and 1 at the Warren Lane/B2102 junction. Having consulted with our Traffic Safety Team, they have indicated that although neither junction currently exhibits a significant crash record at present, the crash history from earlier years was quite different. Additional highway measures were implemented at the Warren Lane junction and considering the increase in movements at the junction (15 In the Am peak and 13 in the PM peak) and causation factors attributed to the crashes an objection on this basis would not be justified.

If the Local Planning Authority are minded to approve as submitted I wish to be reconulted with the results of an updated speed survey.

2. Southern Water Services - Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption

of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

3. WDC - Conservation and Design Officer - Object.

Heritage considerations

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) (thereafter referred to as The Act).

The requirements of The Act are 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. Paragraph 194 of the NPPF states that significance of a designated heritage asset can be harmed or lost through alteration or destruction of the heritage asset or through development within its setting. Paragraph 184 of the NPPF states that planning should conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

It should be noted that the Courts have held that 'preserve' means an absence of harm. The NPPF points out that harm can be either 'substantial' or 'less than substantial' and where harm occurs, it should be given considerable weight as a material consideration in the assessment of planning applications and as part of the balance exercise and in ascertaining if any public benefits would outweigh that harm. This national policy intent is addressed by 'saved' Local Plan Policies EN1 and EN27; Core Strategy Policy SP02; as well as Chapter 12 of the Wealden Design Guide.

Observations on the application

My considerations revolve around whether the setting of any heritage assets would be unacceptably harmed by any future development within the application site. There is one listed building located in the vicinity of the application site and this is Glovers, located to the east of the site. Glovers dates from the early 17th century and is now a single dwelling, having been formerly several cottages. The remains of the 19th century Firgrove farmstead, compromising oast, and linear range, are located to the east of the site and are considered to be non-designated heritage assets. A heritage asset is a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest, and this includes assets identified by the local planning authority.

The NPPF at paragraph 193 states that great weight should be given to the conservation of designated heritage assets through an understanding of the impact

of a proposed development on their significance and this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

I consider that the heritage statement fails to meet the requirements of Chapter 16 NPPF in terms of its content, and failure to demonstrate an understanding of the impact the development on the significance of the heritage assets through development within their setting. A heritage statement should explore the historical significance of a property, its context and setting and how the site has evolved. There is no explanation as to why it is considered that the proposal to erect dwellings and commercial buildings within the setting of the heritage assets contributes to their special architectural and historic interest through development within their setting and if harm would arise from the development, based on an understanding of the significance of the buildings and their setting. Where harm arises, it should be demonstrated that there are public benefits that would outweigh that harm having regard to Chapter 16 of the NPPF and relevant Development Plan Policies.

The NPPF requires Local Planning Authorities at paragraph 200 to look for opportunities for new development within the setting of heritage assets to enhance and better reveal their significance. A robust assessment in line with Historic England Good Practice Advice Note No. 3, 'The Setting of Heritage Assets' does not form any of the submitted considerations.

Any change will affect how the setting of a heritage asset is experienced, be that from the public or private domain. The resultant change to setting needs to be assessed as being either harmful (substantial or less than substantial); as making a positive contribution such as better revealing the asset or the understanding of the asset; or having a neutral contribution.

The guidance issued by Historic England 'Good Practice In Planning Note 3 – The setting of heritage assets' clearly explains the broad approach to assessing the role of setting, to be undertaken as a series of steps:

- • Step 1: identify which heritage assets and their settings are affected
- • Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s)
- • Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance
- • Step 4: explore the way to maximise enhancement and avoid or minimise harm
- • Step 5: make and document the decision and monitor outcomes

This five step approach should be used to inform any development of land within the setting of a heritage asset. The application submissions do not demonstrate that the assessment has taken place to inform the proposals. It is for the applicant to provide the justification for harm to the significance of the listed building (Chapter 16 of the NPPF) through the proposed development within its setting, and this has not been provided within the submissions.

The heritage statement acknowledges that: the development would feature in relative proximity to the setting of Glovers, albeit on the other side of Fir Grove road which dissects and erodes the setting of the heritage asset.' The Tithe Map from 1840 is one of the earliest maps available for the area and clearly shows Glovers to the south of Firgrove Road which is part of the pattern of historic highways in the area. The land subject of the application site was part of the Glovers farmstead at the time, with the land owner William Gosling owning this field and the farmhouse. Therefore, there is a historic association between the listed building, the lane and the application site which are all part of its historic setting within this part of the high weald landscape. The statement that the road dissects and erodes the setting of the heritage asset is clearly incorrect and a misunderstanding of setting and of the significance of the heritage asset. This brief map regression exercise has shown the historic relationship between the application site and farmhouse which has not been explored or taken into consideration to inform any proposals for development.

The site of the later 19th century farmstead is on meadow land formerly owned by Glovers. Although there has been the introduction of modern farm buildings, the site still reads as a typical rural agricultural site on the lane which has evolved over the centuries. There would clearly be an impact through the further development of Firgrove Lane to the west on the rural setting of the farmstead which contains non designated heritage assets, and the appreciation of the rural character of the lane.

The proposed development would clearly erode the traditional rural setting of Glovers and the remains of the 19th century Firgrove farmstead through the introduction of extensive built form within their setting and the requirements to provide appropriate highways requirements for access, which will urbanise and erode the rural character of the lane. Although there are hedgerows between the application site and listed farmhouse and non-designated heritage assets, the bulk and massing of the new buildings would still be appreciated from the neighbouring designated and non-designated heritage assets and within the wider rural character of this area.

Although the harm caused by the proposed development to the significance of the heritage assets through development within their setting is considered to be less than substantial, it would have a noticeable and significant adverse impact, by virtue of the introduction of inappropriate built form into their setting and would not preserve those elements of the setting of the that makes a positive contribution to or better reveal their significance. Therefore, I would suggest that the proposals would be at the higher end of less than substantial harm due to the irreversible urbanisation of the rural setting of the heritage assets.

In summary, the National Planning Policy Framework (the Framework) recognises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. Great weight should be given to the conservation of designated heritage assets, including any harm or loss of significance through development within their setting. The Framework also places great importance on development being of good design and responding to local character to ensure the integration of new development into the existing environment. Where harm is considered to be less than substantial, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use and this planning balance is for the planning case officer to consider. From a heritage perspective, it is not considered that there are heritage benefits that would outweigh the impact of the harm of the proposals to the significance of the designated and

non-designated heritage assets, nor that planning conditions could be capable of sufficiently mitigating that harm. Therefore, it would not satisfy the aims of the National Planning Policy Framework in that regard.

4. Fire & Rescue Service - No response.

5. WDC - Waste Management -

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

Each residential dwelling should have adequate storage for 1 x 180 litre refuse bins and 1 x 240 litre recycling bin. Residents may also subscribe to the garden waste service for either a 140 or 240 litre garden waste bin (subscription charge started July 2019).

Details on the size of these bins/containers can be found at the following address.
<https://www.wealden.gov.uk/recycling-and-waste/recycling-and-waste-collection-container-size/>

Residents will be required to move the bins from a storage point within the boundary of the property, to a suitable collection point on the scheduled collection day.

At present, only the access into the residential part of the application has been provided which shows the access is suitable for a collection vehicle to enter and leave the site. Before I could comment further about the access, I would require swept path analysis to be provided across the site to show any turning head is suitable and to show any presentation points for the dwellings on the western part of the site (towards a property known as Mallard), as the turning head looks to be before this section.

For the commercial units, the access looks to be suitable for a collection vehicle as the access is shown to be suitable for a ridged 12m long truck.

No details have been provided to show what commercial waste collections would be required or whether bins are expected to be stored within the boundary of each commercial unit. If the latter is required, due to the rural setting and to help retain the street scene I would recommend that bins are stored within the units and only presented when due for collection. Alternatively, suitable screening should be provided to obscure bins and to help detract unauthorised use.

6. ESCC - County Archaeologist - Object

It is acknowledged that this application has been submitted with a Heritage Consultation Report and Heritage Statement. However, this documentation does not provide the level or detail of background heritage information required for 'major' developments. In order for us to determine the below ground archaeological potential of the intended development site and the likely impact of the proposed development on the identified archaeological resource, we require this application to be accompanied by a detailed desk – based heritage impact assessment prepared by a professional archaeological contractor.

This desk – based heritage impact assessment should be undertaken before the application for planning permission is decided, so that below ground archaeological issues can be fully considered when the planning decision is made.

We would expect the report to comply with The Chartered Institute for Archaeologists standards and guidance and the current Sussex Archaeological Standards. In preparing the document the appointed archaeological contractor shall:

- i. Consult the Historic Environment Record and other sources of heritage information for this location, encompassing a minimum study area / search radius of 1km. from the site.
- ii. Assess the potential for heritage assets to survive within the area of study.
- iii. Assess the significance of the known or predicted heritage assets considering their archaeological, geoarchaeological/paleoenvironmental, historic, architectural and artistic interest as applicable.
- iv. Propose strategies for further evaluation whether or not intrusive, where the nature, extent or significance of the resource is not sufficiently well defined.
- v. Appraise the likely impact of the development proposals on any possible archaeological remains identified.
- vi. Assess the impact of proposed development or other land-use changes on the significance of the heritage assets and their settings
- vii. Prepare a mitigation strategy which states how the heritage of the site is to be accommodated within the proposed development, either by preservation in situ or by record (i.e. through excavation, recording and publication) if this is considered necessary or appropriate.

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7. Environment Agency (Solent and South Downs Area) - No response.

8. WDC - Economic Development -

It is a key strategic aim of the Council's Community & Regeneration Service to provide support for Wealden businesses by stimulating the development of additional business units. This in turn supports the adopted East Sussex Economic Development Strategy 2012-2022 which seeks to ensure workspace is sufficient, appropriate (size and quality), sustainable and flexible enough for business needs, contributing to attracting and retaining businesses and jobs; and contributes to the vision of the SE LEP (South East Local Enterprise Partnership) – to 'create the most enterprising economy in England' and its Business Plan activity relating to 'business critical infrastructure'.

The East Sussex Economy Recovery Plan 2020 has a key aim to build sustainable prosperity for our businesses, voluntary, community and social enterprise sector and support residents to access new opportunities that drive economic recovery and resilience within a post Covid-19 landscape. The East Sussex Economy Recovery Plan 2020 also states a key objective to help 'create and safeguard jobs in East Sussex'.

Our comments are in relation to the additional 12 commercial units only.

There is currently a shortage of employment space within the District. The proposal for 12 commercial units will provide opportunities for new business start-ups, additional units with the District and will bring further employment into the District.

The proposed development also supports the key aims from the East Sussex Economy Recovery Plan 2020 & Council's Community & Regeneration Service plan. We therefore support this application.

9. Police (Crime Prevention) -

Due to the application being outline, my comments will be broad with more in-depth advice being delivered at reserved matters.

The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. With the level of crime and anti-social behaviour in the Wealden district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site specific requirements should always be considered.

Residential element

I direct the applicant or their agent to the SBD website SBD Homes 2019 V2 document can be found. The SBD scheme is a Police initiative to guide and encourage those engaged within the specification, design and build of new homes, and those undertaking major or minor property refurbishment, to adopt crime prevention measures. The advice given in this guide has been proven to reduce the opportunity for crime and the fear of crime, creating safer, more secure and sustainable environments.

The development has outward facing dwellings which has created a good active frontage that provides good observation over the street layout. Parking has been provided with garage, on-curtilage parking and a parking court. This should leave the road layout free and unobstructed, however I see no visitor parking. It is important that parking bays must be within view of an active room within the property. An active room is where there is direct and visual connection between the room and the street or the car parking area. Such visual connections can be expected from rooms such as kitchens and living rooms, but not from bedrooms and bathrooms.

It is important that the boundary between public space and private areas is clearly indicated. It is desirable for dwelling frontages to be open to view, so walls fences and hedges will need to be kept low or alternatively feature a combination (max height 1m) of wall, railings or timber picket fence. Whereas vulnerable areas, such as exposed side and rear gardens, need more robust defensive barriers by using walls or fencing to a minimum height of 1.8m. Gates that provide access to the rear gardens must be positioned as near to the front building line as possible, so that attempts to climb them will be in full view of the street and be the same height as the adjoining fence so as not to reduce the overall security of the dwellings boundary. Where possible the street lighting scheme should be designed to ensure that the gates are well illuminated. Gates must be capable of being locked (operable by key

from both sides of the gate). The gates must not be easy to climb or remove from their hinges

I recommend that the proposed pedestrian footpath from Fir Grove Road leading directly to the parking court is removed and incorporated into the development's vehicle entrance. At present this path provides unobserved access to the parking court, which makes the vehicles vulnerable to unobserved attack. Relocating it to the development's access not only remove unobserved access to the parking court's vehicles but also creates a greater degree of natural surveillance from the dwellings over those accessing the development on foot.

Light industrial element

I direct the applicant or their agent to the SBD website where the SBD Commercial Development 2015 document can be found. This is a comprehensive document that encapsulates both commercial developments where the public have no formal access, e.g. factory or office buildings, and those where public access is integral to the commercial use such as retail premises, leisure centres and public buildings. This document will be able to provide the applicant with in-depth crime prevention advice pertinent to the design and layout.

I recommend that the light industrial area is kept segregated from the residential element and the Public Right of Way footpath No 90 by a form of boundary treatment. This could take the form of weld mesh fencing to a height of 1.8 metres. Consideration should also be given to installing a lockable barrier to remove unauthorised access during out of hours. This will also control access to the parking bays located here and prevent rogue or illegal parking, the dumping of vehicles and fly tipping.

Certificated products that are fit for purpose and appropriate along with natural surveillance, access control, boundary treatment and intruders alarm system within the light industrial element will all assist the applicant in creating a safe and secure environment for the users.

When introducing public footpaths into or adjacent to developments, caution should be used as the introduction of a footpath into or through a development has the potential to generate crime if not adequately designed Para 8.3 of SBD Homes 2019 V2 states; *Whilst it is accepted that through routes will be included within the development layouts, the designer must ensure that the security of the development is not compromised by excessive permeability, for instance by allowing the criminal legitimate access to the rear or side boundaries of dwellings or by providing too many or unnecessary segregated footpaths.*

Finally, lighting throughout both elements of the development will be an important consideration both for the safety and security of the residents and the users of the light industrial units. Where it is implemented it should conform to the recommendations within BS 5489-1:2013. SBD considers that bollard lighting is not appropriate as it does not project sufficient light at the right height making it difficult to recognise facial features and as a result causes an increase in the fear of crime.

Sussex Police would support the application from a crime prevention perspective subject to my above concerns and recommendations being satisfactorily addressed.

10. WDC Drainage-Footpaths Officer -

Footpath Comments:-

As shown on the map below, the legal line of public footpath Heathfield and Waldron 90 runs just inside the north-eastern boundary of the application site.

From the plans attached to this application, it would appear this public right of way will not be obstructed as a result of this application and that the existing line will be incorporated into the proposed development. I would therefore have no objection to this application on rights of way grounds.

In view of the presence of this public right of way, I would wish the following condition to be applied to any planning permission which may be granted:-

- a). "that the public right of way shall remain clear and unobstructed at all times, both during and after the construction period."
- b). "that all public rights of way waymarking and furniture shall be retained both during and after the construction period."
- c). "that no materials or plant shall be stored on the land forming the public right of way."

Reason "Protection of public amenity".

Drainage Comments:-

Flood Risk

The site lies wholly within EA Flood Zone 1 so the sequential test is met and the exception test is not required for this site. The site does not appear to be at risk from tidal, sea or fluvial flooding or from failure of a drainage asset such as a canal or reservoir. The majority of the site is at very low risk of flooding from surface water, but there is a low risk surface water flowpath running north to south through the centre of the site. There is stated to be a low risk of groundwater flooding.

There are no watercourses or ponds within or in close proximity to the application site shown on the EA Flood Map. There is stated to be a ditch just outside the southern boundary of the application site, possibly forming part of the ESCC Highway.

There are no records of flooding at or near this location within Wealden District Council's land drainage database. The Geological Map states that the site is on the Ashdown Formation of sandstones, siltstones and mudstones.

Surface Water Drainage

There are no adopted, public, surface water sewers in the vicinity of the site, so this method of surface water drainage cannot be used.

Infiltration is the first recommended drainage method in the SUDS hierarchy but the underlying mapped geology of the site and the lack of ponds and watercourses on the surface around the application site suggests that this may be possible. The application form states in question 11 that surface water drainage will be to soakaways via a SUDS system. However, section 5.2 of the Flood Risk Assessment and Drainage Strategy states that "due to the site's underlying geology, infiltration techniques have been discounted in this preliminary design as a viable means of dealing with surface water run-off".

The Flood Risk Assessment and Drainage Strategy goes on to say that surface water will be dealt with by following the generic SUDS train outlined in section 4 of this document. A total of 380 cubic metres of storage are identified as being required in the preliminary calculations, but I am wholly unsure what form these will take or where they are to be sited. No information appears to be given as to where the final outfall from the site is to be sited, how the flow of water will be restricted to the greenfield rate or to what the outfall will be connected.

The Flood Risk Assessment and Drainage Strategy talks to the need to address exceedance flows and flowpaths in section 5.3, but no actual information is provided to address the surface water flowpath through the site, the route of which is blocked by the eastern end of the residential part of the site.

In considering the drainage principles proposed for the site, the Lead Local Flood Authority, ESCC, will require full detail in the drainage calculations used to design the system and Wealden, as the planning authority, would support this request. The calculations should prove that the final design can accommodate the site runoff rates for the standard 1 in 100 year rainfall event plus 40% climate change allowance plus urban creep.

It is stated that maintenance activities for the surface water drainage system will be by a site management company. To this end, as much as possible of the drainage system should be sited within public open spaces with adequate space for maintenance access. A generic maintenance schedule is provided but the Council would expect to see details of a site specific maintenance plan in due course when a surface water drainage scheme is finalised and before first occupation.

Provision of the foul sewage arrangements is for Southern Water to comment on.

Whilst noting that this is an outline application, in my opinion, the information provided within this application is inadequate since no space is allowed for surface water storage within the indicative layout and no indication is given as to where the outlet (which would appear to rely on other party's land) is to be sited or what form it will take.

Therefore it is not proven that the site can be successfully drained. I would therefore object to this planning application on surface water grounds.

11. WDC - Housing Department - Policy AFH1 of the Affordable Housing Delivery Local Plan 2016 requires a 35% affordable housing contribution. The Application acknowledges this and proposes a policy compliant 4 units of affordable housing.

The dwelling size, type and tenure of the 12 affordable units would be decided at Reserved Matters stage with the Housing Service providing further input at that time to ensure the mix meets the identified housing needs of the local area.

A recent breakdown of the applications on the Housing Register in terms of the size of accommodation that applicants' require is set out below.

Bedrooms required	Number of applicants	Percentage of register
1 bedroom	336	50%
2 bedrooms	207	31%
3 bedrooms	98	15%
4 (+) bedrooms	23	4%
Total	664	100%

This breakdown is indicative of the acute need for smaller 1 and 2 bedroom units and will be considered when we are consulted on the proposed mix of units.

Current NPPF 2019 policy states that 10% of the homes on major development sites should be made available for affordable home ownership. On a site of 11 dwellings, this would equate to 1 unit. The remaining 3 affordable units should be made available to rent.

Heathfield and Waldron, like many areas of Wealden District has an acute shortage of affordable housing. In addition to this, the rate of turnover of affordable homes there is very low which results in long waiting times for people that need affordable accommodation.

Applicants with; 1) a connection to the parish, or 2) a connection to an adjoining parish would be given preference over those with no connection to the area. The data in the table below is taken from the Housing Register. It shows the number of applicants currently seeking affordable rented accommodation in Heathfield and Waldron and the adjoining parishes.

Parish	Number of Applicants with a Local Connection.
Heathfield and Waldron	45
Mayfield	14
Hadlow Down	4
Framfield	4
East Hoathly	7
Chiddingly	3
Horam	16
Warbleton	3

In recent years there have been occasions where it has been difficult for developers to find Registered Providers that are willing to take on affordable units on smaller sites. Where none of the Council's preferred Registered Providers are in a position to offer on such sites the Council has recently started working with some alternative affordable housing providers. In this instance the applicants are encouraged to contact the Housing Service should they wish to explore this further. If it is not possible to identify a Registered Provider for the units, an off-site affordable housing contribution by way of a commuted sum would be considered.

It would be expected that any Affordable Units or commuted sum would be protected by way of a Section 106 legal agreement and that any commuted sum payable would be index linked.

12. WDC - Health and Wellbeing - No response.

13. ESCC - Rights of Way (Footpaths) - No response.

14. ESCC - SUDS & Flood Management - Object

Whilst this proposal is at the outline planning stage, the information provided relating to surface water drainage is insufficient to determine that the development will not increase flood risk elsewhere. There have been a number of historic flood events reported along Fir Grove Road adjacent to the south of the site, notably in 2012, 2014 and 2016, and the drainage strategy should ensure that the development will not exacerbate local flood risk issues.

We note that there is a drainage ditch located adjacent to the site however it is not clear whether the ditch will have capacity to receive runoff from the development and it is understood that the ditch has flooded in the past. East Sussex Highways (ESH) should be consulted to agree a connection to the highway ditch and confirm that the proposed discharge rates and volumes are acceptable.

We require that a detailed drainage strategy is submitted, confirming the outfall location for the proposed development. If infiltration is proposed, this should be supported by infiltration testing to BRE365 standard in the location of the proposed infiltration features and groundwater monitoring between Autumn and Spring. There should be a 1m unsaturated zone between the base of any drainage feature and the highest recorded groundwater level.

The site is located within a surface water flow path and the indicative layout indicates that buildings will be located within the flow path. We request that hydraulic modelling is carried out to ensure that the layout will not alter the flow path and result in flooding off-site. The application is for eleven units and it is not clear whether this number of units can be accommodated at the site without altering surface water flow paths.

15. Pevensey and Cuckmere Water Level Management Board - See LLFA comments.

16. WDC - Arboriculture and Landscape Officer -

Ecological Survey Standards and Report

The preliminary ecological report ('the report') submitted with the application is not deemed to have been undertaken to best practice standards (CIEEM guidelines for preliminary ecological appraisal 2017, British Standards for Biodiversity BS 42020 2013, Natural England Standing Advice for Protected Species). An ecological impact assessment of the proposed development has not been included and ecological impacts and conclusions to the document have been summarised into 2-3 short paragraphs (ref 5.1, 7.1 and 7.2) - this is deemed insufficient. The field survey has been undertaken in October outside of the optimum survey period to fully identify ecological features on the site. Protected species evaluation is short and inconclusive, with further surveys being scoped out where potential has been identified for protected species on or near the site. No assessment of biodiversity net gain/loss has been discussed, concluded or provided. Ecological enhancements and recommendations for planting have not been provided, local or national planning policy has not been identified, discussed or met. The report states it has undertaken a biodiversity records search with the local biodiversity records centre, however the

report (or part of the report produced for appending to planning applications) has not been included.

Protected Species

The presence of protected species and how development will impact them is a material consideration in the planning process (ref ODPM circular on biodiversity conservation sections 98 & 99). Such information should be complete and feed into development proposals (e.g. design & ecological mitigation).

It is noted mature trees are present on the boundary of the site on a number of sides and potential for bat roosts has not been assessed. The report identifies the site's wooded edges of potential for feeding and commuting (4.3.2) and older trees having potential for roosting (3.3) however this matter is not further discussed or evaluated further and no mitigation or further survey work is recommended. Two bat species have been relatively recently recorded near the site.

Section 4.3.6 states "The site has very limited potential for breeding birds" however the site includes long stretches of priority habitat hedgerow, borders mature trees and includes extensive grassland - ground nesting birds have not been identified or evaluated. Methodology or recommendations for breeding birds have not been provided.

Reptile species have been identified in the vicinity of the site but further evaluation, survey or methodology has not been provided.

Biodiversity Net-gain

As per the National Planning Policy Framework 2019 and Wealden District Core Strategy Local Plan 2013, development should provide biodiversity net gain. No biodiversity net gain/loss assessment has been provided with the application, e.g. utilisation of the DERFA biodiversity net gain metric. Biodiversity net-gain and policy is not discussed at all in the report, nor an indication of the site's baseline biodiversity value or the proposed development's biodiversity net-gain/loss impact. In its current form, without ecological enhancement or other associated recommendations, the development is likely to result in a biodiversity net-loss, contrary to local and national policy.

Ecology recommendation

Ecological objection: Insufficient information to determine the application.

The presence or impact on protected species has not been sufficiently established. Sufficient ecological information, mitigation and biodiversity enhancement measures have not been provided. Biodiversity net-gain has not been evaluated nor the sites baseline biodiversity value established. In its current form the development is deemed contrary to:

- National Planning Policy Framework 2019, sections 170, 174 & 175
- Wealden District Core Strategy Local Plan (2013) policy WCS12 Biodiversity
- Wildlife and Countryside Act 1981 (as amended)
- Conservation of Habitats and Species Regulations (2017) (as amended).

Tree Officer

My comments of this applications are summarised below:

1. The following comments are based on a desk top assessment and no site visit has been carried out.
2. A combined arboricultural survey (AS), impact assessment (AIA) and tree protection plan (TPP) has been submitted in support of the application.
3. The site is open arable land with all arboricultural features located on the boundaries.
4. The indicative layout suggests that all trees can be retained with no obvious direct impacts.
5. In order to form access to the site, some hedgerow sections would need to be removed and it is likely that the hedgerow would qualify under the Hedgerow Regulations 1997. Where possible one combined access would be preferable to minimise the loss of hedgerow connectivity. However, full planning permission would override these regulations and mitigation for the loss of the hedgerow sections could be made via a suitable landscape scheme.
6. Future service runs and below ground infrastructure would need to avoid RPA encroachment, although detailed information of this nature could be provided by condition through an arboricultural method statement if necessary.
7. Should the applications be recommended for approval, I would suggest WDC standard conditions TP02, LA01/02.

17. High Weald AONB Unit - Object.

In summary, the High Weald AONB Unit objects to this proposal on the following grounds:

- It would consolidate the pattern of development and urbanise this rural location contrary to objective S2 and S3 of the High Weald AONB Management Plan; and
- The ecological information submitted with the application is inadequate and misleading and the proposal fails to demonstrate biodiversity net gain contrary to objective FH3 of the High Weald AONB Management Plan.

It is the responsibility of the Local Planning Authority to decide whether the application meets legislative and policy requirements in respect of AONBs. Section 85 of the Countryside and Rights of Way Act 2000 requires local authorities to have regard to 'the purpose of conserving and enhancing the natural beauty of AONBs' in making decisions that affect the designated area. A summary of the national planning policy for AONBs is appended to this letter.

The High Weald AONB Management Plan has been adopted by all the relevant local authorities with land in the AONB as their policy for the management of the area and for the carrying out of their functions in relation to it, and is a material consideration for planning applications.

The High Weald Joint Advisory Committee is a partnership between: East Sussex, West Sussex, Kent and Surrey County Councils; Horsham, Mid Sussex, Tandridge, Sevenoaks, Wealden and Rother District Councils; Tunbridge Wells, Hastings, Ashford, Crawley and Tonbridge & Malling Borough Councils; Defra; and

organisations representing farming, forestry, community, business and recreation interests.

The Management Plan includes a commitment from the Joint Advisory Committee partners (including the Local Planning Authorities) that they will use the Management Plan as a 'checklist' against which to assess the impact of policies and other activities on AONB purpose to fulfil the requirements of the Countryside and Rights of Way Act 2000, s85. A template to assist with this assessment is provided in the Legislation and Planning Advice Note.

The Proposal

This is an outline planning application (with all matters reserved except for access) for the erection of 11 dwellings, (including 4 units of affordable housing) and 12 light industrial commercial units, incorporating areas of open space and enhancement landscaping.

Analysis Against the High Weald AONB Management Plan

The attached plan shows the AONB Landscape Components represented on and around the application site. The following Management Plan key characteristics, objectives and proposed actions are considered relevant to this proposal.

Geology, Landform, Water Systems and Climate	
Relevant Key Characteristics	Soils that are distinguished by their variability over short distances – mostly heavy and poorly drained with some coarse-grained, light and free draining.
Relevant Objectives	G2 To protect and enhance soils, sandstone outcrops, and other important landform and geological features. G3 To help secure climatic conditions and rates of change which support continued conservation and enhancement of the High Weald's valued landscape and habitats. Rationale: In order to reduce locally arising greenhouse gas emissions and allow the High Weald to play its role in mitigating climate change.
Relevant Proposed Actions	Ensure best practice is complied with to protect soils during construction from compaction, pollution and erosion... Protect undisturbed soils and minimise sterilisation of soils by permanent impermeable surfaces.
Settlement	
Relevant Key Characteristics	High density of historic farmsteads, with a long continuity of settlement in the same place; their position strongly influenced by topography and routeways. Hamlets occurring around the junction of routeways or small commons (which became greens or forstals), or as clusters of cottages serving a particular industry. Villages and hamlets typically unlit contributing to intrinsically dark landscapes. A limited palette of local materials: clay as tiles and brick, timber as weatherboard and framing, and some localised instances of stone. Green-ness of roads and streets with trees, hedges and verges dominant.

Relevant Objectives	<p>S1 To reconnect settlements, residents and their supporting economic activity with the surrounding countryside. Rationale: To understand and enhance the synergy of the local economy, society and environment, and the relationship with the surrounding countryside and wild species, that defines sustainable rural settlement. To provide opportunities for economic activity that supports land management objectives and AONB designation.</p> <p>S2 To protect the historic pattern and character of settlement. Rationale: To protect the distinctive character of towns, villages, hamlets and farmsteads and to maintain the hinterlands and other relationships (including separation) between such settlements that contribute to local identity.</p> <p>S3 To enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design. Rationale: To protect and enhance the character and quality of buildings in the High Weald, and re-establish the use of local materials as a means of protecting the environment and adding to this distinctiveness.</p>
Relevant Proposed Actions	<p>Ensure there is reference to the AONB Management Plan in local plans and other public documents, and ensure its use as material consideration in planning decisions.</p> <p>Promote use of the High Weald Design Guide and historic characterisation to guide settlement planning.</p> <p>Seek to prioritise the delivery of new housing primarily through small-scale development and a mix of housing sizes that responds to local needs.</p> <p>Require developments to maximise measurable gains for biodiversity and opportunities for birds, bats and other wild native species in the design of buildings, curtilages and open spaces.</p>

Routeways	
Relevant Key Characteristics	<p>A dense radiating network with a variety of origins. Typically present by the 14th century, with many extending back into pre-history and pre-dating settlements.</p> <p>Earth banks, lynchets and ditches typically indicating the former width of the routeway or to separate users from farmland or woodland.</p> <p>Linear nature facilitating foraging and dispersal, and contributing significantly to the ecological interconnectedness of the High Weald.</p>
Relevant Objectives	<p>R1 To maintain the historic pattern and features of routeways. Rationale: To maintain a routeway network that has a symbiotic relationship with settlement location, hinterlands and identity, and is a rare UK survival of an essentially Medieval landscape; and to protect the individual archaeological features of historic routeways.</p> <p>R2 To enhance the ecological function of routeways. Rationale: To protect, and improve the condition of, the complex mix of small</p>

	scale habitats along routeways for wildlife, and maintain routeway boundaries as part of a highly interconnected habitat mosaic.
Relevant Proposed Actions	Discourage new access points that damage the character of sunken routeways or dilute the pattern of routeways. Ensure that routeways are recognised as non-designated heritage assets in the planning process. Avoid vehicular traffic on sensitive routeway verges, particularly when the ground is wet.
Field and Heath	
Relevant Key Characteristics	High proportion of good quality flowery grassland acting as a buffer for, and link to, fragments of unimproved grassland. Distinctive areas of wooded heath and Lowland heath scattered along the sandy ridges supporting a complex mosaic of plant communities, rare species such as marsh clubmoss, and more than half of UK's dragonfly species.
Relevant Objectives	FH2 To maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands. Rationale: To maintain fields and field boundaries that form a part of the habitat mosaic of the High Weald; and to maintain this key component of what is a rare UK survival of an essentially Medieval landscape. FH3 To enhance the ecological function of field and heath as part of the complex mosaic of High Weald habitats. Rationale: To improve the condition, landscape permeability and connectivity of fields and heaths and their associated and interrelated habitats (such as hedges, woodlands, ditches, ponds and water systems) for wildlife.
Relevant Proposed Actions	Require development masterplans to protect and enhance existing field patterns including hedges, ditches or other boundary features, and where possible to restore them when lost, particularly within retained public spaces.

Other Qualities	
Relevant Key Characteristics	Features and resources providing opportunities for informal outdoor recreation and experiencing the beauty of nature <ul style="list-style-type: none"> • Intricate and extensive network of footpaths, roads, lanes and disused railway lines enabling walking, running, cycling and riding Other perceived qualities <ul style="list-style-type: none"> • Scenic beauty and glimpsed long views • Unspoilt rural landscape with a sense of naturalness unusual in South East England • Intrinsically dark landscapes with a sense of remoteness and tranquillity • Human-scale landscape with a sense of intimacy
Relevant Objectives	OQ3 To develop and manage access to maximise opportunities for everyone to enjoy, appreciate and understand the character of the AONB while conserving its natural beauty. Rationale: To meet

	<p>demand for informal recreation from residents and the nearly one million people living within 5km of the AONB, ensuring infrastructure, services and activities are consistent with conserving and enhancing natural beauty and its quiet enjoyment.</p> <p>OO4 To protect and promote the perceptual qualities that people value. Rationale: To ensure that the special qualities people value, such as tranquillity, dark skies, sense of naturalness and clean air, are recognised and taken account of in AONB management.</p>
Relevant Proposed Actions	<p>Maintain an understanding of the perceptual landscape qualities people value and consider these in policy documents and decisions. Recognise and act to minimise the impact of traffic noise and congestion on rural lanes.</p> <p>Follow the Institute for Lighting Professionals guidance; promote information on dark sky-friendly lighting; install outside lighting only when needed and use dark sky-friendly lighting.</p> <p>Identify and protect valued views and act to reduce scenic impact of intrusive developments.</p> <p>Promote fair access to the landscape for health and wellbeing.</p> <p>Promote the rich cultural, artistic and historical associations with the landscape.</p>

The application site is a grass field that would have been part of the surrounding heathland prior to enclosure. The bedrock is Ashdown Formation (sandstone, siltstone and mudstone) with an overlay of slightly acid loamy and clayey soils. Selwyns Wood to the south is ancient woodland and a nature reserve. The AONB Components Map shows a number of areas of wildflower grassland in the vicinity indicating the potential for this site to form part of an important habitat network.

The site is located between the 19th century historic farmstead of Firgrove Farm (buildings now used for offices and storage) and the hamlet of Roser's Cross. Like most hamlets Roser's Cross formed around the intersection of routeways and in the 19th century only comprised a scatter of cottages amongst heathland and woodland.

Firgrove Road is a historic routeway and retains the character of a narrow rural lane lined by trees, hedgerows and ditches. The boundary of the application site with Fir Grove Road comprises a gappy low hedge, ditch and narrow grass verge. There is an access point into the field at its north-eastern end which also accommodates a Public Right of Way which follows the boundary of the field. This PROW is also a historic routeway linking Fir Grove Road with Warren Lane.

It is considered that the proposed development would consolidate the pattern of development and urbanise this rural location. The proposed residential development of large detached houses does not meet the local needs for smaller units and the in depth cul-de-sac design is out of character with the mainly frontage development in the area. Similarly the proposed industrial units have a regimented and urban layout which compares poorly to the traditional farmstead layout of the adjacent site. Whilst these design issues could be resolved at reserved matters stage they have implications for the capacity of the site.

In addition, the ecological information submitted with the site is inadequate and contradictory. A detailed commentary on this information by the Unit's ecologist is appended to this letter. Further information will need to be submitted to establish the

ecological value of the current site and demonstrate how it is proposed to maximise measurable gains for biodiversity and opportunities for birds, bats and other wild native species in the development as required under the NPPF.

The above comments are advisory and are the professional views of the AONB Unit's Planning Advisor on the potential impacts on the High Weald landscape. They are not necessarily the views of the High Weald AONB Joint Advisory Committee.

AONB Ecologist Comment

There are a number recommendations made below regarding the Preliminary Ecological Report from Mayhew Consultancy Ltd, for further surveying work, particularly regarding protected species, and the need to establish mitigation and biodiversity enhancement. These had not been carried out at the time of the writing of the Ecological Report, and there does not appear to be evidence of these having subsequently been done within the Wealden District Council documents portal for planning.

General recommendations:

A Preliminary Ecological Assessment was carried out for the site at Fir Grove Road and a report written by Mayhew Consultancy Ltd in late October 2020.

The key objectives as set out by CIEEM, 2017 (Chartered Institute of Ecology and Environmental Management) for Preliminary Ecological Assessments are:

- identify the likely ecological constraints associated with a project;
- identify any mitigation measures likely to be required, following the 'Mitigation Hierarchy'
- identify any additional surveys that may be required to inform an Ecological Impact Assessment (EclA);
- identify the opportunities offered by a project to deliver ecological enhancement.

The report submitted by Mayhew Consultancy Ltd, does not identify any mitigation measures likely to be required, nor does it identify opportunities for ecological enhancement. It is recommended that these be done (see last section in this report). However, CIEEM also state that the results of a Preliminary Ecology Assessment Report are not adequate for planning application:

“The primary audience for a Preliminary Ecological Appraisal Report (PEAR) is the client or developer and relevant members of the project team, such as the architect, planning consultant, and landscape architect. It is normally produced to inform a developer (or other client), and their design team, about the key ecological constraints and opportunities associated with a project, possible mitigation requirements and any detailed further surveys required to inform an Ecological Impact Assessment (EclA). Under normal circumstances it is not appropriate to submit a PEAR in support of a planning application because the scope of a PEAR is unlikely to fully meet planning authority requirements in respect of biodiversity policy and implications for protected species. “

Therefore, it is recommended that Wealden District Council, as the planning authority, request an Ecological Impact Assessment if they feel the current report does not meet their biodiversity policy.

Priority Habitats:

Grassland

The UK Habitat Classification (UK Habitat Classification Working Group, 2018) is a new system for classifying habitats. It is a hierarchical system that allows habitat classification to different levels of accuracy. Semi-improved grassland swards are classified within Neutral Grassland (UK Habs code g3) categories. Whilst those grasslands which are improved or described as species-poor swards are now classified as g4 modified grassland.

The grassland on site at Fir Grove Road has been classified as g3c – Neutral Grassland in the Ecological Preliminary Report but is then later described as being ‘almost entirely species-poor grassland’. It is recommended, that the grassland be re-surveyed to confirm the grassland classification, partly due to the discrepancy in the report but also because the original survey was undertaken in October, which is too late in the growing season to carry out a thorough botanical survey of grassland habitats.

The ideal time for grassland survey is from May to the end of July/early August when the sward composition can be most accurately and fully recorded.

Protected species:

Hazel Dormice

The hazel dormouse *Muscardinus avellanarius* is fully protected under Schedule 5 of the Wildlife and Countryside Act 1981, as amended and Schedule 2 of The Conservation of Habitats and Species Regulations 2010. No suitable dormouse habitat was observed on site as reported in the Preliminary Ecology Report, and no dormouse surveys were carried out, however, the ecological report does state that; “Hazel Dormice *Muscardinus avellanarius* are present within Selwyn’s Wood and it is quite possible that they are present within the nearby large mature gardens and hedgerows. The roadside hedge, however, is poor habitat.” Given that there is potential dormouse habitat adjoining the site it is recommended that a specialist hazel dormouse survey be carried out in accordance with the Government guidance, as it should not be assumed they are not present, especially in areas close to woody habitat, and hedgerow within their range in the South of England.

Bats

All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species.

The Ecological Preliminary Report suggests there is no ‘significant habitat’ for bats, but then does go on to suggest that the northern edge of the site has potential as valuable for bat feeding and commuting route as well as roost sites in older trees. The desk top survey gives records of two species recorded locally Natterer’s Bat *Myotis nattereri* and Common Pipistrelle *Pipistrellus pipistrellus*, both of which, do forage over open grassland.

In order to accurately assess the effects of the proposed development on these species it is recommended that an ‘activity survey’ for bats takes place ideally between May and September in good weather is undertaken, to determine the level of use of the site. With particular reference to the northern part of the site, older trees

and hedgerows, especially if access gaps are likely to be made in any hedgerow which could affect commuting routes.

Reptiles

Reptiles are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended.

Whilst reptiles were not surveyed on site, it was noted that slow worms *Anguis fragilis* have been recorded on properties along the Fir Grove Road, and that “is quite likely that Slow Worms in particular are in the adjacent gardens.” Given that, slow worms are likely to be found in the immediate area it is recommended that a reptile survey be conducted following Government guidance. Best practice guidance suggests that surveys be spread out across the season and, that they should be undertaken within a certain temperature range.

Mitigation and opportunities for enhancement:

The Ecological Preliminary Report does not contain recommendations for mitigation, or opportunities for enhancement of the site. It is recommended that ecological mitigation and enhancement be considered for this site. This could follow the form of an Ecological Constraints and Opportunities Plan (ECOP), which generally identifies the following where applicable (BS 42020:2013 for ECOP):

- 1) areas and features (both on- and off-site) including appropriate buffer areas that, by virtue of their importance, should be retained and avoided by both construction activities and the overall footprint of the project⁵⁹;
- 2) areas and features where opportunities exist to undertake necessary mitigation and compensation;
- 3) areas and features with potential for biodiversity enhancement;
- 4) areas where ongoing biodiversity conservation management is required to prevent deterioration in condition during construction/implementation;
- 5) areas needing protection on site and/or in adjacent areas (e.g. from physical damage on site or pollution downstream) during the construction process; and
- 6) areas where biosecurity measures are necessary to manage the risk of spreading pathogens or non-native invasive species.

Recommendations and opportunities for Fir Grove Road

- Artificial lighting either used during the construction and building stage or post construction can negatively effects bats be causing disturbance at roost sites and affect feeding behaviour. Some bat species will avoid lit areas which can increase the change of predation. Any artificial lighting should be mindful of national guidance, and it is recommended that the council considers a lighting design strategy for light-sensitive biodiversity be required. This would require that there should be no light spill onto the site boundaries or into the landscape buffer/ecology area.
- Bat boxes and/or bricks should be provided in suitable locations on buildings and retained trees within the site.
- Swift boxes and swallow nests that accommodate swift and swallows on residential buildings.

There are a number of designs, but boxes that are built into the buildings, often referred to a swift-bricks and preferable to retrofitting external boxes. Good practice suggests one swift brick/box per residential unit.

18. Heathfield & Waldron Parish Council - Object

1. The application does not demonstrate any overriding public benefits by comparison to the protection policies of the AONB, as set out in the NPPF Para 172, and the High Weald AONB Management Plan & Statement of Significance, and the proposed development would cause serve harm to this protected landscape in a remote location, and set an unacceptable precedent in the locality.
2. The proposal would lead to the loss of this ancient agricultural meadow and land that is in use as farmland and maintained by a local farmer. This would have a detrimental effect on the habitats and feeding grounds of the wildlife of this area, not least in spring or autumn when wildlife habitats are more prevalent. The proposal will have severe negative environmental consequences, including impact on wildlife corridors to Selwyns Wood. A more detailed Biodiversity report is required.
3. The submitted proposals are considered overdevelopment and the 5 bedded houses with back gardens adjacent to the road are out of character in the locality, and not the smaller unit housing units needed.
4. The 12 industrial units are high density, 2 storied and not at all sympathetic to the character of the area. The NPPF states business development must be sensitive to the area, which this development is not. By comparison units in the neighbouring business park are single storey, and some remain unlet, so the need for the development is considered questionable in this area.
5. Sustainability- It is in an unsustainable location with a reliance on cars because of:
 - Lack of proximity of regular bus service, shops and amenities
 - Walking/cycling up a narrow, fast country road with a long hill, no pavement or streetlights is unrealistic, and journeys will be made by car.
 - There is a safety issue as they are not useable for wheelchairs or pushchairs.
- 6 Traffic/highways – The proposed development would have an adverse impact upon local conditions of highway safety, in view of:
 - Narrow roads with parked cars and difficult junctions make it difficult to accommodate increases in traffic movements in an unsustainable area,
 - Increase in traffic on a narrow lane and with parking problems that already exist.

c) The Transport statement contains a number of erroneous and misleading statements. The location and the timing of the survey was in an inappropriate time and location. The survey was in mid Dec 2020 and did not take account of Covid restrictions to people and the affect this had on traffic on the lanes/road. There are also contradictions in the reports such as traffic will be reduced due to the increased number of people working from home, this will be not be true.
- 7- Adverse Effect on Neighbouring properties. The application would cause increased noise from the industrial units, with. Increased traffic movements of at least 151 a day. There would also be an adverse impact of 2 new entrances opposite the entrances to Silver Birches and Meadowside. There is also a possible loss of privacy and overlooking of Mallard, as well as a loss of privacy to rural gardens abutting the site.
8. The impact on heritage assets is not wholly exceptional as required by NPPF para 194, and there would therefore be an unacceptable adverse impact upon the listed Glovers and its setting from the proposed development.

9. Flood Risks- The proposals would exacerbate existing surface water/drainage and sewage problems, not least flooding, that already exist, with drains and foul water overflowing onto Firgrove Road and Browns Lane

10. Footpath-The countryside footpath through the site will unacceptably become a 6 foot wide alleyway between a high hedge and industrial units more akin to a town path, wholly out of character.

Note: Concern is expressed over the alleged presence of Japanese Knotweed and would ask Wealden to contact the appropriate Council Department.

Response to Parish Council:

None Required.

Other third party responses (including local residents).

126 letters of objection summarised as follows:-

- The development would harm the character of the area and landscape of the AONB.
- The roads in the local area and other infrastructure such as drainage could be negatively impacted upon.
- The proposed development is out of keeping with the area.
- This does not meet local housing needs.
- Wildlife will be harmed.
- This location is unsustainable for development and Cross in Hand is not a sustainable settlement.
- Roads and junctions in the area are unsuitable for an increase in traffic particularly commercial traffic.
- Increased emissions will harm local ecology
- The development would set a dangerous precedent.
- The industrial units will cause noise and disturbance to residents.
- Important hedgerows could be lost.
- Local roads are not safe for walking or cycling.
- The land has been successfully farmed.
- Traffic is fast on the road past the site the speed survey seems to be misleading.
- Selwyns wood is a local nature reserve and the development could harm this.
- Waste water systems are already at capacity
- The nearest bus stop is some distance from the site.
- Glovers the listed building is 48m from the site not 140m as stated.
- The traffic survey was carried out during lockdown.
- The proposal is in conflict with policies in the local plan and should be refused.
- Local appeal decisions have identified the location is unsustainable for housing.
- There is already excessive surface water run off problems in the area.
- Development would spoil what is a dark area.
- There is a lot of wildlife in the field.
- The proposal would consolidate development in the area.

- There are no significant local rural businesses/services that would benefit from the development of housing here.
- The NPPF presumption in favour should not apply as the site is in the AONB.
- The proposal does not comply with para 172 of the NPPF.
- There is well on site
- There will be a loss of privacy to neighbours.
- The existing industrial units already have vacant space in them.
- The cul-de-sac arrangement is out of keeping with the area.
- The industrial units have a regimented appearance.
- The development would impinge on existing residents Human Rights.
- There will be harm to the designated heritage asset.
- Firgorve Road is too narrow for two HGV's to pass.
- The case of Monkhill Ltd v Waverley Borough Council & Others confirms the protection afforded to AONBs. The High Court decision was upheld in the Court of Appeal in January this year. It also confirms that the protection applies whether it relates to a major development or to a minor development.
- The SHEELA identifies the AONB constraint to development.
- This is major development in the AONB and should be refused in line with the NPPF.
- The development will devastate the setting of Glovers a Grade II listed building.
- The increased commercial traffic will cause disturbance particularly given the difficulty in navigating the road and entrance
- .The boundary wall to Glovers (GII) already shakes when HGV pass.
- The highway report is inaccurate roads are not 6m and do not have footways.
- The ambient noise level is low in the area apart from the existing industrial units.
- Glovers has a view south to the South Downs which would be lost and impact upon its ancient setting as GII listed building.
- Whilst the new development may try and show it can manage the surface water on the site there are already problems in the area and the offsite implications of the drainage will cause more flooding in areas that already flood.
- The Design and Access Statement does not meet the requirements of the DMPO and therefore should not be entertained as an application by the LPA as set out by s327A of The Act. .
- Section 85(1) of the CROW 2000 Act puts a legal duty on the LAP conserve and enhance the natural beauty of the AONB.
- There is potential for the development to impinge on Article 8, Protocol 1, Article 1 rights and a proper assessment of this is required to be carried out.

One submission also included an independent landscape summary section as follows:-

The inherent features and characteristics identified by the AONB Management Plan and further set out by the AONB Advisory Board are fundamentally compromised by the proposals. The loss of the Site itself to development breaks the visual and perceptual link, particularly north south and compromises the interlinking field network which contributes to the identity of the hinterland around the hamlet. The layout of both the residential units and the commercial element does not consider the

character of the settlement, the commercial units particularly being ridged and urban in form, proposing a development typology in complete contrast to the unspoilt and natural rural landscape.

The PRow is squeezed along the back edge of commercial development destroying the experience of this historic and valuable route which supports the informal recreation provision in the area and provides for the numbers of visitors as well as the local users.

The intervention of this level of development in this location has the opportunity to disturb the intrinsically dark landscapes and disrupt the sense of remoteness and tranquillity, fundamentally altering the quality of the landscape.

Overall, it is considered that the layout of development is not representative of the character of the adjacent built form – it will appear out of place and incongruous and result in significant adverse effects on this valuable hinterland location and the character of the settlement of Roser's Cross, ultimately compromising permanently the qualities of the AONB. Therefore, the scheme is contrary to policies of the Local Plan and Paragraph 170 of the NPPF.

2. Other Relevant Responses/Issues

CPRE - Object to application in relation to harm to the AONB and landscape character.

Sussex Wildlife Trust -

The Sussex Wildlife Trust (SWT) has become aware of the above application for a site directly opposite our Nature Reserve at Selwyns Wood. SWT objects to the application as it fails to demonstrate a measurable net gain to biodiversity as required by NPPF paragraphs 170 and 175, policy WCS12 Biodiversity and objective FH3 of the High Weald AONB Management Plan. We also support the High Weald AONB Unit's objection regarding wider impacts on the AONB.

The Preliminary Ecological Report (PER) submitted is quite brief and does not meet best practice as set out in the British Standard for Biodiversity (BS 42020). In particular, the site survey was carried out in October which is not optimal and therefore there is some confusion as to the value of the grassland on the site. It is described as species poor, but classified as g3c Neutral Grassland.

Additionally, it is acknowledged that bats, dormice and reptiles have been recorded in close proximity to the site and it appears that there are some features that are suitable for these species. Protected species surveys should not be conditioned. The presence and extent of use of protected species must be assessed before planning permission is granted, so that the suitability of the proposal can be assessed. Any impacts should be avoided through good design as per the mitigation hierarchy.

No mitigation is proposed for the acknowledged loss of priority hedgerow habitat and no assessment is made of the overall impacts or how these can be avoided and/or mitigated. Finally, no net gains to biodiversity are demonstrated contrary to policy requirements.

Pre-Application Matters

None.

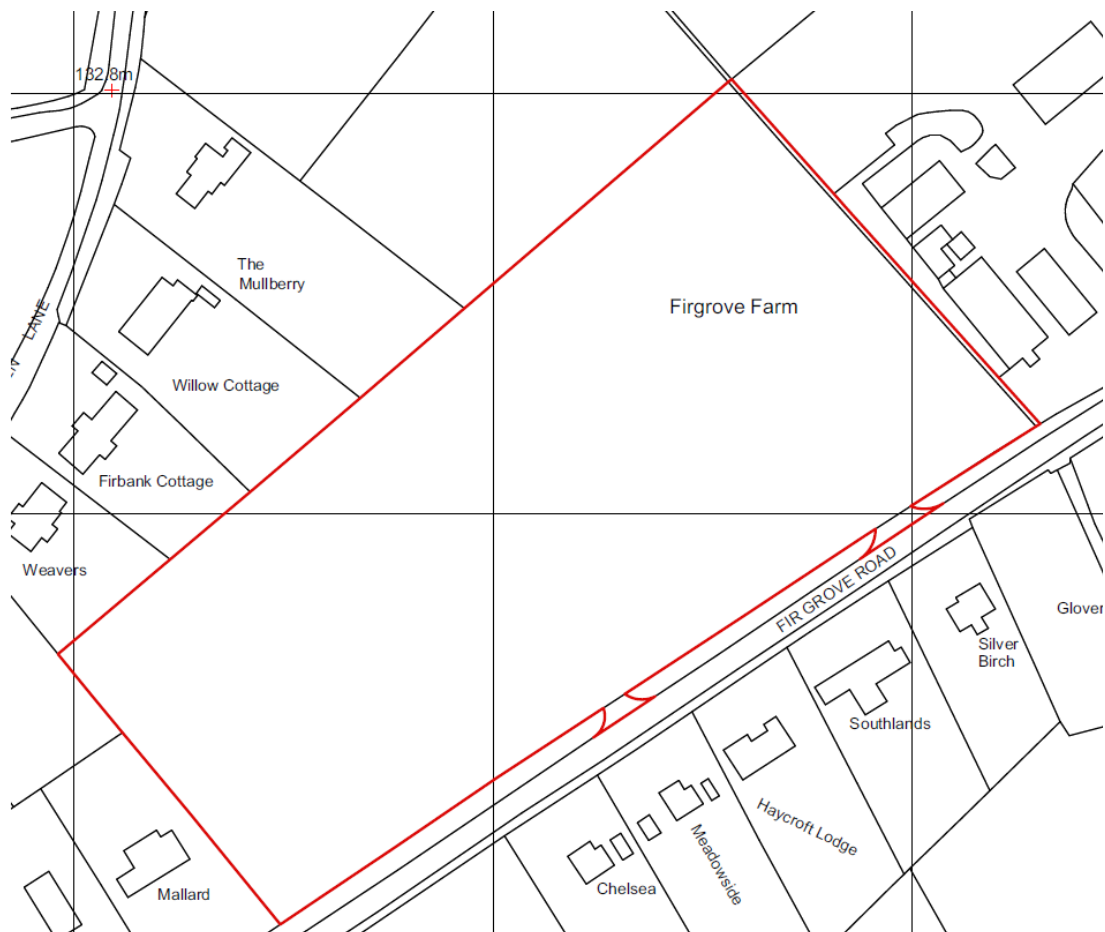
3. Relevant Planning History

There is no recent relevant planning history to the site although the full history of applications (most recent being 1989) can be viewed on the electronic file. They predominantly relate to refusals for residential development.

4. Details of Case

Site

The application site is a rectangular parcel of land measuring approximately 2ha within the High Weald Area of Outstanding Natural Beauty (AONB). The site fronts Fir Grove 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 High Weald Area of Outstanding Natural Beauty and is in the setting of a listed building (Glovers GII).

With regard to the Environmental Impact Assessment Regulations 2017, the development proposed falls within Schedule 2 category, 10(b) - urban development project. Although the thresholds are not met, the site is designated as a 'sensitive' area situated as it is within the High Weald Area of Outstanding Natural Beauty . Due to the nature and scale of the proposals, having regard to the scope of environmental issues relevant to the site, and with reference to the relevant screening criteria in Schedule 3 of the EIA regulations, the scheme is considered not to be EIA development.

There is a need to bear in mind that in some cases consolidation of development needs to be considered (ie. consolidation of development within category 13(a) – 'The Council's EIA screening appraisal has also considered the proposals in combination with other development.

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 2,7,8,10,11,12,38,47,54-56,63-64,68,77-79,80,83-84,85,,86,88,103,104,108,109,124,127,148,155,163,170,172,175, chapter 16, of the NPPF.

- Saved Policies GD2, EN1, EN2, EN6, EN12, EN14, EN15, EN27, EN29, DC17, BS9, TR3, TR10, TR16 and CS2. of the adopted Wealden Local Plan 1998.
- Policies WCS12, WCS14 of the adopted Wealden Core Strategy Local Plan 2013.
- Affordable Housing Delivery Plan policy AFH1
- Wealden Design Guide 2008 (adopted Supplementary Planning Document), Chapter2 , Part 2, and Chapter 3.
-

Proposal

The application seeks outline planning permission with all matters reserved apart from access for the erection of 11 dwellings, four of which would be affordable and 12 light industrial units. Two access points are proposed one serving the commercial element and one serving the residential element as shown on the above site plan red edging. Indicative details for the scheme are shown.



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.

Rosers Cross has no development boundary within the Wealden Local Plan (1998). It also has no development boundary 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 residential element of 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. Rosers Cross is classified within the settlement hierarchy as an unclassified settlement so would not be identified for any of this housing.

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

The commercial element is likewise a form of commercial development that would not comply with any policy exceptions for such development in rural areas (DC6 and 7 for conversion schemes or BS9 for expansion/intensification of existing business sites).

The Applicants submitted statement does not pray in aid of any policies in the local plan for commercial use and accepts the housing would be contrary to the local plan policies that restrict such development.

Generic policy matters in relation to those relevant policies listed in the policy section above are dealt with separately in relation to other control policies within the Local Plan within the main report but it is clear that the principle of the development conflicts with the 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 area relates to the impact to the High Weald AONB. Para 172 affords the highest level of protection to the AONB and directs refusal of major development only allowing this where the balance is set against exceptional circumstances and where it can be demonstrated the development is in the public interest. Consideration of whether this development forms a Major development in the AONB in reflection of footnote 55 is complex setting out such assessment should take into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. Detailed consideration of these are made within the report but the conclusion is that the development is major development. As such the application in addition to the consideration of the exceptional circumstances and public benefits would need to be able to demonstrate compliance with para 172(a)-(c).

Notwithstanding any conclusion on the major development point as set out in the report there is a high degree of harm to the AONB and the development would not conserve or enhance this protected landscape. As such in line with the Monkhill judgement (Monkhill Limited v Secretary of State [2019]) this is sufficient to disapply the presumption in favour in para 11 such that any consideration of the development would be as a standard planning balance exercise attributing great weight to the identified harm to the AONB under par 172.

Notwithstanding this in addition as set out in the report there is less than substantial harm to the GII listed building 'Glovers' Paragraphs 193 and 196 of the NPPF direct refusal (the public benefits not outweighing the harm) such that the presumption under para 11 does not apply despite the lack of 5yr supply as the balance test is that of public benefit in relation to the heritage asset.

As such for the purposes of decision making in relation to the NPPF the presumption does not apply in this instance and the 'significant and demonstrable' test of 11 d(ii) along with the presumption in favour is not invoked and in the simplest sense the application falls to be determined within the normal planning balance of whether the harm outweighs the benefits taking into account the local plan and any other material considerations together with the explicit public benefit tests of para 172 and 196 of the NPPF in relation to heritage assets and the AONB.

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 polices GD2, DC17 and WCS6 would, for the purposes of the NPPF, be considered out of date for decision making purposes. This 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 development next to existing dwellings and commercial development. 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 result in isolated development it is clear it would not.

Para 83 of the NPPF does support rural economic development but only where they are sustainable matters dealt with within the report. The light industrial use proposed does not fall within the definition of a main town centre use such that the sequential approach to location is not required in relation to 'town centre' first approach set out in the NPPF para 86.

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.

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. Importantly, where there has been a record of persistent under delivery of housing through the Housing Delivery Test (HDT), local planning authorities should increase the buffer to 20%.

As set out in the Five Year Housing Land Supply Statement as of 1st April 2020, published December 2020, the Council confirmed it could previously demonstrate 3.75 years (or 75.1%) supply of its housing requirements, applying a 5% buffer.

The latest national Planning Practice Guidance (PPG) states that for local planning authorities that deliver less than 85% of their identified housing requirement, a 20% buffer would then be added to their housing land supply position, with immediate effect from the publication of the HDT results. Only a 5% buffer would apply where the local planning authority has results of at least 85% for its HDT measurement and where they are not seeking to demonstrate a five year housing land supply position.

The government has recently published its HDT results for 2020 and this confirms that Wealden District Council had a result of 83% against its housing requirement. The implications of this result means that the local planning authority is immediately required to use a 20% buffer for its five year housing land supply position rather than a 5% buffer previously used. Therefore, the Council's five year housing land supply position, as of the 1st April 2020, has been recalculated as **3.28 years (or 65.6%)**. This figure is now to be used for the purposes of determining planning applications and planning appeals.

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. The presumption in favour of granting planning permission under Paragraph 11 of the NPPF does not automatically apply where Footnote 6 of the NPPF applies, and policies of the NPPF provide a clear reason for refusal. This matter in relation to the presumption is dealt with within the report in relation to heritage assets and the High Weald AONB. However, 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

Access & Parking

Access is the only matter for approval. The Highway Authority are satisfied that the two accesses are in principle acceptable and can deliver acceptable access in terms of width, radii and visibility. There are some elements of the speed survey that would need to be updated or further investigated prior to deciding the required visibility splay but it is clear that although this may need to be more than that concluded in the submitted highway report the geometry of the road and land ownership would allow for an acceptable visibility splay to be secured from a technical aspect. This has been confirmed with the Highway Authority.

There is sufficient space within the site at RM stage to ensure appropriate parking levels for the commercial and residential units.

Local residents have raised considerable concerns about use of Fir Grove Road but also other local rural lanes particularly in regard to HGV use associated with eh commercial units. The Highway Authority are satisfied that the immediate use of Fir

Grove Road with a routing to the north would not result in significant adverse impacts to the local road network and would not create highway safety issues with the width of Fir Grove road being mostly 5.5m and sufficient coupled with the fact 11% of traffic is already larger types of vehicle. Clearly HGV use of the smaller lanes can't be excluded and photos have been provide shown HGV trying to use some of these and causing obstruction but where HGV drivers seek to use unsuitable road and with suitable options existing a refusal in a planning sense would be very difficult to sustain, particularly where the Highway Authority don't object. It is noted that saved policy TR10 does seek to restrict development that would encourage unsuitable use of local rural roads by HGV;s but based on the highway comments here this is not deemed to be the case for the commercial development here.

The site has no desirable alternatives to the private car with the narrow unlit lanes and lack of footways (or even safe refuge) deterring use. There is no bus service close to the site. Likewise there are no rural services close to the site that could be accessed. Transport from the site is likely to be wholly reliant on private car use and is likely to result in trips to urban centres to access services lacking in the immediate rural location. These matters carry significant weight against the development and are supported by the Highway Authority. There are also recent appeals in the immediacy of the site that have been dismissed on sustainability grounds for housing based on these poor alternatives to the private car and lack of access/support to existing rural services.

Design/ Impact on Street Scene or Wider Landscape

AONB Impact

The site falls wholly within the High Weald AONB. This is a nationally designated landscape afforded the highest level of protection by the NPPF. Para 172 requires great weight to be afforded to conserving and enhancing the landscape and scenic beauty and the CROW Act places a legal requirement on the Council to conserve and enhance the natural beauty.

Para 172 goes on to identify that major development should be refused in such locations other than in exceptional circumstances and where development is in the public interest (with 3 further criteria on assessing this set out). Footnote 55 sets out that whether something is major for the purposes of para 172 is a matter for the decision taker. It is not simply that if an application is major (which this is) for the purposes of the registration of applications it is major in the context of para 172.

Footnote 55 sets out this assessment should include consideration of nature, scale and setting and whether it could have a significant adverse impact on the purposes for which the area is designated. A detailed assessment of the impacts to the AONB are set out below but in summary they relate to a significant adverse impact to the AONB in relation to the impact to the historic settlement pattern, loss of part of the historic field pattern and impact to the appreciation of the historic route ways of Firgrove Road and the PROW. The accesses further impacts on the character of the lane and require (for safety reasons) additional culverting. There is a significant adverse impact to the AONB. The development is 2Ha which is significantly above the major threshold and the residential development alone would be a major development for registration purposes (the commercial being 40m² under the 1000m² floor space threshold). The proposal completely removes the field from

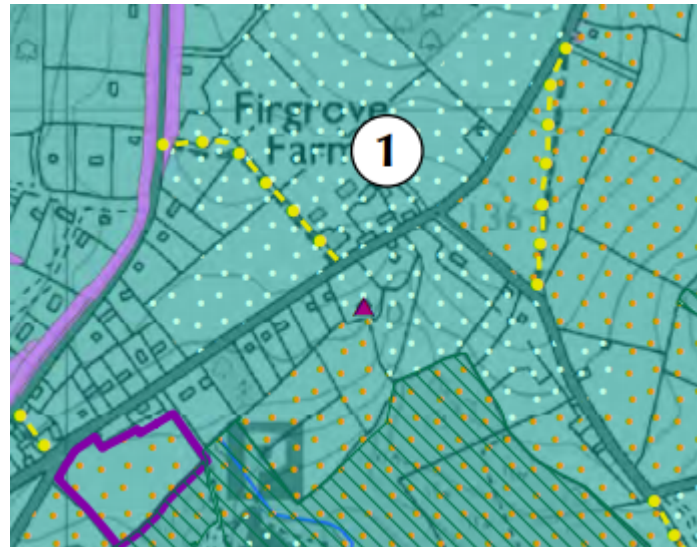
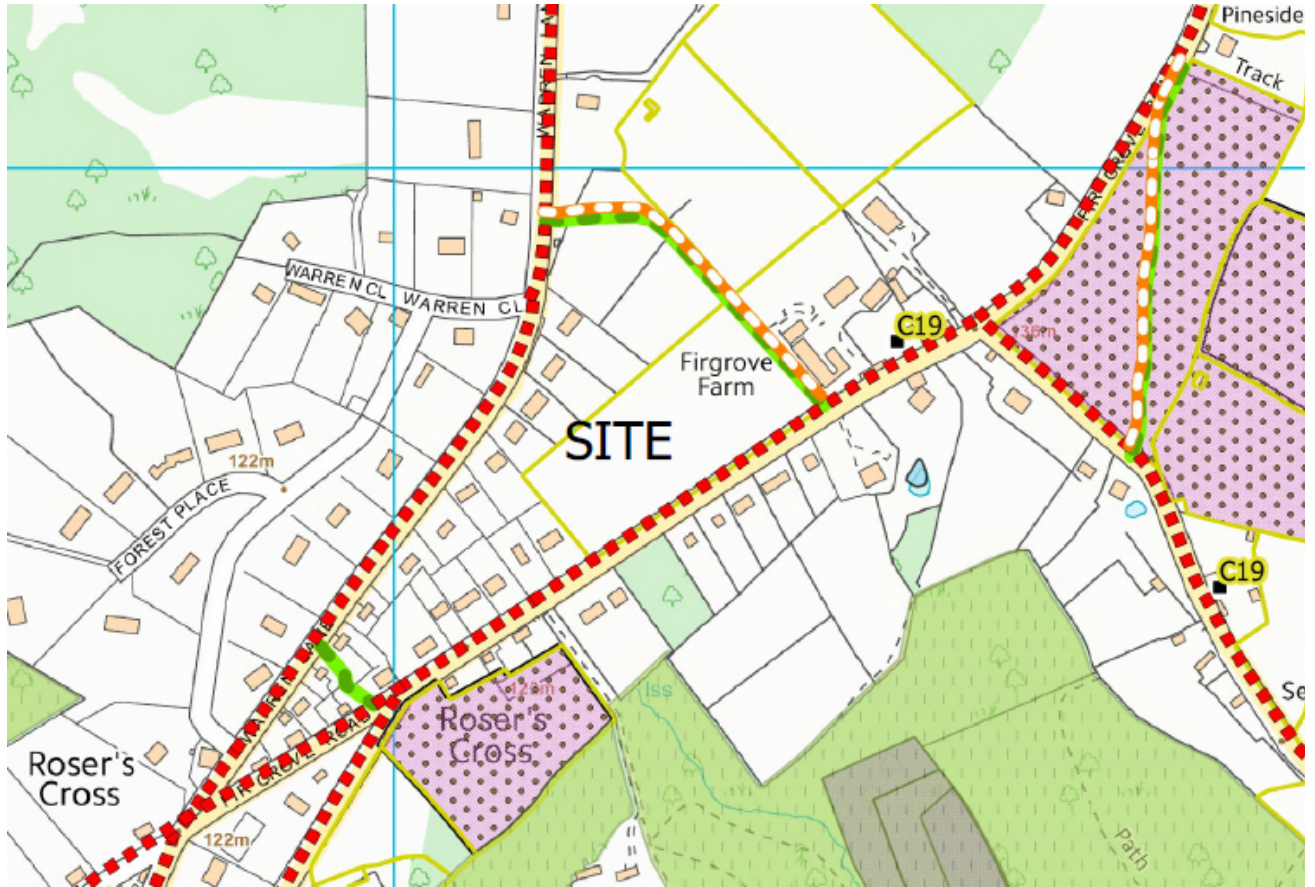
agricultural appearance/character and the development requires two new significant accesses into the site from the lane. The nature based on the quantum of development and indicative details is clearly found to be an alien form of development to the settlement pattern in this part of the AONB and would cause a harmful consolidation of built form. In conclusion based on the footnote 55 assessment the Council as the decision maker has concluded that the development in this context is deemed to be major development for the purposes of para 172.

There is no definition of exceptional circumstances in para 172, those for irreplaceable habitats set out in footnote 58 relate to national infrastructure etc that although not applicable to AONB development gives an indication the bar is relatively high for exceptional circumstances. The application is simply for some housing and commercial units there are no exceptional reasons it needs to be located on this site. Turning to a) – c) of para 172 there are also no overriding public interest/benefit reasons to permit the development of major development.

Notwithstanding any conclusion on the major development point of para 172 harm to the AONB must be given great weight in the planning balance. In assessing the harm to the AONB it is shown that the level of harm is significant with the AONB unit objecting to the development.

An assessment of the landscape impact will aid in the planning balance and the justification for the consideration of the development as major development under para 172 set out above.

It is clear that the site currently forms part of the landscape and natural beauty of the AONB. It is undeveloped and is fronted to what is a historic routeway with a ditch and hedge with the field being part of a historic field pattern. It also forms a gap between the extremities of Rosers Cross as a small hamlet settlement and what is/was a detached and independent farmstead at Firgrove Farm in a rural landscape that has been eroded over time. It has hedgerow and treed boundaries and it forms an important and intrinsic part of the natural beauty of the AONB. These are identified on the 2014 landscape assessment for the Council's emerging plan evidence base and the context map provided by the AONB unit.



The site falls within the South Slopes of the High Weald landscape character area in the ESCC landscape assessments. The AONB comments set out above and the landscape assessments reflect the above features identified as contributing to the natural beauty and landscape character of the AONB in terms of the routeways, hedges and ditches, field boundaries and the hamlet of Rosers Cross and Farmstead of Fir Grove Farm being typical settlement patterns for the AONB. The landscape assessment in 2014 identifies this site as falling in landscape area 1 which has :-

'Moderate Landscape Capacity overall as a result of its High Landscape Sensitivity and Moderate Landscape Value. The large areas of Ancient Woodland are valuable landscape features, providing a strong sense of enclosure and limiting views across

the landscape. This area is considered to have a relatively unique sense of place, comprising rolling hills and a high ridge which facilitates wide ranging panoramic views. This, and the relatively strong sense of remoteness and tranquility contribute to High Landscape Sensitivity.'

The landscape assessment in 2014 identifies Moderate Landscape capacity as follows:-

The landscape is assessed as having very low to moderate landscape sensitivity and high landscape value, or moderate to high landscape sensitivity and low to moderate landscape value. Subject to appropriate siting, design and landscaping mitigation, medium and small-scale new development could potentially be accommodated without eroding positive key features and characteristics which are desirable to safeguard. Taking into account site-specific constraints, there may also be potential to accommodate some larger scale new development in specific locations with lower landscape sensitivity, subject to appropriate siting, design and landscaping mitigation.

The current development proposal falls within the medium scale development. Clearly appropriateness is site specific and will vary greatly within the landscape character area.

As such it can be identified that the proposal would provide no enhancements to the AONB of any significance even were some additional hedgerow and tree planting carried out this would simply detract from the historic field pattern/boundaries. Likewise it removes the field from its natural state and notwithstanding any views on the built form this would remove the natural beauty. Turning to the wider points of landscape character in relation to the AONB the following matters have been identified as having a significantly adverse impact to the AONB:-

- Impacts to the appearance of the historic route with its verge and ditch through the two new accesses and the additional culverting required to these. They are urbanising and directly harm the character of the lane.
- The coalescence of the historic settlement pattern of the hamlet at Rosers Cross that originates around the ancient routeway crossings and the isolated farmstead of Firgrove Farm. Whilst there is some erosion of the farmstead through the commercial development that has occurred (as conversions etc) the application site provides a clear and significant appreciation of the detachment of the farmstead from the settlement. In the context of Rosers Cross this is significant as other less sympathetic development has historically occurred to the west of the settlement.
- Even were the infilling accepted (which it is clearly harmful) the proposed quantum of development would result in a clearly urbanised layout and intrusive form the both the housing and commercial development. This adds significantly to the harm identified from the infilling of the gap.
- The appreciation of the rural setting of the two ancient routeways would be significantly impacted upon by the built development.
- The commercial development in particular would further erode the tranquillity of this part of the AONB.
- The increased development would increase lighting in this location.

- Damage to ecological features of importance is possible as set out below in the ecology section appropriate surveys have not been made.

Individually and cumulatively these matters irrespective of the detailed matters coming forward are principle matters relating to the development of the site and impacts to the AONB and its natural beauty and landscape character. It is clear the level of harm would be very significant to the AONB and this as set out above relates to the conclusions this would be major development in the context of para 172.

As such it is clear that the proposal does not conserve and enhance the AONB but would conversely cause significant and irreversible harm to its natural beauty and landscape character irrespective of the detailed design matters that may come forward under the RM applications.

The detailed design of the site in terms of layout, appearance and scale would come through any reserved matters but this would not be capable of alleviating the above identified harm. Even were the buildings designed to be local vernacular and use local materials the harm would not be alleviated.

Consideration of Statement of Heritage Significance

Designated Heritage Assets

Glovers is a Grade II listed building and is sited to the east of the site to the eastern side of Fir Grove lane. Fir Grove lane as set out in the Landscape section is a historic routeway. There are no direct impacts to the fabric of the listed building itself from the development such that impacts to the designated heritage assets is one of setting which is recognised as having a role to play being specifically referred to in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In this case it should be borne in mind that the setting of Glovers is elevated as it sits within the High Weald AONB. Historic England provide guidance on setting of heritage assets (Planning Note 3). This has a 5 step approach to assessing setting.

- Step 1: identify which heritage assets and their settings are affected
Glovers GII listed building is the heritage asset impacted upon in setting terms. Glovers dates from the early 17th century and is now a single dwelling, having been formerly several cottages. The Conservation Officer has identified through a map regression exercise that the application site was within the same ownership as Glovers historically. Whilst Glovers has its own curtilage that is relatively extensive within which the heritage asset is experienced it is a historic rural dwelling (previously dwellings) that draws significance from the wider rural setting it is situated in which includes Fir Grove Road and the application site. Equally the application site forms a rural aspect to the setting of the building as experienced from within the building and its grounds.
- Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s)

The Experience of setting for Glovers is of a rural dwelling set in a historic farming landscape read in association with passage along the historic routeway of Fir Grove Road. It is also historically associated with the application site through which the footpath (identified as ancient routeway in AONB assessment) affords an

appreciation of the listed building as such. Although there is some intrusions to this setting from other later dwellings to the south and some expansion of the historic farmstead of Fir Grove Farm to the west a key part of the historic setting of Glovers is the appreciation of it within the context of Fir Grove Lane as a rural setting and the remaining open farmland of the application site. It is clear that the development falls within an area within which there could be an impact on the setting of Glovers.

- Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance

Were development permitted this would be a permanent and irreversible change to the setting of Glovers. This adds significantly to the level of harm that would be attributed to aspects that were found to harm the setting of Glovers being rural and undeveloped.

Glovers curtilage extends to the road frontage where there is a wall forming part of the listing. The dwelling itself is around 55m from the site boundary. It is noted that the topography means Glovers is set down from Fir Grove Road and the application site but there is clearly intervisibility between the building, the application site and Fir Grove Road. Development on the site is not fixed within the current application due to the fact it is outline all matters reserved but for the quantum of development proposed and with the indicative details and fixing of the access point (access being for approval) it is clear that the development will be apparent both from Fir Grove Road, the public footpath through the site and from Glovers all features of which are important aspects from which the setting is experienced and derived to Glovers.

Users of Fir Grove Road would clearly see the new development being significant in scale and with new substantial access points being slightly elevated above the lane as features that would draw the eye and clearly regardless of any detailed design the entire rural aspect of the site would be lost to development. This rural aspect to Fir Grove Road and the intervisibility of Glovers and the application site in the context of Fir Grove Road is a key part of how the heritage asset is experienced within a rural landscape. There is a clear position whereby the development would remove the appreciation and experience of Glovers with the historic routeway and the pasture opposite it to which there is a historical association and for which is an important component in the setting.

Whilst there is development on the Fir Grove Farm site it is less prominent or dominant and in the context of the lane much of the historic farm buildings are apparent. The dwellings in Fir Grove road also impinge on the original setting but this does not lessen the identified intrusion of the new development.

Turning to the experience from the footpath clearly the new industrial units would completely erode the ability to appreciate the rural setting of the heritage asset removing the current experience of its setting from the pasture it is historically associated with.

Commercial units will also create a greater amount of activity in the area of the building which would further impinge on the tranquil rural setting the heritage asset is experienced in. There is some evidence of this form 3rd party responses in terms of the existing industrial units but the proposed units would be more visually intrusive and closer such that impacts would be more apparent from the activity within what is

presently an agricultural field. Lighting is also likely to be increased as part of the development that would lessen the rural appearance of the setting and experience of the LB.

The proposed development irrespective of the detailed design would not be rural in appearance and will completely remove the apparition of the historic field boundary and field in the setting of the heritage asset.

- Step 4: explore the way to maximise enhancement and avoid or minimise harm
Although the outline consent would allow some control over the layout and scale and appearance of the development there would not be any material way to remove or mitigate the identified harms to the setting of the Heritage Asset.

- Step 5: make and document the decision and monitor outcomes

The assessment of setting is clear in that Glovers is a heritage asset experienced in a rural setting that has a historic association between the historic routeway of Fir Grove Road and the footpath and the rural dwelling and the application site. The application site is an unspoilt rural field that has historically and currently forms part of this rural setting experience of Glovers from both these view point and from within the heritage asset and its curtilage. The proposed development would for the reasons set out cause a direct impact to this setting through both the physical dominance and competition of the new development in the experience of this setting and a permanent and irreversible loss of the agricultural field and its ability to contribute to the setting. The commercial elements also create greater activity and intrusion that would further impinge on the idyllic rural experience of the heritage asset (albeit the intrusions may be acceptable for residential amenity purposes). These conclusions are consistent with those of the Conservation Officer. In attributing the level of harm to these impacts the Heritage Officer considers them to be at the upper end of less than substantial. Clearly the level of impact is high to the setting but there is no impact physically to the heritage asset or its curtilage. Whilst the level of impact to the setting is relatively high it is not of a scale that in the view of the Council would result in substantial harm.

Para 196 test

As it is identified that there would be a high level of less than substantial harm (para 196) to the heritage asset it is necessary to carry out a balance of this harm against the public benefits of the development. Clearly there is no optimal viable use matter to be considered in relation the heritage asset in this instance.

As set out within the wider report the development is contrary to many element of the local plan and NPPF. It delivers housing and commercial units in an unsustainable location and would cause harm to the AONB and wider rural character. There is no overriding policy position for delivery of business units and the proposal does not relate to support for an existing rural business or diversification. Although the housing is a public benefit, including delivery of some affordable units the location of these in an area not sustainable for housing lessens the public benefit of these. In conclusion the public benefit of unsustainable dwellings and business units that cause significant harm to the AONB and rural character of the area are not a public benefit that would outweigh the permanent and irreversible harm to the significance of the heritage asset such that refusal is directed by para 196 of the NPPF.

Non-Designated Assets

The County Archaeologist does not consider that the heritage statement provides the level or detail of background heritage information in order to determine the below ground archaeological potential of the intended development site and the likely impact of the proposed development on the identified archaeological resource.

This desk – based heritage impact assessment should be undertaken before the application for planning permission is decided, so that below ground archaeological issues can be fully considered when the planning decision is made. The submission does not comply with The Chartered Institute for Archaeologists standards and guidance and the current Sussex Archaeological Standards.

The site is not within an area of archaeological importance. Clearly as with any undeveloped site there is the potential for below ground archaeology and this site is in the proximity of a historic farmstead. Often archaeology can be dealt with by a condition to secure a programme of archaeological works allowing for developments to 'preserve by record' any remains on site., This is not appropriate in instances where any archaeology may be of such significance that it should be preserved in situ at which point it could preclude development or require alterations to a layout to deliver the ability to protect the important areas of archaeology from the development. Clearly with no desk based assessment or non-intrusive survey having been carried out there is no understanding of the potential archaeological resource past the fact the site is unlikely to have been heavily disturbed and is in the presence of historic farmsteads such that there could be some archaeological resource within the site.

Para 197 requires a balance to be taken to non-designated heritage assets '*a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*' Clearly in the absence of any knowledge of the resource this cannot be done. Were archaeology present it is likely to be harmed and require preservation through record were development permitted, conversely the application is outline with layout reserved such that such work could be carried out to inform the RM for layout to allow this to accommodate any remains found. The beauty of archaeology is that there can never be certainty over what may be below ground such that whilst the likelihood of there being anything of national significance is low it is not impossible. Given the fact that there are other overriding reasons to withhold consent and there is some degree of ability to require more detailed archaeology work prior to a RM application being considered for layout that on balance this failure of the heritage statement to deal adequately with potential archaeology given the location outside any AIA that it would not warrant a refusal of this outline albeit this does not endorse the approach of not carrying out such work.

Trees/Ecology

The Council Ecologist and that representing the AONB unit both object to the application in regard of the inadequacies in the ecological assessments that have been carried out primarily around the fact that whilst potential has been identified for protected species on the site there are no recommended surveys and no further survey work carried out. In addition it does not identify mitigation or enhancement measures. Clearly as an outline scheme there may well be possibilities to incorporate mitigation enhancement measures within the development through the

detailed RM applications but there is a requirement to identify accurately the existing biodiversity on the site which has not been done.

The presence of protected species and how development will impact them is a material consideration in the planning process (ref ODPM circular on biodiversity conservation sections 98 & 99). Such information should be complete and feed into development proposals (e.g. design & ecological mitigation). Para 175 requires significant harm to biodiversity to be avoided but if not certain approaches to mitigations or compensation then planning should be refused. Material to this is the need to be able to identify the existing biodiversity and ecological resource

The presence or impact on protected species has not been sufficiently established. Sufficient ecological information, mitigation and biodiversity enhancement measures have not been provided. Biodiversity net-gain has not been evaluated nor the sites baseline biodiversity value established. As such the application has not proven that the development could be accommodate without detriment to biodiversity , habitat and protected species on the site. This further prevents appropriate mitigations or enhancements being proposed for the development. It may be possible to request the survey work during the lifetime of the application and delay the determination but with the other overriding matters directing refusal this is not appropriate in this instance.

Selwyns Wood to the south of Firgrove Road set behind the dwellings that from Fir Grove Road and fields. It is designated as Ancient Woodland and local nature reserve. It has public access. The proposed development is well outside the 15m buffer area for the Ancient Woodland set out in standing advice in the NPPG. With public access to the wood there could be some additional access to the woodland from residents but this would be minimal set against the existing use of the woodland which based on representation is relatively well made by existing residents. Subject to the assumption people would stick to exiting pathways and follow a similar use pattern to existing users there would be no harm to the Ancient Woodland or locally designated nature reserve.

The trees to the site boundary can be protected as part of any development of the site at detailed stage. Appropriate protection measures could be secured via condition. The proposal can be facilitated with the need for tree removal. Additional tree planting could be secured at RM stage with the indicative details showing significant tree planting as part of the indicative details.

Landscaping is a reserved matter and would be dealt with through detailed matters at RM stage were consent granted in terms of any detail landscaping within the site.

Impact on Adjoining Properties

The application is outline with all matters than access reserved, The indicative details show a cul-de-sac arrangement to the housing with a similar but more formal one for the industrial units. Development is broadly two storey. It can be seen that whilst some alterations may be required the development could be accommodated subject to detailed layout, scale and appearance reasons in a way that would not give rise to direct loss of light, outlook or privacy. Clearly the development would be apparent to residents and it would be a significant change to the immediate locality in

regards of the physical impacts to amenity from the building from the harm would not be sufficient to withhold consent, particularly at outline stage.

The commercial uses proposed are B1 which are capable by definition of operating without detriment to residential amenity. Clearly in this rural location some controls may be required over such uses in terms of hours of operation, external plant/machinery or lighting for example but they are matters that could be controlled by condition. It is material there is the existing employment site adjoining the site.

Reference is made to the potential for elevated cabs of lorries to afford for loss of privacy to neighbours, particularly those directly opposite the access. Whilst views are possible they would be short lived and drivers would be more concentrated on the road to ensure safe egress such that this level of overlooking would not represent a reason to withhold consent.

The new access points are opposite existing dwellings such that traffic from these during evening/nighttime/morning would provide for headlights to shine towards the front elevations to the dwellings. These have some boundary treatments that would lessen the direct nature of the lights and the level of traffic associated with the quantum of development would not on balance give rise to an intrusion sufficient to withhold consent.

As such although it is accepted that the new development would be clearly apparent to existing properties that it would be possible at RM stage to design a scheme that would not cause undue harm to the amenities of established dwellings in the area.

Flood Risk

The LLFA and WDC drainage engineer object to the development. This is despite the submission of an outline drainage strategy and the fact the scheme is outline with only access for approval. Matters identified are that the proposal would seem to be likely to interfere with existing surface water flow paths, whether the proposed drainage ditch to discharge into has capacity and or consent can be secured and by virtue of the fact there are records of recent flooding events in Fir Grove Road adjacent to the site. The LLFA consider that the application does not demonstrate that the proposal can be carried out without causing increased flood risk off site.

It could be that detailed matters under layout and landscaping may be able to address surface water issues but presently the outline application has not demonstrated that it will be possible to adequately drain the site without increasing floodrisk elsewhere. As such this doubt would be sufficient to withhold consent under para 163 of the NPPF and saved policy CS2 of the WLP 1998. Requests could be made for the further work and information to be provide but with the other overriding reasons for refusal it is not deemed appropriate to do this. Were revised drainage matters set out prior to any appeal this could be revisited at that point.

Foul drainage has been raised as an issue by 3rd parties. SWS have been consulted and following requests for additional time to consider the proposal have confirmed no objection to the scheme. As such whilst it is noted that there is reference to previous foul drainage issues in the area in the absence of objection from the statutory undertaker for foul drainage it is not appropriate to pursue a refusal on these grounds.

Affordable Housing

The application is outline with all matters except access reserved. 4 units would meet the 35% threshold and the precise size could be secured at RM stage. It would be necessary to secure it via a legal agreement however given the overriding reasons to withhold consent this has not been progressed as part of this determination. It is not necessary to include it as a reason for refusal as were any appeal lodged without a S106 to secure the Council could simply raise this matter with the Inspector regarding the need to deliver based on the commentary in this report that would form part of the appeal documents.

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.

Other Matters

Representations have been made over the nature of the Design and Access Statement submitted and whether it fulfils the requirements for such documents under the DMPO. The applications has a D&A statement and has been validated by the Council. Invalidating it for additions to the Design and Access statement is not necessary in this instance irrespective of the content of the submitted content there are overriding reasons to withhold consent. It is not a matter that would result in refusal of consent.

The Human Rights Act 1998 (Article 8; European Convention on Human Rights) (incorporated into English domestic law by virtue of the Human Rights Act 1998 ("HRA 1998") has been referred to in respect of a breach of Right to respect for private and family life which includes respect for ones home and peaceful enjoyment of possessions with residents believing these human rights would be breached under Article 8, Protocol 1, Article 1.

The right to respect for one's home etc. is qualified by Article 8.2. In particular, planning controls aimed at furthering the preservation of the environment, public health and highway safety come within the "*legitimate aims*" of public safety, the economic well-being of the country, the protection of health and the protection of the rights of others coming within Article 8.2. Article 8 therefore has to be balanced out with the needs of the wider community.

In this instance the application is recommended for refusal such that there would be no resultant impact to residents in the area. Notwithstanding this it has been shown in the detailed assessment that the development could occur without unreasonable interference to the private and family life of local residents such that even in the event of an approval this would not impinge on their human rights.

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 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 that could adversely affect 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 in 2019 which sought to deliver 14,228 homes and 22,500 square metres of business floorspace (now withdrawn). At that stage the Council concluded that under its Scenario A (no improvement in car emissions) that an adverse effect on the integrity of the SAC from residential development in its area could not be ruled out. That conclusion was robustly challenged by other authorities, developers and most importantly NE at the examination in public. In March 2019, NE published its European Site Conservation Objectives: Supplementary Advice on Conserving and restoring site features (“the NE Advice”) following consultation and based on extensive scientific work which reached unambiguous conclusions at p13 on Air Quality (AQ) and Nitrogen Deposition (ND) even without improvements in car emissions over time that “nitrogen levels from additional transport [as a result of the expected housing development in the surrounding areas] would fall below the level that would reduce species richness on the site even if the expected declining trend in Nitrogen failed to materialise”. There was clear advice from NE, the national adviser on these matters, that the housing development in the wider area in combination would not adversely impact integrity because it would not infringe the relevant conservation objectives. NE also referred to improvements in AQ/ND as a result of existing rules under which all new vehicles were being manufactured – not relying on the long term future uncertain forecasting that was criticised in the Dutch Nitrogen cases (C-293/17 and C-294/17).

The issue as to whether NE or the Council’s approach to integrity was correct was thus a key focus of the first stage of the examination – and multiple parties made detailed submissions on the correct approach on the law and the facts.

The Council sought to justify Scenario A though the Inspector reached clear and unambiguous conclusions that the Council had adopted the wrong approach and that NE’s approach was correct. First she dismissed scenario A on the basis that “this is contrary to what is already known” namely that “improvements arising from previous emissions will continue to work through the fleet and further improvements will occur” through existing legislative and policy requirements. This was not based on forecasts but was a conclusion based on what will not what might or should happen. That approach accords with the Dutch Nitrogen test if it applies fully here. Second, at para 9 she distinguished Dutch Nitrogen on the basis that the assessment of the correct baseline was not “mitigation” such as to trigger Dutch Nitrogen and thus consideration of improvements in the baseline was not precluded.

The Council accepted her conclusion after detailed consideration and withdrew the local plan. There was no challenge to the Inspectors approach. All other relevant authorities have followed NE advice – in preparing and promoting their Local Plans and that approach has been endorsed including by the inspector examining the South Downs National Park Authority who have now adopted their plan. No challenge was lodged to adoption. Given the issue is the same for all these

authorities, (the same designated site, the same road network and the same requirement to an combination assessment) it is highly relevant that all have adopted NE's advice and judgments and have robustly rejected the conclusion set out in the HRA of the Draft Submission Wealden Local Plan and supporting evidence base (including by making representations at Wealden's local plan).

In light of the above, it is evident that:

- a. the assertion that housing might have an adverse effect on the SAC by virtue of AQ/ND from increased cars has been robustly rejected by an independent inspector and has been found to be supported by no credible evidence base. No other authority has adopted it;
- b. NE has advised robustly that there is no issue when the matter is assessed on a correct basis;
- c. When it refers to the "evidence provided within the local plan regulation 19 consultation" it is plainly not adopting scenario A or the conclusions of the Council at that time;
- d. NE's advice is to be accorded significant weight and is not to be departed from without good reason – here that requires a good scientific reason as to why its scientific conclusions are unsound;
- e. all attempts by the Council to put forward such a scientific reason historically have failed;
- f. nobody else has put forward such a good scientific reason (indeed any scientific reason);
- g. nobody has sought to explain why the Inspector was wrong in concluding that the improvements in the baseline "will" occur. Those relied on are already built in to the future fleet by existing legislation

Considering the effects of that quantum of growth, NE is satisfied that this will not adversely affect the integrity of Ashdown Forest Special Area of Conservation (SAC), Lewes Downs SAC 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.

The development proposed is also considerably less than the quantum of growth promoted in the Submission Wealden Local Plan 2019, which was declared unsound. 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 proposed development is contrary to the local plan and should be refused unless material considerations indicate otherwise.

Turning to the NPPF there are compelling reasons to withhold consent. These are complex in nature given the multiple constraints on development.

The Council does not have a 5yr supply of housing and therefore under para 11 of the NPPF the policies in the local plan that seek to restrict such development would

be deemed out of date and would carry reduced weight limited to the degree of compliance with the NPPF as set out in par 213 of the NPPF. Restriction of development in unsuitable rural locations, protection of heritage assets and nationally designated landscapes and ensuring of appropriate drainage are all matters that the local plan policies show a relatively high degree of compliance with the NPPF such that some weight can be afforded to them. Notwithstanding this para 11 has a complex implementation where matters within the NPPF direct refusal in line with footnote 6 or where other policies direct refusal of development based on a differing balancing exercise to the standard planning balance under para 11 (where/if the presumption is not engaged).

In respect of the designated heritage asset of Glovers it fails to meet the statutory duty in respect of a designated heritage asset and its setting. It has been identified that there is less than substantial harm to its setting and thus significance (albeit at the upper end of this scale) and that the public benefit of the proposal when weighted against this as set out in the relevant section of the report does not outweigh this permanent and irreversible harm to the setting of the designated heritage asset. As such para 196 would direct refusal without applying a further planning balance.

Likewise the development has been assessed as a major development in the AONB based on its nature, scale and significance of the harm identified. No exceptional reasons have been identified for the development to justify this major development and direction given the public benefits do not outweigh this harm is made for refusal in line with para 172.

These two public benefit tests in terms of the protected landscape and the designated heritage asset would preclude the need for further planning balancing exercises with a direction to refusal. However given the subjectivity of the assessment of harm to the setting of the heritage asset and the AONB it is prudent to ensure in the event of an appeal that the wider application of para 11 and the planning balance is considered.

It is clear that based on the Monkhill judgement set out that the level of harm identified to the AONB even were it considered the development was not major would be sufficient for the presumption in favour of sustainable development under para 11 to be disapplied. This would mean any balancing exercise under para 11 would be a standard planning balance without the presumption in favour.

Weighing in favour of the development is the contribution to the 5 yr housing land supply and affordable housing provision (moderate weight given the unsustainable nature of the location of these and the fact the mix does not meet local housing need), condition to the rural economy (limited weight given the unsustainability of the location and the fact the units do not relate to expansion or establishment of rural business more so just commercial units in an unsuitable location with no overriding 'target; for delivery as in the case of housing). Short term economic benefits from the construction phase can be attributed limited weight with the longer term economic construction being given moderate weight from the commercial units towards in part sustaining the rural economy.

Weighing against the proposal is the fact there are no reasonable alternatives to the private car for the commercial of residential units and there would be no significant support to existing rural service the community rely on. These matters carry significant

weight against the proposal. Significant harm to the AONB as set out in the report have been identified that must be given great weight under the NPPF such that this carries very significant weight against the proposal. Harm to the designated heritage asset must also be attributed significant weight with the level of harm identified being significant. The failure to be able to demonstrate appropriate drainage of the site could be delivered without increasing floodrisk elsewhere is moderate. The lack of appropriate survey work to establish the biodiversity and ecology of the site and potential impacts and or mitigation for harm to these as part of development can be afforded significant weight given the importance of preserving the ecology intrinsically but also in the Context of protection of those features important to the AONB.

It is plainly clear that the harm from the development outweighs the benefits of the development, in fact even were it necessary to apply the presumption in favour (which it isn't) it is clear that the harm significantly and demonstrably outweigh the benefits the proposal not being sustainable development when assessed against the three strands of sustainability in the NPPF and the document as a whole.

As such the case is clear the proposal fails to comply with the local plan and there are no other material considerations that would indicate consent should be issued. As such refusal is recommended for this wholly unsuitable development of this rural greenfield site in the High Weald AONB.