

### Delegated Officer Recommendation

Case Officer: MT Date: 04 May 2016  
Consults Expiry: 31 March 2016  
Site Notice Expiry: 6 April 2016  
Advert Expiry:  
Neighbour Expiry: 31 March 2016  
Expiry Date: 2 May 2016  
Extension of Time:  
BVPI Category: Minor

WD/2016/0508/F

CONVERSION OF DISUSED RESERVOIR TO FORM DWELLING  
THE OLD RESERVOIR, STRAIGHT HALF MILE, MARESFIELD TN22 3DP

Parish: Maresfield

LB ref:

Received Complete: 7 March 2016

Cons Area:

### Recommendation - Approval

Case Officer

Initials

*DM*

Date

4/5/16

CIL Liability checked by Officer

Initials

*DM*

Date

4/5/16

CIL Liable



Yes



No

*claiming  
S7B exemption.*

Team Leader/Senior

Initials

*DM*

Date

4/5/16

Authority to Delegate Required?

YES

NO

Date

*CLL  
human  
agrees  
4/5/16*

Fields filled in on Custom screen on Datawright?



✓ (tick)

Admin

Decision notice checked

Initials

*DM*

Date

5.5.16.

CIL Liability Notice Issued

YES

NO

Date

5.5.16.

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

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



- ✓2. The development shall not be commenced until the Local Planning Authority has approved, in writing, a scheme to secure mitigation of the additional recreational pressures to the Ashdown Forest Special Area of Conservation and Special Protection Area, together with an appropriate mechanism to secure delivery of the mitigation. ADF1

REASON: The development lies in a zone of influence of the Ashdown Forest where it is considered there would be a likely significant effect, when taken in combination with other plans and projects, upon these European designated sites. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to provide sufficient mitigation for any recreational impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 61 of the Conservation of Habitats and Species Regulations 2010, the amended version of policy WCS12 of the Core Strategy Local Plan (following the upheld Judicial Review Case No: C1/2014/1148, heard 11th June 2015), together with the requirements of saved policies EN7 and EN15 of the Wealden Local Plan. With regard to regulation 35 of the Development Management Order 2015, it is essential in the interests of biodiversity that the condition adopts the pre commencement format to protect the European Sites.

NOTE: The residential development is of a scale and nature to warrant a contribution towards the provision of recreational mitigation, which the local planning authority considers can be satisfactorily achieved by means of a contribution towards the formation of new greenspace (SANG) and improved management within the designated European sites (SAMMS). It is confirmed that such an approach to mitigation is outlined by the Council's guidance document (upload dated 22nd July 2015) which can be found on the Planning and Building Control website at [www.wealden.gov.uk](http://www.wealden.gov.uk). In this instance, such a contribution in accordance with the above policies and guidance would amount to £6,170 per dwelling. The Applicants should contact the Council's Planning Department to arrange payment of the contribution on 01892 602010.

- ✓3. Before commencement of any above ground works in association with the dwelling hereby approved, samples of materials to be used on the external surfaces of the development shall be made available for inspection on site and adequate notice given to the Local Planning Authority who will arrange inspection and thereafter approve in writing. The approved materials shall be used in the implementation of the development. MA04

REASON: To safeguard the appearance of the premises and the character of the area generally and to enable the Local Planning Authority to properly consider and control the development, having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy EN27 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 56, 57, 59, 60 and 64 of the National Planning Policy Framework 2012.

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



REASON: To enable the Local Planning Authority to regulate and control the development of land having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy EN27 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 17 and 56 of the National Planning Policy Framework 2012.

- ✓ 5. The development shall not be used until the until the vehicle parking area and turning space for vehicles has been provided in accordance with the approved plans and the area shall thereafter be retained for that use.

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to Policy TR3 of the Wealden Local Plan and paragraphs 29, 30 and 32 of the National Planning Policy Framework.

- ✓ (6).  
LA Before preparation of any above ground elements in association with the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments, proposed finished levels and contours, hard surface finishes, including a schedule, details of any retaining walls, steps, railings, walls, gates or other supporting structures. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density. LA05(M)

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

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN14 and EN27 of the Wealden Local Plan 1998, coupled with the requirements of paragraphs 17 and 109 of the National Planning Policy Framework 2012.

- ✓ 7. No development approved by this permission shall be commenced until full details of the proposed means of surface water disposal from all areas of hard standing that are not permeable have been submitted to and approved in writing by the Local Planning Authority. The details shall show the location and capacity of proposed soakaways to ensure they are satisfactory. The approved drainage works shall be completed prior to the completion or occupation of the development on site whichever is the sooner.



Note: if the details of hard landscaping required by Condition 6 show all areas of proposed hard standing are permeable this condition will also be satisfied.

REASON: In order to secure a satisfactory standard of development, having regard to Policy CS2 of the adopted Wealden Local Plan and Policy WCS14 of the Core Strategy Local Plan.

- ✓ 8. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained thereafter. EL02

REASON: To preserve the rural and residential amenities of the locality having regard to Saved Policies EN27 and EN29 of the adopted Wealden Local Plan and Policy WCS14 of the Core Strategy Local Plan, coupled with the requirements of paragraph 125 of the National Planning Policy Framework 2012 and the Wealden Design Guide, Chapter 3, Section 18; Chapter 8, Section 7.

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

Ref.	Date Stamped. STN4
✓ Design & Access Statement 24	07 March 2016
✓ 14180/02 Rev D	07 March 2016
✓ 14180/03 Rev C	07 March 2016
✓ 14180/07 Rev B	07 March 2016
✓ 14180/09 Rev A	07 March 2016
✓ 14180/11	07 March 2016
✓ 14180/14	23 March 2016
✓ 14180/15	23 March 2016
✓ 14180/16 Rev A	05 April 2016

REASON: For the avoidance of doubt.

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

10. NOTE: The dwelling should have adequate storage for up to 3 x 240 litre wheeled bins and a storage container. Details on the size of these bins/containers can be found at the following address.

[http://www.wealden.gov.uk/Wealden/Recycling\\_and\\_Waste/Household\\_Waste/Waste\\_Container\\_Dimensions.aspx](http://www.wealden.gov.uk/Wealden/Recycling_and_Waste/Household_Waste/Waste_Container_Dimensions.aspx)

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



11. NOTE: The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. NCN1

### **Executive Summary**

The site is located adjacent to residential property in Maresfield. The infrastructure of the former reservoir is located at the southern end of the site. The site comprises a reservoir, pump house, water tank, access stairs, ramps and access road. There is a run of 5 dwellings to the east of the site and to the north are more domestic properties along the road with farm buildings (including farm house) set behind them. There are also domestic dwellings to the rear with the dwellings set over 100m from the site boundary. The area is built up around the site. The site has a partly domestic character due to the enclosure of residential properties to the south and west. The west boundary is fields but a dwelling is visible on the other side of the fields. The general setting of the site is semi-rural.

The application site is located outside of any defined development boundary and within the Low Weald landscape character area. The site lies within 15km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

Planning permission is sought for a new contemporary dwelling. The proposed dwelling lies on the same footprint of the former reservoir buildings. The lower floor of the proposal dwelling will be set into the ground.

For the reasons explained upon within the officer report it is considered that the proposed dwelling responds well to the constraints of the site. The contemporary design has been crafted to utilise the existing built form on site by utilise the subterranean elements to keep the form lower in the landscape. The roof has been shaped to provide visual interest and the materials pallet will give additional interest. The dwelling is considered to be well designed and appropriate in the landscape. The dwelling will be a positive feature within the district. The scheme is recommended for conditional approval.

## **1. Statutory Bodies and Residents - Responses**

1. Maresfield Parish Council - Recommend refusal on the basis that it does not conform to the WDC Design Guide and it is out of character with the adjacent properties.

### **✓ Response to Parish Council:**

The comments of the Parish Council have been carefully considered during the formulation of this recommendation. The development site is brownfield land. The building is designed to work with the contours and topography of the site allowing the building to sit within the form of the landscape, minimising intrusion and enabling the



overall height and scale of development to be minimised that utilises the existing excavated area within the site. A contemporary aesthetic has been employed which aims to provide a distinctive dwelling that reflects its natural setting whilst combining elements of traditional architectural design found locally with more modern design concepts.

Other third party responses (including local residents). See full text on website  
3 Neighbour representations have been received.

1 SUPPORTING, but with reservations over the architectural style of the dwelling.

2 OBJECTING. Material planning matters raised are Design is not in keeping, impact upon visual amenity, impact upon neighbouring property amenity from overlooking.

## **2. Other Relevant Responses/Issues**

None Received.

### **Pre-Application Matters**

The agents engaged the Council at pre application stage to see if a development was possible. During the application process the design has been further amended. The Applicant has fully engaged the Council at pre application which has led to a suitable planning application.

## **3. Relevant Planning History**

No relevant planning history.

## **4. Details of Case**

### **Site**

The site is located adjacent to residential property in Maresfield. The infrastructure of the former reservoir is located at the southern end of the site. The site comprises a reservoir, pump house, water tank, access stairs, ramps and access road. There is a run of 5 dwellings to the east of the site and to the north are more domestic properties along the road with farm buildings (including farm house) set behind them. There are also domestic dwellings to the rear with the dwellings set over 100m from the site boundary. The area is built up around the site. The site has a partly domestic character due to the enclosure of residential properties to the south and west. The west boundary is fields but a dwelling is visible on the other side of the fields. The general setting of the site is semi-rural. The run of properties preceding the site are fairly modern detached properties. The western most residential property has a boundary with the site and the dwelling is set 61m north of the north wall of the existing tank structure on site. The boundary between the dwellings is 2m close board fence. There is a mature tree either side of the boundary around 20m from the north wall of the existing tank structure. The site slopes up from the road at the top of the site is a former water company installation formed of a large concrete tank with small underground structure at the rear. There is also a water tank and brick structure in the southeast corner. The site is a brownfield site due its former use by a water company. At the time of the site visit some vegetation had been cleared



including some large trees. The site is not overly prominent in the wider landscape. Views of the top of the site are restricted from the road by the slope of the site. A public footpath runs north south 70m west of the site.

### **Policy Framework**

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

- The Wealden District Council (incorporating part of the South Downs National Park ) Core Strategy Local Plan (adopted 19<sup>th</sup> 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).

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 2 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 211 of the NPPF).

### **Constraints**

The application site is located outside of any defined development boundary and within the Low Weald landscape character area. The site lies within 15km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

### **Relevant Policies**

The National Planning Policy Framework (NPPF) in force from the 27th March 2012 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, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 32, 47, 49, 55, 56, 58, 60, 61, 63, 99, 103, 109, 110, 118, 188, 189, 196, 197, 215 and 216 of the NPPF.

- Saved Policies GD2, DC17, EN1, EN8, EN14, EN15, EN27, EN29, TR3 and TR16 of the adopted Wealden Local Plan 1998.
- Policies SPO3, SPO8, SPO9, SPO12, SPO13, WCS2, WCS6, WCS12, WCS13 and WCS14 of the adopted Wealden Core Strategy Local Plan 2013.
- Wealden Design Guide 2008 (adopted Supplementary Planning Document), Chapters 2, 3 and 7

### **Proposal**

Planning permission is sought for a new contemporary dwelling. The proposed dwelling lies on the same footprint of the former reservoir buildings. The lower floor of the proposal dwelling will be set into the ground, utilising the depth of the reservoir structure and maintaining a low profile. A single storey shallow pitched roof structure will be erected above the existing reservoir to facilitate the inclusion of in-law accommodation, garaging and storage within a single unified structure. This ensures the height of the new dwelling is not prominent in the landscape.

## **5. Assessment & Conclusion**

### **Development in the Countryside**

The application site lies within open countryside as defined by the Local Plan.

Policies within the development 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 but also in national guidance through the NPPF. The supporting text of Paragraph 5.91 to Policy DC17 sets out the range of special justifications for allowing development outside development boundaries. Outside of the development boundaries, residential development is generally resisted in accordance with Policy GD2. The proposed application does not comply with any of these exceptions, nor does the site qualify as a Rural Exceptions site under Policy WCS9 of the Core Strategy Local Plan 2013.



The development boundary for Maresfield has been removed as the village has been categorised as a Neighbourhood Centre. Paragraph 3.6 of the CSLP indicates that development boundaries may be moved where housing growth indicates that it will be required which would be undertaken as part of the Site Allocations DPD. This is formalised by Policy WCS6 which advises that retained or new development boundaries will be reviewed as part of the Delivery and Site Allocations DPD as appropriate. The adopted Core Strategy Local Plan 2013 clearly accepts that the development boundaries contained within the 1998 Local Plan will have to be breached to deliver the level of housing required and also clearly identifies Maresfield as a suitable location for development. Indeed Figure 11 of the Core Strategy Local Plan indicates a growth potential for Maresfield as Moderate accommodating between 11 and 50 dwellings and under Policy WCS6 is allocated for an additional 50 dwellings. The absence of the Delivery and Site Allocations DPD means no boundary review has yet taken place and no detailed work has taken place to identify where the 50 dwellings will be provided, however given the level of development planned for at the strategic level combined with the limited opportunities for intensification or redevelopment within the existing built up area, it is likely that new greenfield allocations will be necessary (this site is brownfield).

Paragraph 215 of the National Planning Policy Framework (NPPF) also makes clear that the weight to be afforded to policies within local development plans adopted prior to 2004 should be according to the degree of their consistency with the Framework. Paragraph 17 of the NPPF indicates that planning should recognise the intrinsic character and beauty of the countryside however it is equally clear in Paragraph 14, there should be a presumption in favour of sustainable development which is considered later in this report. It is also important to note the emphasis within the NPPF towards the delivery of housing. Paragraph 47 sets out very clearly the Government's desire to boost significantly the supply of housing. Paragraph 49 also clearly states that "Housing applications should be considered in the context of the presumption in favour of sustainable development" and Paragraph 55 encourages sustainable development in rural areas where it will enhance or maintain the vitality of rural communities including supporting village services.

To conclude, it therefore follows that the development boundaries around the villages and the saved policies that refer to them, particularly in the context of Maresfield are, in practical terms, out of date and that in having regard to National Planning and Core Strategy policies relating to sustainable development that significant and demonstrable harm needs to be demonstrated for the proposed application to be refused.

#### **Design/C&D Issues**

Paragraph 4.118 of the Adopted Local Plan states *The Council is concerned to ensure that the attractive environment of its towns, villages and countryside, enjoyed by residents, workers and visitors alike, is maintained and enhanced. It, therefore, attaches great importance to good design in new development, whether within or outside the development boundaries. Developers are expected to aim for a high quality of design in all proposals and early consultation prior to the submission of planning applications is encouraged.*

The design is considered remarkable. It utilises modern facing materials that will give the design texture an interest. The asymmetrical form of the roof helps to break up

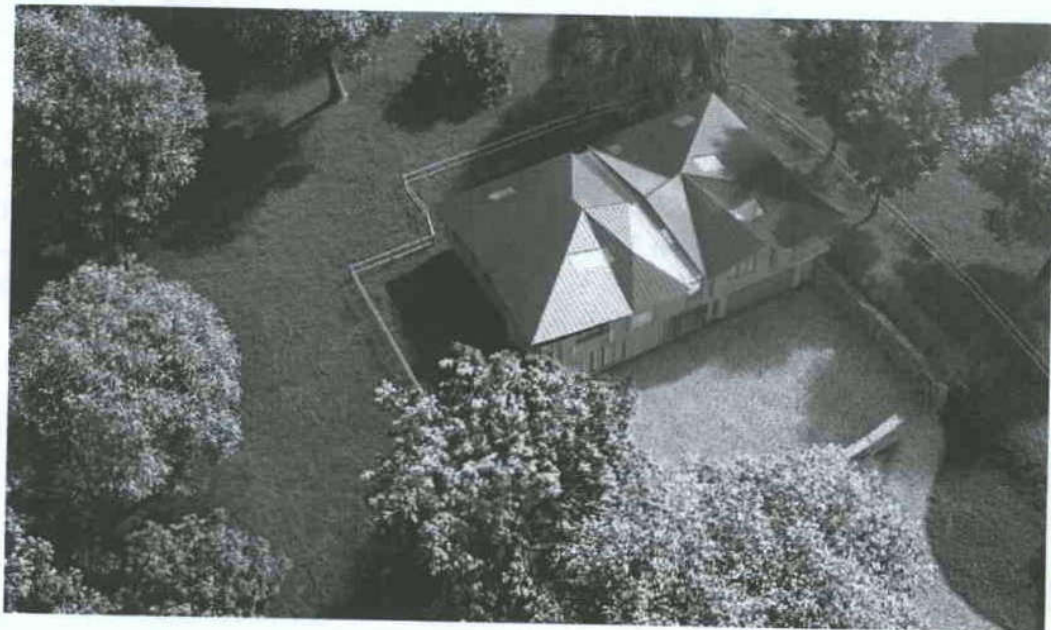


the longer frontage of the building as does the fenestration detail that has been shaped to provide additional interest to the dwelling.

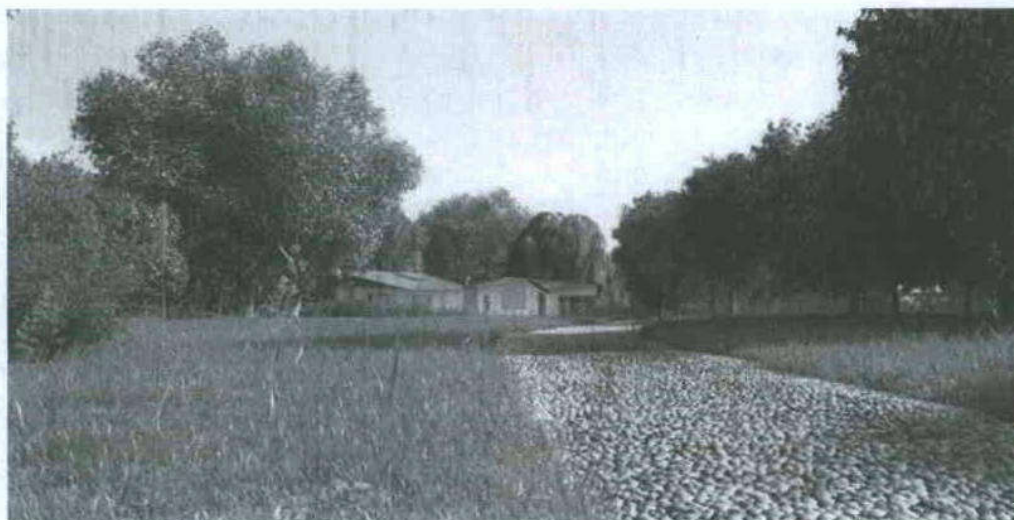
Adopted Local Plan paragraph states 4.119 *In the consideration of development proposals, regard will be had to the sensitivity of the design and use of materials in relation to both the immediate surroundings and the general locality.* The majority of built form around the site is mainly circa 1970,s detached properties set in plots of various sizes. It is not considered that in this location there is not predominant style of built form that would require development to 'follow on' an established vernacular.

The building is designed to work with the contours and topography of the site allowing the building to sit within the form of the landscape, minimising intrusion and enabling the overall height and scale of development to be minimised that utilises the exiting excavated area within the site. A contemporary aesthetic has been employed which aims to provide a distinctive dwelling that reflects its natural setting whilst combining elements of traditional architectural design found locally with more modern design concepts. The building has been designed with an inherently sustainable profile. Utilising a fabric first approach the scheme aims to minimise its environmental footprint.

The submitted drawing package is well detailed and offers a realistic rendering of the building in situ. It can be seen that the opportunities offered by using contemporary architectural forms allow for the increased bulk of the building to be blended into the setting of the site without appearing inappropriate and intrusive from a wider landscape perspective.







### **Access & Parking**

The site has an existing vehicle access onto Strait half mile. A new internal layout will be provided parking and turning for cars. A condition can be added to ensure the parking and turning is in place prior to the occupation of the dwelling.

### **Trees/Landscaping**

In respect of landscaping the new dwelling would not encroach into its surroundings in a harmful manner. The incorporation of existing landscape features and nominal new elements may be secured through planning condition.

### **Impact on Adjoining Properties**

The comments of the neighbouring properties have been taken into consideration during the formulation of this recommendation. Policy EN27 (2) states that *the proposed development should not create an unacceptable adverse impact on the privacy and amenities of adjoining developments and the neighbourhood by reason of scale, height, form, noise and traffic movements*; It is noted that the proposed dwelling will be set at the rear of neighbouring properties, and will change the amenity for the adjoining neighbour. However, given that the distances between the two buildings will be 61m, it is not considered that the proposed dwelling would have an unacceptable adverse effect upon the amenity of neighbouring properties by way of overlooking.



### **Impact on Street Scene or Wider Landscape**

The proposed dwelling is considered to be a high quality example of bespoke contemporary architecture. There is a clear understanding of the opportunities and constraints of the site and how the dwelling should respond to those and this is well evidenced in the detail and scope of submissions. Short and long distance views across the Low Weald countryside have been clearly factored into the presentation of the building and the way in which it has been embedded into the sloping topography which typifies the character of the locality. Significant weight has been given to the architectural merits of the design and positive contribution that the building would make to its rural landscape setting. The proposal is considered to positively exhibit the policy intentions of para.55 of the NPPF.

### **The impact of the development on the nature conservation interest of Ashdown Forest**

Together with the nearby Wealden Heaths SPA and Thames Basin Heath SPA, Ashdown Forest forms part of a complex of heathlands in southern England that support breeding bird populations of European importance. It was classified in 1996 under EU Directive 79/409, known as the Birds Directive. As such, the SPA is a European site to which Part IV of the Conservation (Natural Habitats & c) Regulations 1994 (the Regulations) apply. The designation is principally concerned with the protection of two rare and vulnerable bird species, the nightjar and the Dartford warbler; these are identified in Annex 1 of the Directive.

The SAC has two qualifying features Northern Atlantic wet heaths with *Erica tetralix* and European dry heaths (this is considered to be one of the best areas in the United Kingdom). Ashdown Forest contains one of the largest single continuous blocks of lowland heath in south-east England, with both 4030 European dry heaths and, in a larger proportion, wet heath. The wet heath element provides suitable conditions for several species of flora and fauna. The dry heath in Ashdown Forest is an extensive example of the south-eastern H2 *Calluna vulgaris* – *Ulex minor* community. This vegetation type is dominated by heather *Calluna vulgaris*, bell heather *Erica cinerea* and dwarf gorse *Ulex minor*, with transitions to other habitats. It supports important lichen assemblages, including species such as *Pycnothelia papillaria*. This site supports the most inland remaining population of hairy greenweed *Genista pilosa* in Britain.

It is necessary to consider whether the proposal either alone or in combination with other plans or projects would be likely to have a significant effect on the SPA and SAC and as the Council as the 'competent authority' must decide whether an 'Appropriate Assessment' is required under Regulation 48 of the Habitats Regulations 1994, implementing Article 6(3) of the Habitats Directive (92/43/EEC).

### **Recreational Impact**

Following the Examination in public of the CSLP the Examining Inspector published his final report. Paragraphs 53-55 set out the acceptance that avoidance and mitigation measures are required including a 400m zone around the SPA where residential development will not be permitted, a 15km zone where new residential development will be required to contribute to Suitable Alternative Natural Greenspaces (SANGs), an access strategy for the Forest and a programme of monitoring and research – all embodied within Policy WCS12 of the CSLP.



As accepted by the applicant the application site is well within the 7km distance and therefore mitigation for the potential effects of recreations pressure is essential, both in the form of SANGS and SAMMS.

The applicant has confirmed a willingness to contribute towards the Council's SAMMS strategy and strategic SANGS provision, via financial contributions to be secured under S106 agreement.

### **Nitrogen Deposition**

Indications are that one section of the A26 has very little headroom for development beyond that proposed in the CSLP without further assessment to determine whether there would be a likely significant effect on the Ashdown Forest SAC. As recorded in the Final Report, this work is yet to be done, but monitoring is currently being commissioned as part of the early review to CSLP for 2015.

This site is included within the CSLP Policy WCS6 50 dwellings 'headroom' for Maresfield and is therefore taken account of as part of the headroom assessed as part of the HRA for the CSLP.

### **Habitats Regulations Assessment (HRA)**

The UK is bound by the terms of the Birds and Habitats Directives. These set out specific provisions which must be followed by decision makers when considering appeals or applications for development or other activities which may impact on protected sites.

In particular,

- Article 6(2) of the Habitats Directive requires member states to take appropriate steps to avoid the deterioration of natural habitats and species habitats as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of the Directive;
- Article 6(3) states that any plan or project (or element thereof) not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an appropriate assessment (AA) of its implications for the site in view of the site's conservation objectives. In light of the conclusions of the AA, the relevant competent authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site;
- Article 6(4) requires that if, in spite of a negative AA of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest (IROPI), the Member State shall take all compensatory measures necessary to ensure the overall coherence of Natura 2000 is protected.

The obligations of the European Directive are transposed into UK law through the Habitats Regulations. In particular, Regulation 48(1) makes clear that if a plan or project is likely to have a significant effect on a protected site in Great Britain (either alone or in combination with other plans or projects), and it is not directly connected with or necessary to the management of the site, the competent authority shall undertake an AA of the implications for the site in view of its conservation objectives.



Regulation 49 transposes the requirement of Article 6(4) which seeks to allow the approval of plans or projects where there is a negative assessment subject to there being no alternative solutions available, imperative reasons of overriding public interest for agreeing to a plan or project exist and adequate compensatory measures to maintain the overall ecological coherence of the Natura 2000 network are in place (or at least secured).

Regulation 54 allows for conditions or limitations to be imposed on planning permissions where this is necessary to avoid any adverse effects of the plan or project on the integrity of the protected site.

Whilst it is noted that neither, the Directive nor the Regulations define what is meant by 'the integrity of the site', paragraph 20 of Circular 06/05 defines the integrity of the site as 'the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats, and/or the levels of populations of the species for which it was classified'.

In the determination of the application, the Council is the 'competent authority' and a HR assessment is required to consider the potential impact of the development on the site.

As noted in the updated Case Law and Practice Guide 4 advice to Inspectors (which supersedes Part 17 of the PINS Inspectors Handbook), there are 7 steps to a HR assessment that are set out in a flow chart in Figure 1 of Circular 06/05.

Overlaying the application to the various steps, the Council comments as follows. It should be noted that although there is no requirement to follow each step, we have done this for completeness:

Step 1 – Is the proposal directly connected with or necessary to the management of a protected site?

No.

Step 2 - Is the proposal likely to have a significant effect on the interest features of the site, alone or in combination?

Yes, in combination.

The site is approximately one kilometre from the SPA/SAC and SSSI. The planning application is for one dwelling. The occupation of this dwelling has the potential to cause disturbance within the SPA by reason of increased walking, together with harm to localised habitats by trampling and destruction of flora. The site is located within a zone of influence now adopted as policy (WCS12 of the CSLP (as amended)), to which all development must be screened either alone or in combination.

Step 3 – If it is or such a risk cannot be excluded on the basis of objective information, then an AA must be undertaken to determine whether or not the development will have an adverse effect on the integrity of the site.



The Council considers that an AA is not required subject to provision of measures to mitigate the potential recreational impacts of the proposed development, in combination with other planned growth.

Step 4 – If any adverse effects are identified, can they be mitigated or overcome by conditions or other restrictions such as a Section 106 agreement or undertaking?

Yes.

Work undertaken on behalf of the Council by UE Associates in 2009 (Visitor Access Patterns on Ashdown Forest) indicates that by far the most common reason for visiting the Forest is for dog walking. The second most common reason is walking. It seems beyond reasonable doubt that incoming residents to the proposed development would without mitigation measures visit the Forest for these activities. Evidence from the studies referred to shows that recreational walking and dog walking can affect ground nesting species through disturbance and habitat change.

In order to mitigate this potential impact the Council has secured one SANGS and is close to securing a second SANGS that will be capable of providing alternative natural greenspace for incoming residents and attracting those that might otherwise utilise the Forest for recreational purposes to instead, at least some of the time, visit the SANGS instead.

In addition to the provision of SANGS to mitigate the potential for recreational pressures and consequent adverse effects it is also necessary to provide for the proper implementation of the Strategic Access Management and Monitoring Strategy (SAMMS). In December 2015, the Council signed a legal agreement with the Conservators of the Ashdown Forest and other local authorities to secure the full implementation of a SAMMS scheme to provide mitigation for development occurring within the District, subject to the payment of financial contributions.

The applicant in this case has confirmed a willingness to pay towards both the SAMMS strategy and the provision and long term maintenance of the strategic SANGS. Taken together, these forms of mitigation are sufficient to ensure that the proposed development would not have a negative impact on the Forest in recreational terms.

Step 5 - If not, are there alternative solutions that would have a lesser effect on the integrity of the site?

No, subject to the full implementation of mitigation as set out above.

Step 6a - If a priority habitat or species would not be affected, are there imperative reasons of overriding public interest, which could be of a social or economic nature, sufficient to override the harm to the site?

Not applicable, given the above.

Step 6b - If a priority habitat or species would be affected, are there imperative reasons of overriding public interest relating to human health, public safety or benefits of primary importance to the environment?



Not applicable, given the above.

Step 7 - If there are imperative reasons of overriding public interest can it be determined that compensatory measures necessary to ensure the overall coherence of the Natura 2000 network have been undertaken or at least secured?

Not applicable, given the above.

**Conclusion on the impact of the development on the nature conservation interest of Ashdown Forest**

For the detailed reasons set out above it is considered that when considered alone or in combination, subject to appropriate mitigation in the form of SANGS and SAMMS the proposed development would not adversely impact in the integrity of the protected site