

Minutes of a meeting of the Planning Committee held at the Pavilion, Sparrows Green Recreation Ground, Wadhurst on 8<sup>th</sup> October 2022 at 9.30am.

Present: - Cllrs Anderson, C Moore, P Moore, Smith (Chair), Shairp

Meeting started at 9.42. Comfort breaks at 10.32 hrs–10.37 hrs and 11.12hrs-11.21hrs

Cllr C Moore proposed Cllr Smith as Chair, seconded by Cllr Anderson and received unanimous approval.

1. To receive apologies for absence - **apologies received and accepted from Cllr Murphy**
2. To receive declarations of interest and updates to members' register of interests – **Cllr Shairp declared an interest in agenda item 10**
3. To approve the minutes of the meeting of 8<sup>th</sup> October 2022 - **approved**
4. To discuss matters arising from the minutes of the meeting of 8<sup>th</sup> October 2022 - **none**
5. Public forum – time limit 15 minute **9 members of the public in attendance. The member of the public who had sent in the correspondence spoke for agenda item 15.6. Eight members of the public spoke against WD/2022/0662/MA0, Little Windmill Farm. The public forum was extended to approximately 50 mins.**

6. Pre-application briefings: none (The member of the public who had sent in the correspondence spoke in the public forum for agenda item 15.6.)

7. Licence and planning applications

**7.1 Licencing:** *None*

**7.2 Planning:**

**7.2.1 [WD/2022/2601/F](#)**

Date of notification: 13<sup>th</sup> October 2022

Parish Council Consultee expiry date: 3<sup>rd</sup> November 2022

Location: WADHURST COMMEMORATION HALL, HIGH STREET, WADHURST, TN5 6AP

Description: replace qty 3 windows on the north east front elevation of the building and carry out marking of the car park area.

Comment: **Objection. The WPC consider this a key opportunity to conserve and enhance the Wadhurst High Street Conservation area by returning these windows, that face directly onto the High Street conservation area, to their original wooden sash style of fenestration. Whilst the WPC acknowledges that planning permission was given in 2019 to replace the Hall's side windows with out of keeping uVPC, this proposal is different as the side windows are not easily visible from the High Street Conservation area. The WPC are concerned that this would set a precedent and would be inconsistent with the planning application refusal for Hospice in the Weald's shop front windows (WD/2022/0622/F - REPLACE EXISTING SHOPFRONT WINDOW WITH LIKE FOR LIKE. 1 ST JAMES SQUARE, THE SQUARE, WADHURST, TN5 6BL) in the same conservation area.**

Specifically from the decision notice: "2. Insufficient information has been provided to demonstrate that the total loss of the existing shop front window for a like for like

replacement would preserve the character and appearance of the Wadhurst Conservation Area. The proposal would therefore conflict with the requirements of Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, Spatial Objective SPO2 and Policy WCS14 of the adopted Wealden Core Strategy Local Plan 2013 and Policy EN19 of the Wealden Local Plan 1998. “

### 7.2.2 [WD/2022/2592/FA](#)

Date of notification: 14<sup>th</sup> October 2022

Parish Council Consultee expiry date: 4 November 2022

Location: OAK COTTAGE, WOODS GREEN, WADHURST, TN5 6QN

Description: Variation of condition 3 of WD/2021/0540/F (proposed single storey rear extension, new position of front door and front gate. New side entrance with changes to the garden levels and access to the side of the property, new boundary treatments and the refurbishment and extension to existing outbuilding to become a family room). Oak framed extension.

Comment: **Objection.** The WPC objects to the glazed gable end due to the impact on Wadhurst’s exceptionally dark skies. Unlike Velux or other windows, glazed gable ends are designed to be left uncovered and are difficult to curtain. There is no information provided with the application to indicate that curtains, coverings or blinds will be affixed and used.

No block plan is included in the application, so it is not possible to confirm the orientation and potential impact on the open countryside of any glazing reflection. The WPC notes however that Woods Green is a rural hamlet within the open countryside of Wadhurst Parish.

An intrinsic part of the beauty of the High Weald is its unusually dark skies, some of the darkest in the South East. The High Weald AONB unit report that Sky Quality meter (SQM) readings taken around Wadhurst indicate skies as dark as 21.09 mags/arcsec<sup>2</sup> – a figure that corresponds to Silver Tier international Dark Sky Reserved, described by the International Dark Sky Association as being “*Night time environments that have minor impacts from light pollution and other artificial light disturbance, yet still display good quality night skies and have exemplary night-time landscapes*”.

Internal light spill is as detrimental to the dark skies as poorly considered external lighting. The South Downs National Park DNS TAN Appendix: Glazing – internal light spill 2021 notes that:

“In general, internal glazing will cause light to spill horizontally and – in the case of sky lights – directly upward, which are the most damaging paths of light. Internal spill can – and will – have a similar impact to external lighting, particularly in interrupting and disrupting the continuity of the dark landscape.”

They recommend that glazing should not exceed 25% of the floor area, and should not be on roofs or ceilings without sufficient mitigation.

They also note that “although visible light passes through glass, it makes glazing – when viewed from a sufficient distance outside in the landscape – an ‘effective luminous surface’, where the level of luminance (light emitted from the surface) will be a function of the internal illumination (light falling onto the glass from inside) and visible light transmission (VLT) properties of the glass. In this respect, glazing can be categorised as a ‘special’ type of illuminated advertisement.”

Light spillage from the unshielded glazing would affect the foraging, mating and migratory behaviours of a wide range of nocturnal wildlife, as well as create an ‘effective luminous surface’ when viewed from the open countryside.

The High Weald AONB Unit include the following advice to maintain the dark skies for which the High Weald AONB is renowned:

“Always remember to draw your curtains or blinds at night to prevent intrusive light unnecessarily spilling out of your home”.

7.2.3 [WD/2022/0662/MAO](#)

Date of notification: 3<sup>rd</sup> October 2022  
Consultee expiry date: 24<sup>th</sup> October 2022  
Location: Little Windmill Farm, Windmill Lane, Cousley Wood, Wadhurst  
Description: Phased development of 12 x single story detached flat-roofed bungalows

Comment: **Objection.**

**Little Windmill Farm, Windmill Lane, Cousley Wood, Wadhurst**  
**WD/2022/0662/MAO**



*Figure 1 - The proposed site viewed from Windmill Lane*

The parish council **OBJECTS** to this application on the following grounds:

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## 1. Credibility of the proposal

The parish council has several concerns about the impartiality and technical accuracy of the application documents, particularly in the context of the applicant’s planning and ecological history in connection with the site. Each in itself may be acceptable, since the application process is long and (rightly) detailed, but in aggregate they cumulate to cast doubt on the credibility of the application.

### 2. *Impartiality and credibility of the application*

WPC’s observations are as follows:

- There is not an existing property called ‘Little Windmill Farm’. No Farm exists at this address and there has never been a farm on this site. The site is simply a green field. (Permitted development rights for farms should not therefore apply.)
- WPC notes that the Applicant, the ‘Agent’, and the subject matter ‘experts’ are all the same individual person. There is a prima facie conflict of interest, especially concerning the specialised documents to support the application.

- Both the Transport statement and the Ecology report have been written by the applicant. Consultants who produce these reports are intended to be expert independent third parties, who provide credible impartial advice to support the application.
- From the cover of the Design and Access Statement, the applicant displays a long list of references:  
*Mr M.Owst M, MCIQB, CEnv, Cert Ed, FIOC, QTLS, Reg RICS No. 687722)*  
An enquiry to the Royal Institute of Chartered Surveyors (RICS) as to whether Mr Owst is a Chartered Surveyor led to the response that: *'He is currently studying and not a fully qualified member as he has not passed his exams yet.'* This casts doubt on the technical credibility of the judgements made in the application. It is not clear whether the applicant is qualified to opine on ecology matters or transport issues.
- With reference to the ecology reports, notwithstanding the WPC's concern over the impartiality and technical credentials of the applicant, the parish council notes that the site is subject to a WDC enforcement order. The WPC understands that the applicant has not taken corrective action in response to WDC's Enforcement Notice, requiring him to replant the hedges around the site that were cut down in 2019 (see Figure 2 Figure 3).
- The applicant fails to source the exhibits, which renders it difficult to place any reliance on the reports. For example, the exhibits used in the discussion of visibility splays in paragraph 9.3 of the Transport Statement are not sourced.
- The applicant has taken out a full one-page advert in the 14 October edition of the Wealden Ad (see Appendix A **Error! Reference source not found.**). The WPC notes that the applicant states in the advert that the upfront costs of gaining planning permission are expensive, especially the 'specialist reports' needed to support a planning application. WPC infers that the applicant has written them himself in order to avoid these costs.



Figure 2 - Mature mixed hedge removed by the applicant in 2019 showing poor regrowth (photo taken October 2022)



Figure 3 - showing the cut and now dead stumps of removed hedgerow

### 3. Planning History

Development on the site has previously been dismissed on appeal (APP/C1435/W/18/3195862). Whilst the Inspector considered the Council's failure to demonstrate a five-year supply of housing land as material, they dismissed the appeal for the following reasons:

*"the application of policies in the Framework which protect areas of particular importance, the High Weald Area of Outstanding Natural Beauty as listed in footnote 6, provide a clear reason for refusing the developmental proposal"* and

*"there is not an overriding reason to set aside well-established policies of restraint over development in the countryside as set out at both local and national level."*

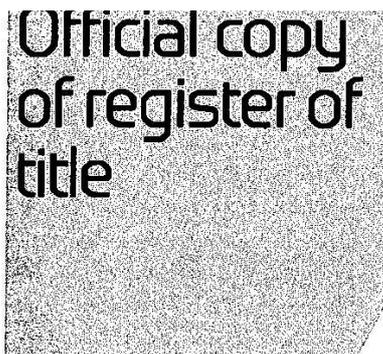
### 4. Deliverability of the proposals

The WPC understands that there are significant hurdles to overcome in delivering the proposals.

- WPC understand that the applicant holds a highly unusual title for the site – owning only for the land 1 metre below the surface and 3 metres above it (see Figure 4). This would make it unlikely to be able to raise a mortgage on a dwelling already built on the site. The added complication of raising funds to deliver a self- build (particularly for the target market of people seeking affordable housing (who are unlikely to have sufficiently strong credit history) renders the proposal even more problematic, if not impossible to deliver.

[Even if self-build loans could be secured, they are very expensive – current interest rates for 60:40 loan to value borrowings are over 10%]

- It is not clear how utilities and in particular drains and sewerage could be delivered without digging below the 1 metre ownership of the title; rendering the proposal undeliverable without such utilities.
- The proposal is for self-build. There does not appear to be demand for self-build projects amongst Parishioners and the WPC assumes that the purpose of the advertisement taken out in the 14 October edition of the Wealden Ad (Appendix - **AError! Reference source not found.**) by the applicant is to generate demand as there is no local demand for this type of build. The WPC notes that the few letters in support of the application are from places far afield such as Hastings.
- The proposal is that market value homes will subsidise the 'affordable' homes. The details around how the 'affordable' element in this application will be delivered is not explained and the lack of registered provider for the affordable element underscores these concerns. Notwithstanding the WPC's concerns that the 'affordable' description is incorrect the WPC is concerned that, even if feasible, the proposal would take years to deliver and would not assist in meeting WDC's housing number targets.



Title number ESX232739

Edition date 09.11.2015

- This official copy shows the entries on the register of title on 17 NOV 2015 at 12:43:03.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 17 Nov 2015.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by Land Registry, Coventry Office.

## A: Property Register

This register describes the land and estate comprised in the title.

EAST SUSSEX : WEALDEN

- 1 (25.08.1992) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land adjoining Mill House, Cousley Wood, Wadhurst.

NOTE: The air space above a height of 3 metres from ground level and all sub-soil below 1 metre from the surface thereof are excluded from the title.

Figure 4 - Land Registry entry showing the restricted title

## 5. Thin end of the wedge

This application is the latest in a series of planning applications by the applicant to develop this land. Given that the proposed development is concentrated in the north and east of the site, we are concerned that this application is simply a stalking horse to unlock the whole site for development.

## 2. Sensitivity of the Location

### A. The site is in the High Weald Area of Outstanding Natural Beauty

The site is in the High Weald AONB. The NPPF states that:

*“great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.”* (para 176, NPPF July 2021).

The High Weald AONB Management Plan notes that *“the areas around the Weald experienced a substantial and disproportionate increase in housing compared to the rest of England in the inter-war period.”*

At a national level, the High Weald AONB has been the hardest hit of all the 34 areas of outstanding natural beauty in England. According to a recent report by the Campaign for the Protection of Rural England (CPRE), over the four years to 2020/21, the High Weald AONB accounted for 932 housing units granted, or fully 16.4% of all housing units granted on protection greenfield land in England. This was higher than all other AONBs surveyed by the CPRE. Indeed, looking at the most recent data, the High Weald AONB accounted for 40% of all housing units granted in AONB's in 2020/21, the latest year for which data are available. To put this in context, the High Weald AONB comprises just 7.6% of the total land area of all the AONBs in England.

The past five years have seen an acceleration in housing completions, with the parish of Wadhurst bearing the brunt of development. An analysis of development across parishes in Wealden shows that housing completions in Wadhurst have risen by 5.2% over this five-year period. This compares to a growth of 5.1% in Wealden and just 4.7% nationally. So, there has been faster growth in housing completions in Wadhurst; yet the *entire* area of Wadhurst lies within the High Weald AONB, which should receive the greatest protection. By contrast, over 53% of Wealden District (60% if Ashdown Forest is included) falls within the High Weald AONB, while AONBs cover just 15% of the countryside in England.

The proposal fails to conserve or enhance the HWAONB. Lamberhurst Road/Cousley Wood Road and Newbury Road (sic) are both historic routeways; i.e., they are shown on the Ordnance Survey Draft 1800. Windmill Lane also appears on the Epoch 1 map in the mid-

1800s.<sup>1</sup>The proposed development would be isolated and would appear out of place in the landscape, causing harm to the character and appearance of the wider area.

## **6. *The site is outside the development boundary and adjacent to the Cousley Wood conservation area***

The site is outside of any designated development boundary, adjacent to the Cousley Wood conservation area. Existing development in the small hamlet of Cousley Wood generally takes the form of frontage development along Lamberhurst Road/Cousley Wood Road. Contrary to EN27, the layout and design does not respect the character of adjoining development. Development would be contrary to policies GD2, DC17 and EN27 of the Wealden local plan 1998, and policy WCS6 and WCS9 of the Wealden District Core Strategy local plan 2013.

The Pell Green and Cousley Wood draft conservation area appraisal 2020 states that the hamlets of Pell Green and Cousley Wood *“have retained their rural character throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries, being situated far enough away from the local railway station at Wadhurst to be relatively unaffected. There has been some infilling and extension in the 19<sup>th</sup> and earlier 20<sup>th</sup> centuries, but this has been small-scale with the addition of a small number of detached and semi-detached properties....the hamlets are characterised by detached and semi-detached cottages and houses set within their own gardens and wider landscape setting.”* The appraisal goes on to state that the *“setting of a heritage asset, including a conservation area, includes the surroundings in which it is experienced.”*

The appraisal sets out a number of features that create the historic setting of Pell Green and Cousley Wood including:

- Settlement on the ridge with views of the High Weald and Bewl Water;
- A mixture of small, enclosed fields with thick mature tree hedging and woodland patches surrounding them and other areas, especially to the south and north east, encompass large-scale fields;
- Survival of ancient field patterns, including regular piecemeal enclosure, and cohesive and aggregate assarts, as well as small areas of irregular piecemeal enclosure, lined with mature trees and hedgerows;
- Areas of large-scale modern pastoral and arable fields lined with hedgerows.

The site on which this development is proposed significantly contributes to this setting and is identified in the appraisal as a key open space. The appraisal goes on:

*“the landscape setting of the character area contributes to the significance of the character area and the way in which it is appreciated.”*

It is also adjacent to The Mill House, therefore within the setting of The Mill House, identified in the appraisal as a key building, and as such is a non-designated heritage asset. The setting of a heritage asset is the surroundings in which a heritage asset is experienced. Any change will

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<sup>1</sup> High Weald AONB Unit objection to application number WD/2017/2105/MAJ on this site

affect how the setting of a heritage asset is experienced, be that from the public or private domain.

Historic England's Good Practice advice Note 3: The Setting of Heritage Assets makes clear that whilst the extension and importance of setting is often expressed by reference to visual considerations, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise and activity from other land uses in the vicinity, and by our understanding of the historic relationship between places. These aspects (increased vehicle movements, parking activity and noise associated with use, lighting and light pollution, for example) as well as visibility of development all need to be addressed.

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.<sup>2</sup>

Section 72(1) of the Act relates to planning and conservation areas and requires that Local Planning Authorities pay special attention. The requirements of the Act are reinforced by the NPPF 2021, 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 200 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 189 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.

The significance of the Pell Green and Cousley Wood character area derives not only from its historical settlement pattern and many listed buildings, but also from those green spaces which form part of its setting. This setting allows for an understanding and appreciation of the character area's significance and provides a historical context for the settlement.

## ***7. Case law does not support building outside the development boundary in the AONB***

Monkhill v SSHCLG [2021] EWCA Civ 74 states that the failure of a Council to build enough houses is not a relevant issue once the need to protect the AONB or other protected areas has been established:

*'The "tilted balance", or positive presumption, under paragraph 11d)ii is not available in every case where there are "no relevant policies" of the development plan or the "most important policies" in the plan are "out-of-date". It is deliberately disapplied in the situation provided for*

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<sup>2</sup> Section 66(1) of the Planning (Listed Building and Conservation Areas Act) 1990 ("the Act")

*in paragraph 11d)i, where policies of the NPPF that “protect areas or assets of particular importance” – the footnote 6 policies – are engaged, applied and found to justify planning permission being withheld (see the first instance judgment in Forest of Dean District Council v Secretary of State for Communities and Local Government [2016] P.T.S.R. 1031, at paragraph 28). Otherwise, the “tilted balance” could work against the protection afforded by those policies and undermine them. This would not only be hostile to the evident objective of the policy in paragraph 11d)i. It would also be inimical to the explicit strategy of the NPPF itself for “sustainable development”.’*

As noted in section 2C, the WPC understands that the applicant has a very restricted title only owning three metres above the surface of the ground and one metre below. The title gives no right to create new service media below that one metre depth. Therefore, the construction of the site its service media and the depth of the attenuation pond will be constrained to that tight space. There is therefore considerable doubt that the construction can be completed.

We also note the objection of Mr and Mrs Giblin that lenders usually require a full title and may not find the fact that there is another title above and below the applicants acceptable as a good marketable title to them and thus not a good security. The plots may therefore be un-mortgageable, or only mortgageable at higher interest rates and with specialist terms that make the dwellings less affordable.

**8. A nearby site, adjacent to Newbury Lane, was rejected in the 2017 SHELAA for reasons that apply equally to this site**

Plan showing whole extent of submitted site	Site Reference: <b>757/1910</b>
	Settlement: Cousley Wood
	Parish: Wadhurst
	Address: Land at <b>Cheviots</b> , Newbury Lane
	Suitable for housing?: No Suitable for employment: No Site available: Yes Site achievable: Yes Site Conclusion: Not suitable
	Site area (ha) Gross: 2.05 Site area (ha) Net:

**Reasons:** The site comprises part of the curtilage of a residential property located to the north east of Cousley Wood adjacent to Newbury Lane. The site is within the High Weald AONB and has been classified as being in a highly sensitive location within the 2014 Landscape Character Assessment and development would have an unjustified impact on the character and appearance of the landscape. The site is isolated and remote from local services and facilities and functionally separate from any settlement.

### 3. Accessibility

#### A. *The access to the site is dangerous and difficult*

The access is from a narrow, single track, unlit road, Newbury Lane, with no footpaths or passing places. There are few places for pedestrians to get out of the way of vehicles, as much of the lane is edged with ditches, wide hedges, brambles and stinging nettles. We have been informed by a neighbouring resident that children living in Newbury Lane and its vicinity are instructed by East Sussex County Council that the walking route to the nearest bus stop is along Newbury Lane and Windmill Lane, and that they should **not** walk along the B2100 as there are no footways and it is too dangerous for them on such a fast-moving road. The lanes are mainly used for recreational purposes by walkers, with or without dogs, holiday makers, horse riders and cyclists. The lane, and surrounding lanes, would be unable to safely accommodate the additional traffic generated by this development. It would not appear that emergency vehicles could safely access the site using the lanes.



Figure 5 - Windmill Lane showing narrowness even for small VW car



Figure 6 - Newbury Lane (East) - showing narrowness for even a small VW

The junction between Newbury Lane and the B2100 is a notoriously sharp angled, dangerous exit with an obscure view of the oncoming traffic, and turning right towards Wadhurst is considered very dangerous, with turning left towards Lamberhurst only marginally better (see Figure 7 Figure 7 Figure 8) Traffic on the B2100 is very fast, particularly as vehicles head towards Lamberhurst once they pass the speed derestriction sign outside Mill House, adjacent to the site. Turning left into Newbury Lane from the B2100 is also extremely difficult and dangerous because of the sharp angles.



Figure 7 - Dangerous junction at Newbury Lane and B2100



Figure 8 - Sharp angled junction B2100 and Newbury Lane

The WPC has measured speeds along the B2100 close to the junction between Newbury Lane and the B2100. The Black Cat Traffic Survey for Wednesday 12<sup>th</sup> October 2022 to Tuesday 18 October 2022 is shown in the table:

**Cousley Wood (B2100) Wadhurst Parish near Newbury Lane**

Site Location : Cousley Wood Road (B2100), Wadhurst, Turn Signpost near Newbury Lane

		South Bound (Channel 1)			North Bound (Channel 2)		
		Total	Mean	85%ile	Total	Mean	85%ile
		Vehicles	Average	Speed	Vehicles	Average	Speed
<i>Fri</i>	14/10/2022	1644	39	45	1955	42	48
<i>Sat</i>	15/10/2022	1270	39	45	1324	42	48
<i>Sun</i>	16/10/2022	1020	39	45	1186	42	49
<i>Mon</i>	17/10/2022	872	38	44	686	40	47 Road closed (Diversions)
<i>Tues</i>	18/10/2022	438	38	45	341	42	48 Road closed (Diversions)
<i>Wed</i>	12/10/2022	1477	40	46	1755	42	49
<i>Thur</i>	13/10/2022	1440	39	45	1723	41	48
<b>Week Total</b>		<b>8161</b>			<b>8970</b>		

**Conclusions:**

Started c. 16.00 on Tues 11/10/22 and finished recording c. 16.00 on Tues 18/10/22

1-2 vehicles a day logged at over 65mph southbound

0-5 vehicles a day logged at over 65mph northbound

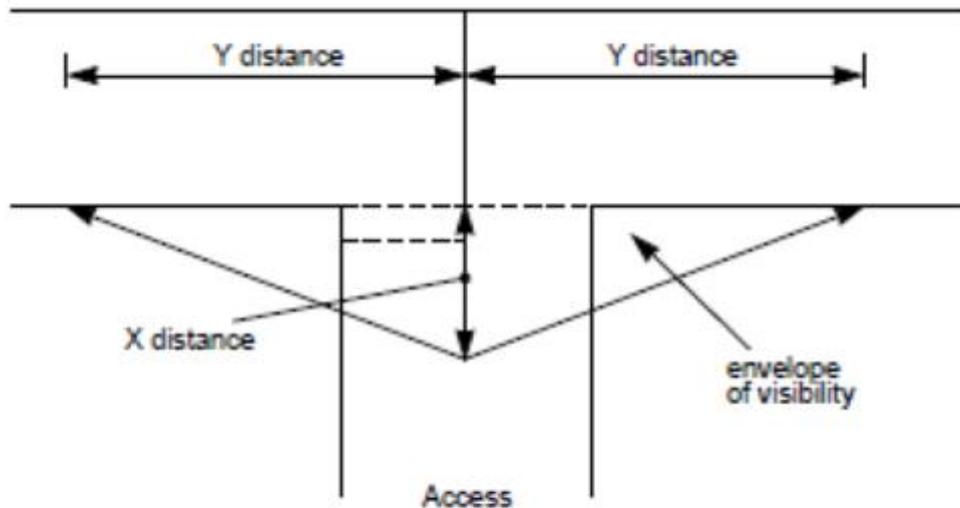
While the road diversions have obviously impacted the Monday / Tuesday volumes of traffic, the average speeds are instructive. Their results suggest an 85th percentile traffic speed of 45.0mph Southbound and 48.1mph Northbound. To place this in context, fully 15% of recorded traffic speeds were going in excess of 48mph when travelling Northbound.

The Applicant shows in their drawings proposed visibility splays of 3.5 x 80m and 3.5 x 120m, presumably on the basis that vehicles would be travelling 1.0m away from the kerb. However, the B2100 is a narrow road and traffic frequently crosses the lines in the middle of the road.

WPC are not highways experts, but the exhibit below (Figure 9) shows a diagrammatic illustration of what visibility splays should be used. At 85<sup>th</sup> percentile speeds of 45-48mph, our impression is that visibility splays should be well over 100m in both directions, and close to 150m when facing the traffic travelling in a northerly direction. This is not being proposed.

WPC therefore strongly recommends that WDC requires an *independent* Transport Statement to be produced *before* it makes its decision on this proposed development.

Speed Limit (mph)	20	30	40	50	60
X Distance	2.0m	2.0m	2.4m	2.4m	2.4m
Y Distance	25m	43m	96m	160m	215m



**Figure 3.4 – Vehicle Crossover Visibility**

Figure 9 - Visibility splay requirements (Hampshire County Council)

### ***B. The location is not sustainable***

The location is not sustainable. The lack of any local facilities except for a pub, together with poor public transport which can only be reached via unlit lanes with no footways and, in the case of the B2100, speeding traffic, makes this an unsustainable location. We note that the Highways objection to this application states:

*“the site is located approximately 3km from Wadhurst town centre and approximately 700m from the nearest bus stop, which provides services to Wadhurst and Tunbridge Wells. However, the services from these bus stops are infrequent. Furthermore, there are limited footways to the bus stop, and the B2100 is not conducive for inexperienced cyclists. Prospective residents are therefore likely to be reliant on private vehicles for travel, and it is considered that the proposed development is not situated in a suitable sustainable location.”*

They go on to state that the development is contrary to para 102 to 104 of the NPPF.

The distances cited in paragraph 1.19 of the Design & Access Statement are all somewhat optimistic in terms of distance. The applicant states that:

- *The bus stop on the B2100 about 150m away; [WPC estimate: 700m for service to Tunbridge Wells]*
- *'Wadhurst Station about 2 miles' [3.2km]; [WPC: 4.4km]*

Paragraph 4.4.1 of Manual for Streets states that walkable neighbourhoods typically have a range of facilities within 10 minutes (around 800m). On this criterion, the village and the station are not walkable. The Institute of Highways and Transport guidance document 'Providing for Journeys on Foot' (published 2000) suggests an acceptable walking distance of 1km and a preferred maximum walking distance 2km for educational purposes. This effectively rules out both the village and the station in terms of an acceptable distance.

WPC has measured distance from the site entrance to various locations in the village, using average walking speed of 4km/hr, as suggested by the Ramblers, and cycling speeds, as suggested by Road Bike (see table below). Walking times of over 10 minutes are highlighted.

From Little Windmill Farm to:	Distance, metres	Walking time, mins	Cycling time, mins
Old Vine Bus stop	700	11	3
Chinese takeaway	2360	35	10
Primary School and Co-op	2650	40	11
Petrol station	3210	48	13
Jempsons	3250	49	14
Belmont Surgery	3430	52	14
Uplands Community College	3510	53	15
Wadhurst Station via B2100/B2099	4490	67	19

Sources: Google maps, Ramblers, Road Bike

<https://www.ramblers.org.uk/advice/navigation/calculating-walking-pace.aspx>

<https://roadbikebasics.com/average-speed-on-road-bike/>

Note: distance > 2km or 10 minutes walking and cycling time highlighted

It can be seen that journeys to destinations in the village will take approx. 50 minutes on foot, while it would take approx. 65 minutes to Wadhurst station (using the B2100 and B2099).

The inevitable conclusion is that this site can only be described as car dependent, which means that it fails the sustainability test set by the NPPF 2021.

Indeed, the proposed provision of 24 car parking spaces is further evidence of car reliance at this site.

Quality of the walking experience

The Manual for Streets goes further and indicates that *'the propensity to walk is influenced not only by distance but also by the quality of the walking experience'* (paragraph 6.3.1). The truth is the quality of the walking experience is very poor. Residents walking into Wadhurst would face busy main roads, with vehicles travelling well in excess of 40mph and there are several parts of the road without pavements or grass verges to walk along. Where there are footways, these are often narrow or obstructed by parked cars (see Figure 10Figure 11). The result is dangerous and unpleasant, suggesting a low quality of walking experience. Even walking to get the bus (at the few times of day that it runs) involves a longer than 10-minute walk.

In practice, new residents would not travel by foot; they would have no choice but to take to their cars.



*Figure 10 – Where there is a pedestrian footway along the B2100 from Cousley Wood to Wadhurst it is often obstructed by parked vehicles*



*Figure 11 - Where there is a pedestrian footway along the B2100 from Cousley Wood to Wadhurst it is often poorly surfaced and narrow*

## **4. The proposed dwellings do not meet local need**

The proposed dwellings do not meet local need. Whilst there is a demand within the parish for smaller, affordable homes, this proposal does not meet this need due to its isolated location, with a lack of local facilities and inadequate public transport. Bungalow accommodation would be suitable for the elderly and/or disabled, but such residents would require local facilities which are not available.

## **5. Environmental Concerns**

### *A. Ecology*

The ecological report has been written by the applicant, who does not appear to be a qualified ecologist. This report therefore cannot be relied upon. Seedheads of wildflowers are currently visible across the site although the report states 'no observation of any wildflowers' (see Figure 12). We note that the perimeter hedges are historic<sup>3</sup>, and there is currently an outstanding appeal by the applicant against a Notice Requiring Planting of a Hedgerow on this land by Wealden District Council in 2020 following its unlawful removal.

WPC notes that the consultee response, from NatureSpace, expressed satisfaction with the ecological report regarding great crested newts. Given the parish council's concern about the

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<sup>3</sup> High Weald AONB Unit objection to application no WD/2017/2105/MAJ on this site

credibility of the ecology report, WPC recommends that another, independent, ecology report be produced.

The site is a prime example of AONB land, and makes a major contribution to the ecology, landscape and scenic beauty of the area. It provides high amenity value to local residents



*Figure 12 - The seedheads of Centaurea nigra are a source of good quality nectar for butterflies & bees. These are visible all over the site (October 2022)*

### ***B. Detrimental to the dark skies for which Wadhurst is renowned***

An intrinsic part of the beauty of the High Weald AONB is its unusually dark skies, some of the darkest in the South East. The High Weald AONB unit report that Sky Quality meter (SQM) readings taken around Wadhurst indicate skies as dark as 21.09 mags/arcsec<sup>2</sup> – a figure that corresponds to Silver Tier International Dark Sky Reserve, described by the International Dark Sky Association as being: “*Night-time environments that have minor impacts from light pollution and other artificial light disturbance, yet still display good quality night skies and have exemplary night-time lightscapes.*” Given the far-reaching views from and into the site, there would be considerable light pollution, causing harm to the unusually dark skies.

The Wealden Landscape Character Assessment, May 2022, recognises the threat of light pollution from the growth of the settlement area: ‘*Expansion of urban areas including Crowborough and Tunbridge Wells, and larger villages, Rotherfield, Mayfield, Wadhurst and Heathfield has the potential to affect the area’s dark skies and sense of tranquillity.*’

### ***C. Detrimental impact on views***

The site is on a ridgetop in open ‘A1’ AONB countryside. As well as views across the site itself, the site would have a far-reaching impact on important views across the parish and from tourist destinations such as Bewl Water. In their objection to a previous application on this site, dismissed at appeal, the High Weald AONB Unit stated that:

*“Whilst the elevated nature of the site and the thick hedge<sup>4</sup> means the site is not prominent when viewed from Cousley Wood Road, it is very visible from Newbury Road and Windmill Lane and has itself extensive views southwards across the High Weald.”<sup>5</sup>*



*Figure 13 - View from Windmill Lane across site to Bewl Water – showing the significant view from this ridgetop site*



*Figure 14 - View of the ridgetop site from Bewl footpath near Rosemary Farmhouse (A21 side of reservoir)*

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<sup>4</sup> As stated elsewhere in the body of this paper, there is currently an outstanding appeal by the applicant against a Notice Requiring Planting of a Hedgerow on this land by Wealden District Council in 2020 following its unlawful removal.

<sup>5</sup> High Weald AONB Unit objection to application WD/2017/2015/MAJ on this site.



Figure 15 - View of the ridgetop site from Bewl footpath near Wards Lane (Wadhurst side of reservoir)



Figure 16 - View from footpath between Wards Lane & Claphatch Lane, Wadhurst, showing proposed site



Figure 17 - View over the proposed development site from the footpath that joins Newbury Lane to Windmill Lane



Figure 18 - View of the site from the top of the Byway that runs from Sleepers Stile to Newbury Lane

### *D. Drainage*

#### Surface water drainage.

WPC agrees with WDC's Engineer and countryside officer's conclusion and objects to this application due to the lack of detail for surface water drainage. WPC would also add the following:

1. The B2100 floods adjacent to this site/field.
2. As noted in section 1C the WPC understands that the applicant's title/ ownership of the land only extends to a depth of 1 meter. Any surface water system would need to be either, designed with this in mind adding to existing site restraints, or the applicant would need permission from the title owner of the land below one meter which would add to complexity and overall cost of the scheme and further reduce the likelihood that these homes can be delivered, especially in an affordable way.

#### Foul Water Drainage.

Given that the applicant does not own the land below 1 meter it is difficult to see how a system could be designed without encroachment into land not under his ownership.

Once again, the applicant would need permission from the title owner of the land below one meter adding to the overall complexity and cost of the scheme and reducing the likelihood that these homes can be delivered, especially in an affordable way.

### *E. Carbon neutrality*

Research increasingly shows that excavating meadows and fields leads to increased carbon emissions:

*'Ploughing and excavating soil releases carbon, while undisturbed soil keeps it locked in' (Bathurst, B, 'Kill the Plough, save our soils'. Newsweek, 6 June 2014).*

We note the position of Wealden District Council on Carbon Neutrality. [www.wealden.gov.uk](http://www.wealden.gov.uk) states:

*'Under the climate emergency declaration, the council committed to work towards achieving net zero carbon emissions by 2050, for both the council's own operations, and the wider Wealden area and to pursue efforts to bring this date forward if possible'.*

We are mindful of the council's position and understand therefore that permitting this development and hence the excavation of ancient meadow with the associated consequences in terms of increased carbon emissions would be contrary to this.

Undeniably, research shows that returning agricultural land to permanent pasture could be a game changer in alleviating carbon emissions. Indeed, Khursheed, S, Simmons, C, Jaber, F, (2016), Glomalin – a key to locking up soil carbon, *Advances in Plants and Agriculture Research*, vol 4, issue 1. (2016), write:

*'Forests, croplands and grasslands around the world are potentially valuable for offsetting carbon dioxide emissions from industry and vehicles'*

What seems clear is that local councils need to be preserving and protecting ancient meadows, in a clear commitment to carbon neutrality.

## **6. Impact on rural businesses**

There are a number of rural businesses in the vicinity of the site for which the rurality, tranquillity and natural beauty of the landscape is vital to their commercial viability. An example of this is Bluecaps Farm recently described in Sussex Live News <sup>6</sup>as *"like no other in the area"* where guests can glamp in an *"idyllic environment"* and walk *"llamas through country lanes"*. The development would detract significantly from these features, harming the success of these businesses, including low impact tourism businesses which are being promoted as part of Wealden's tourism strategy in the High Weald AONB (Wealden's 'explore our nature' also includes neighbouring Bewl Rookery <sup>7</sup>). The proposed development is against the following objectives of the High Weald AONB Management Plan:

*LBE1 – to improve returns from, and thereby increase entry and retention in, farming, forestry, horticulture and other land management activities that conserve and enhance natural beauty;*

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<sup>6</sup> <https://www.sussexlive.co.uk/whats-on/whats-on-news/bluecaps-east-sussex-farm-you-7756903>

<sup>7</sup> <https://www.explorewealden.co.uk/explore-our-nature/bewl-rookery-alpacas-and-afternoon-tea-p1662831>

*Seek to retain capacity for land management within farmsteads.*

## **7. Design of site and dwellings does not conserve or enhance the High Weald AONB.**

As this is an outline application, we reserve full comment on the design of the site and dwellings. At this stage, we restrict our comments to stating that the design does not comply with the High Weald Housing Design Guide, and therefore fails to conserve and enhance the High Weald AONB or provide a sense of place.

The WDC Landscape Character Assessment 2022 defines landscape character as:

*“ a distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse...understanding the character of place and evaluating an area’s defining characteristic is a key component in managing sustainable growth and ensuring that the inherent character and qualities of Wealden’s landscape can continue to be appreciated. An understanding of character can be used to ensure that any change or development does not undermine whatever is valued or characteristic in a particular landscape and helps guide positive changes that conserves, enhances, restores, or creates local character.”*

The NPPF, para 130, requires that developments are *“sympathetic to local character and history, including the surrounding built environment and landscape setting...establish or maintain a strong sense of place.”* WDC policy EN 27 states *“the scale, form, site coverage, density and design of developments and use of materials and landscaping should respect the character of adjoining development and promote local distinctiveness.”* WDC policy EN6 states that *“development within the High Weald Area of Outstanding natural Beauty...will only be permitted if it conserves or enhances the natural beauty and character of the landscape. Particular care will be paid to the siting, scale, layout and design of development. In considering any proposals, particular regard will be had to: - (1) the landscape characteristics... (7) the traditional settlement pattern, building styles and materials.”*

The Wealden Landscape Character Assessment recommends that:

- New buildings reinforce and respond to local character in their scale, layout and design, reflecting the local vernacular in the use of materials;

- Development should draw on the principles contained within the High Weald AONB Design guidance, High Weald guidance on the selection and use of colour in development and objectives of the High Weald AONB management plan.



## Appendix

# The Affordable Housing Dilemma

### *Will you ever gain a foothold onto the property ladder*

The definition of affordable housing set out in the **National Planning Policy Framework (NPPF)** does not refer to the proportion of a household's income or earnings that should be spent on housing costs, meaning affordable housing is not accurately defined by a housing cost or value to you the buyer.

It may surprise you that many developments that promote affordable housing are not actually affordable at all, especially when reversed engineered to two average income people on a 4-5 times income to loan ratio. Add the time bomb of additional debt generated by **'Help to Buy Schemes'** which will need to be covered by re-mortgaging at a future date, then add interest payment hikes, low pay awards and our rising energy costs, thousands of homeowners may be at risk of losing their homes.

In more recent years one hears about joint ownership models with developers and other agencies, but again you are normally locked into paying a deposit, mortgage, and monthly rent. Another newly adopted term is **'Entry Level'** now cited in the **NPPF** and has been defined as first-time buyer housing under  $\leq$  £250K...

Another initiative to promote affordability was to speed up the planning application system and introduced a **'Permission in Principle'** process, restricted to 9 dwellings on sites under 1ha in size and has been around since 2016 but rarely used or promoted. This is quicker and less expensive than **Outline Planning** as less information need be deposited (stage one), but possible riskier for the compliance stage 2 the 'technical details consent' phase...

The point being is that upfront costs associated with gaining planning permission are extremely expensive in part due to consultation fees associated with specialist report writing, for everything from Newts to transport and sustainability, then the layout and designs all add to the end product costs and make affordable housing more difficult to achieve.

### **Self builds**

The champion promoter is **Kevin McCloud** and a must watch for any hopeful self-builder. Self-building is probably the most efficient way to get a decent home at an affordable price with one exception; the total lack of available building plots, spade ready plots or land suitable for development.

The typical bungalow demolition approach with a larger ground footprint has a very high up-front outlay, often needing sites to be split recovering some money, but may undermine having a decent garden and privacy. Another approach being garden infill, owned by a relative or parent is probably the most efficient way to proceed.

Another but riskier way to generate self-build plots is to purchase agricultural land, currently valued at about £11K an acre and upwards for horse paddocks, especially when close to services or adjacent to existing settlements. Planners would expect building densities of about 5 dwellings per acre or 12 per hectare as a minimum. If you do the maths excluding fees one could produce a building plot for just over £2K each, now that's a good starting point and is certainly more affordable.

Based on most settlements having very little land left that is suitable for future developments, some element of poor-quality agricultural land must be considered for residential building, especially when close to existing settlements. The government and their councils do have the right to make compulsory purchase orders and could pay agricultural prices and provide low-cost building plots as described above. To date this is simply not happening. The government said everybody should be entitled to a decent home but fail to apply this simplest resolution to encourage more self-builders and help stimulate inclusion by wealth.

### **Self-Build Opportunity**

As a **Chartered Builder** it has been decided to promote the agricultural self-build route and have applied for 12 detached ultra-modern bungalows near **Cousley Wood, Wadhurst**. 4 dwellings aim to be full cost 'open market' bungalows, from which any profits are used to subsidise the 8 **Entry Level** dwellings and their infrastructure. Open market means you will be less restricted, where **Entry Level** means you will be restricted from short term profiteering.

The **Entry Level** plots aim to be sold as spade ready building sites at agricultural land price without adding any land value uplift should planning be granted. This is key to maintaining the affordability element, where most funds should be spent on materials and labour and not on the initial land purchase. You need no building experience as we develop the dwellings for you.



If you are interested to know more about the model or want to be considered as a new self-builder, see WDC Planning Portal planning application, No.: WD/2022/0662/MAO or write to [owstmichael@gmail.com](mailto:owstmichael@gmail.com) ask for more information on becoming a 'Self-Builder'.

Mike Owst

Appendix A - Applicants Wealden Advertiser Advert

**NOTE PREPARED FOR WADHURST PARISH COUNCIL CONCERNING  
PARAGRAPH 11(d) OF THE NATIONAL PLANNING POLICY FRAMEWORK  
AND THE JUDGMENT IN *R (MONKHILL LTD) v SECRETARY OF STATE FOR  
HOUSING, COMMUNITIES AND LOCAL GOVERNMENT ET ANOR [2021]*  
EWCA CIV 74**

**Introduction & Background**

1) I am instructed on behalf of Wadhurst Parish Council to consider and advise on the position in respect of the decision in *R (Monkhill Ltd) v Secretary of State for Housing, Communities and Local Government et Anor [2021] EWCA CIV 74* (“*Monkhill*”) and how the Courts have interpreted para 11(d)(i) and para 176<sup>1</sup> of the National Planning Policy Framework (“NPPF”) in respect of Areas of Outstanding National Beauty (“AONB”).

2) The purpose of this Note is to provide the Parish Council with an understanding of the operation of para 11(d)(i) of the NPPF in respect of proposed developments to which it may have concerns would have an adverse impact on the local AONB. Wadhurst sits entirely within the High Weald AONB, compared to approx. 53% for Wealden overall. Moreover, as of the date of this Note, Wealden District Council is without an up-to-date Local Plan. Although it is working on a new Local Plan, currently proposals for development are caught by para 11(d) of the NPPF, citing the lack of a five-year housing land supply as an ‘exceptional circumstance’ to justify building on greenfield sites. This is (understandably) of particular concern to the Parish Council.

3) It is anticipated that this Note will be used to assist the Parish Council in the preparation of comments it may wish to make in respect of development until a point in time arises when development within and around Wadhurst is not caught by para 11(d) of the NPPF.

<sup>1</sup> Previously para 172 of the NPPF. This Note was prepared whilst the July 2021 Edition of the NPPF was/is in force.

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***Para 11 of the NPPF***

4) Para 11 of the NPPF provides:

*“11. Plans and decisions should apply a presumption in favour of sustainable development.*

*For **plan-making** this means that:*

*a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;*

*b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas[FN6], unless:*

*i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area [FN7]; 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.*

*For **decision-taking** 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 [FN8], granting permission unless:*

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*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 [FN7]; 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.”*

5) Footnote 7 of the NPPF (which can be found at 11(b)(i) refers to the policies “...in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.”

6) Footnote 8 of the NPPF (which can be found at para 11(d)(i) provides that the applications referred to are to include “...applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.” Whilst it seems that Wealden is unable to demonstrate a 5-year housing land supply (see para 2.38 of the “Five Year Housing Supply Statement – 1st April 2021”<sup>2</sup>) and does not have an up to date local development plan, from the June 2022 “Wealden Housing Action Plan”<sup>3</sup> it is noted that Wealden District Council’s HDT measurement for January 2022 was set at 82% (see para 2.8 of the Action Plan).

7) The “tilted balance” found within para 11(d) is designed to prevent (or at least discourage) a Local Planning Authority from relying on out-of-date local plans, not maintaining at least <sup>2</sup> <https://www.wealden.gov.uk/UploadedFiles/Five-Year-Housing-Land-Supply-Statement-1-April-2021.pdf> <sup>3</sup> <https://www.wealden.gov.uk/planning-and-building-control/planning-policy/housing-delivery-test-and-actionplan/> 4

5 years’ worth of housing land supply (now 3 where there is an up-to-date local plan that allocates housing sites) and not ensuring that a defined number of homes are delivered each year.

#### **Para 176 of the NPPF**

8) Para 176 of the NPPF provides that:

*“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads, and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas”*

9) The July 2021 Edition of the NPPF retains the high level of protection for AONBs, including the exceptional circumstances test for major development (as an aside (and discussed further below), what is meant by “major development” is a matter of planning judgment, rather than adherence with a strict definition or test. Footnote 60 of the current NPPF provides some guidance in respect of “major development”). For the purposes of para 176, the decision maker must reach a judgment, taking into account the nature, scale and setting of a development, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. The High Weald AONB Management Plan states that “*Its outstanding beauty stems from its essentially rural and human scale character, with a high proportion of natural surfaces and the story of its past*

*visible throughout. The extensive survival of woodland and traditional mixed farming supports an exceptionally well-connected green and blue infrastructure with a high proportion of semi-natural habitat in a structurally diverse, permeable and complex mosaic supporting a rich diversity of wildlife.”*

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### **Monkhill**

10) In *Monkhill*, the Court of Appeal considered the correct interpretation of paras 11(d)(i) of the NPPF<sup>4</sup>, together with para 172 (now 176).

11) Monkhill Ltd appealed against the refusal of planning permission for 29 dwellings in an AONB. The initial refusal by the LPA had been endorsed by both the Planning Inspectorate (on Appeal) and the High Court (Holgate J.).

12) The appeal concerned a single issue, namely whether the Inspector was wrong to interpret that the first sentence of (now) para 176 (“great weight should be given to enhancing landscape and scenic beauty” in an AONB) was a policy whose application could provide a clear reason for refusing planning permission under para 11(d)(i) of the NPPF.

13) The Court of Appeal concluded that the weight to be given to conserving AONBs set out (now) in para 176 was indeed capable of providing a clear reason for refusing planning permission – in accordance with para 11(d)(i) of the NPPF.

14) In considering the operation of the “tilted balance” found within 11(d)(i), it is worth noting Holgate J’s judgment in the High Courts at [39] in which he sets out a detailed 15-point analysis of the meaning and effect of the presumption in favour of sustainable development:

*“1) The presumption in favour of sustainable development in paragraph 11 does not displace s.38(6) of the 2004 Act. A planning application or appeal should be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise;*

*2) Subject to s.38(6), where a proposal accords with an up-to-date development plan, taken as a whole, then, unless other material considerations indicate otherwise planning permission should be granted without delay (paragraph 11(c));*

<sup>4</sup> As explained above, this was in respect of an earlier edition of the NPPF, however, as of the date of this note the relevant provisions remain the same – indeed, para 11(d)(i) has not been renumbered.

<sup>5</sup> [2019] EWHC 1993 (Admin)

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*3) Where a proposal does not accord with an up-to-date development plan, taken as a whole, planning permission should be refused unless material considerations indicate otherwise (see also paragraph 12);*

*4) Where there are no relevant development plan policies, planning permission should be granted unless either limb (i) or limb (ii) is satisfied;*

*5) Where there are relevant development plan policies, but the most important for determining the application are out-of-date, planning permission should be granted (subject to section 38(6)) unless either limb (i) or limb (ii) is satisfied;*

*6) Because paragraph 11(d) states that planning permission should be granted unless the requirements of either alternative is met, it follows that if either limb (i) or limb (ii) is satisfied, the presumption in favour of sustainable development ceases to apply. The application of each limb is essentially a matter of planning judgment for the decisionmaker;*

*7) Where more than one "Footnote 6" policy is engaged, limb (i) is satisfied, and the presumption in favour of sustainable development overcome, where the individual or cumulative application of those policies produces a clear reason for refusal;*

*8) The object of expressing limbs (i) and (ii) as two alternative means by which the presumption in favour of granting permission is overcome (or disapplied) is that the tilted balance in limb (ii) may not be relied upon to support the grant of permission where a proposal should be refused permission by the application of one or more*

*"Footnote 6" policies. In this way paragraph 11(d) prioritises the application of "Footnote 6" policies for the protection of the relevant "areas or assets of particular importance";*

*9) It follows that where limb (i) is engaged, it should generally be applied first before going on to consider whether limb (ii) should be applied;*

*7*

*10) Under limb (i) the test is whether the application of one or more "Footnote 6 policies" provides a clear reason for refusing planning permission. The mere fact that such a policy is engaged is insufficient to satisfy limb (i). Whether or not limb (i) is met depends upon the outcome of applying the relevant "Footnote 6" policies (addressing the issue on paragraph 14 of NPPF 2012 which was left open in R (Watermead Parish Council) v Aylesbury District Council [2018] PTSR 43 at [45] and subsequently resolved in East Staffordshire at [22(2)];*

*11) Limb (i) is applied by taking into account only those factors which fall within the ambit of the relevant "Footnote 6" policy. Development plan policies and other policies of the NPPF are not to be taken into account in the application of limb (i) (see Footnote 6). (I note that this is a narrower approach than under the corresponding limb in paragraph 14 of the NPPF 2012 - see e.g. Lord Gill in Hopkins at [85]);*

*12) The application of some "Footnote 6" policies (e.g. Green Belt) requires all relevant planning considerations to be weighed in the balance. In those cases because the outcome of that assessment determines whether planning should be granted or refused, there is no justification for applying limb (ii) in addition to limb (i). The same applies where the application of a legal code for the protection of a particular area or asset determines the outcome of a planning application (see, for example, the Habitats Regulations in relation to European protected sites);*

*13) In other cases under limb (ii), the relevant "Footnote 6 policy" may not require all relevant considerations to be taken into account. For example, paragraph 196<sup>6</sup> of the NPPF requires the decision-maker to weigh only "the less than substantial harm" to a heritage asset against the "public benefits" of the proposal. Where the application of such a policy provides a clear reason for refusing planning permission, it is still necessary for the decision-maker to have regard to all other relevant considerations before determining the application or appeal (s. 70(2) of the 1990 Act and s. 38(6) of the 2004 Act). But that exercise must be carried out without applying the tilted balance in limb (ii), because the presumption in favour of granting permission has already been*

*<sup>6</sup>Now paragraph 202 in the July 2021 NPPF.*

*8*

*disapplied by the outcome of applying limb (i). That is the consequence of the decisionmaking structure laid down in paragraph 11(d) of the NPPF;*

*14) There remains the situation where the application of limb (i) to a policy of the kind referred to in (13) does not provide a clear reason for refusal. The presumption in favour of sustainable development will not so far have been disapplied under limb (i) and it remains necessary to strike an overall planning balance (applying also s.38(6)). Because the presumption in favour of granting planning permission still remains in play, it is relevant, indeed necessary, to apply the alternative means of overcoming that presumption, namely limb (ii). This is one situation where the applicant for permission is entitled to rely upon the "tilted balance";*

*15) The other situation where the applicant has the benefit of the "tilted" balance is where no "Footnote 6" policies are engaged and therefore the decision-maker proceeds directly to limb (ii).*

*15) For clarification – "Footnote 6 policies" are those now listed under Footnote 7, found at*

para 11(b)(i) of the NPPF (and set out above).

16) Further, it is also worth noting Holgate J's "practical summary" found at [45] of his judgment. These points are set out to assist practitioners:

- *It is, of course, necessary to apply s.38(6) in any event;*
- *If the proposal accords with the policies of an up-to-date development plan taken as a whole, then unless other considerations indicate otherwise, planning permission should be granted without delay (paragraph 11(c) of the NPPF);*
- *If the case does not fall within paragraph 11(c), the next step is to consider whether paragraph 11(d) applies. This requires examining whether there are no relevant development plan policies or whether the most important development plan policies for determining the application are out-of-date;*
- *If paragraph 11(d) does apply, then the next question is whether one or more*

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*"Footnote 6" policies are relevant to the determination of the application or appeal (limb (i));*

- *If there are no relevant "Footnote 6" policies so that limb (i) does not apply, the decision-taker should proceed to limb (ii) and determine the application by applying the tilted balance (and s.38(6));*
- *If limb (i) does apply, the decision-taker must consider whether the application of the relevant "Footnote 6" policy (or policies) provides a clear reason to refuse permission for the development;*
- *If it does, then permission should be refused (subject to applying s.38(6) as explained in paragraph 39 (11) to (12) above). Limb (ii) is irrelevant in this situation and must not be applied;*
- *If it does not, then the decision-taker should proceed to limb (ii) and determine the application by applying the tilted balance (and s.38(6))*

17) Holgate J was very clear in his judgment at [51] that:

*"It is necessary to read the policy in paragraph [176] as a whole and in context. Paragraph [174] requires planning decisions to protect and enhance valued landscapes in a manner commensurate with their statutory status and any qualities identified in the development plan. Paragraph [176] points out that National Parks, the Broads and AONBs have "the highest status of protection" in relation to the conservation and enhancement of landscapes and scenic beauty. Not surprisingly, therefore, paragraph [176] requires "great weight" to be given to those matters. The clear and obvious implication is that if a proposal harms these objectives, great weight should be given to the decision-maker's assessment of the nature and degree of harm. The policy increases the weight to be given to that harm."*

18) As per the Court of Appeal in its judgment:

*"37. The "tilted balance", or positive presumption, under paragraph 11d) ii) is not available in every case where there are "no relevant policies" of the development plan or the "most*

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*important policies" in the plan are "out-of-date". It is deliberately disapplied in the situation provided for in paragraph 11d)i, where policies of the NPPF that "protect areas or assets of particular importance" – the footnote 6 policies – are engaged, applied and found to justify planning permission being withheld (see the first instance judgment in *Forest of Dean District Council v Secretary of State for Communities and Local Government* [2016] P.T.S.R. 1031, at paragraph 28). Otherwise, the "tilted balance" could work against the protection afforded by those policies and undermine them. This would not only be hostile to the evident objective of the policy in paragraph 11d)i. It would also be inimical to the explicit strategy of the NPPF itself for "sustainable development".*

*38. Under paragraph 11d)i, it is not enough that a footnote 6 policy, restrictive of development,*

*is engaged. The policy in question must actually be applied (see R. (on the application of Watermead Parish Council) v Aylesbury Vale District Council [2018] P.T.S.R. 43, at paragraph 45, and East Staffordshire Borough Council, at paragraph 22(2)), and its application must provide a “clear reason for [refusal]”. Only then will the “tilted balance” under paragraph 11d)ii be disapplied by the operation of paragraph 11d)i. If the policy in paragraph 11d)i is to be operated effectively, it is therefore essential that policies referred to in footnote 6 are not artificially excluded in the absence of clear words with that effect.”*

### **The Approach to the Major Development Test**

19) As set out at [9] above, what is determined to be “major development” is said to be a matter of planning judgment, reached following consideration of the development concerned and the relevant national (including the NPPF and the PPG) and local policies. It is not clear as to what criteria Wealden District Council uses to assess whether or not a proposal constitutes “major development” or what guidance is provided to Officers in respect of the “major development test” (“MDT”), but it is assumed that WDC are familiar with the judgment in *R (JH and FW Green Ltd) v South Downs National Parks Authority et al* [2018] and, indeed, the “Maurici Opinions” referred to within that judgment.

20) The Parish Council considers that the criteria used by Wealden District Council in this

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determination should include<sup>7</sup> (but is not limited to) whether a site:

- a) is contiguous with the development boundary;
- b) is in landscape designated and characteristic of the AONB;
- c) is bounded by development (rather than natural boundaries) for at least 75%; is abutting another potential or allocated site;
- d) extends the boundary beyond the existing build line; has features that detract from, or dilute, local character and distinctiveness; development would detract from, or dilute, local character and distinctiveness; has attractive natural features that would be affected by development;
- e) is visible from nearby public spaces;
- f) if built on would affect important views;
- g) is brownfield;
- h) has previously had planning applications refused because of the impact on the AONB or has the LPA previously determined that the development is either major or has a significant impact on the AONB.
- i) if built on, would have a detrimental impact on the landscape, environment or recreational opportunities.

21) All of the points above would clearly feed into the resulting planning judgement on the MDT; however, it is unclear as to whether or not Wealden District Council do consider such points.

22) Para 177 of the NPPF provides that in respect of AONBs, permission for major development should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

<sup>7</sup>The Parish Council has undertaken some research into the criteria and has identified a paper prepared by Woodcote Parish Council: “*What Constitutes Major Development in an AONB?*”. This paper was prepared by Woodcote Parish Council in support of its neighbourhood plan and can be found here:

<https://www.woodcoteparishcouncil.org.uk/lib/pagecontent/NP/Submission%20documents/What%20is%20major%20development%20in%20an%20AONB.pdf>

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23) As set out above, the Parish Council has undertaken some research into how the question of whether a proposed development could be major development for the purposes of paras 176 and 177 of the NPPF has been dealt with by Wealden District Council in the past.

Accepting that what amounts to a “major development” for the purposes of s.177 is a question of planning judgement, the HWAONB Management Plan does set out that planning policies must be consistent across the HWAONB and other AONBs, which all have the same protections, the majority of decisions identified by the Parish Council suggest that Wealden District Council is (to a degree) pre-disposed to accept that development within the AONB as not being “major”<sup>s</sup>, and on occasion some proposals present significant and sizeable developments (the largest being 35 dwellings – WD/2014/2320/MEA) being assessed as not being major development in the past. Whilst, as mentioned above, the definition is a question of planning judgement, this must be in line with common usage of the word ‘major’.

24) In APPQ3115/W/16/3146109, Land at Manor Road, Goring-on-Thames, Oxfordshire (decision of 21 September 2016 – attached to this Note) the Inspector considered whether the development represented major development and made the following comments:

*“17. The Framework, at paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. Paragraph 116 goes on to state that major developments in these areas should be refused except in exceptional circumstances and where it can be demonstrated they are in the public interest. I am satisfied that as a development of up to 35 dwellings, in the context of a Core Strategy requirement of some 105 dwellings, this represents a significant proportion of the total requirement that may be needed for the village and in these terms represents major development. Even with the requirement of the Core Strategy being out of date and the present indications that increases on a district wide basis would be required, the*

<sup>s</sup> It is noted that WDC does accept some development is major for the purposes of assessing affordable housing, by reference to the definition of “major development” found in Annex 2 of the NPPF which does not apply to paras 176 or 177 of the NPPF.

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*number of units proposed is likely to represent a significant proportion of any increase allocated to Goring village.*

*18. In terms of exceptional circumstances that appellant lists these and includes the additional housing provided in the absence of a 5-year housing land supply, the extent of the shortfall, the economic benefits and the necessity for Goring to make provision for housing to meet the overall strategic aim of directing development to larger villages, amongst other matters. These however are circumstances which would be relevant to any development in and around this location and are not exceptional circumstances. Whilst attention has been drawn to other housing sites around Goring the development plan and neighbourhood plan have not reached a stage where they can be afforded significant weight and I have no robust evidence to demonstrate the merits of one site against another in terms of the impact on the AONB in this locality.”*

25) Wealden District Council does find itself presiding over development in areas that are subject to significant constraints – 53% of the District is made up of the High Weald Area AONB. 7% falls within the South Downs National Park and the Ashdown Forest SAC and SPA is located to the northwest of the District and the Pevensy Levels Ramsay Site and SAC is found to the southeast. However, it is still tasked under the NPPF in looking to protect the AONB and in that regard the Parish Council may wish to look to emphasise, the recent case law on determination of major development and its reasonable interpretation of site context in its view on whether or not a proposal within the AONB is for a “major development” as per paras 176-177 of the NPPF .

### **The Current Position**

26) At the date of writing this Note, the Court of Appeal’s interpretation found within *Monkhill* in respect of how para 11(d)(i) operates remains good law. Holgate J’s “practical summary” is there to assist decision makers and gives clear guidance on the “tilted

balance”. Comments made by the Parish Council in respect of applications should raise these points, together (if appropriate) with those identified by Woodcote Parish Council and look to apply them to the applications concerned.

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27) The Court of Appeal in its judgment stated that:

*“37. The “tilted balance”, or positive presumption, under paragraph 11d) ii) is not available in every case where there are “no relevant policies” of the development plan or the “most important policies” in the plan are “out-of-date”. It is deliberately disapplied in the situation provided for in paragraph 11d)i, where policies of the NPPF that “protect areas or assets of particular importance” – the footnote 6 policies – are engaged, applied and found to justify planning permission being withheld. Otherwise, the “tilted balance” could work against the protection afforded by those policies and undermine them. This would not only be hostile to the evident objective of the policy in paragraph 11d)i. It would also be inimical to the explicit strategy of the NPPF itself for “sustainable development”.*

28) Given the clarity of the judgment in *Monkhill*, and the precedent it sets, failure by a decision maker to take into account the Court of Appeal’s guidance when considering 11(d) of the NPPF, could, and should, be considered to be a failure by the Council to take into account a clearly material consideration when assessing a planning application which could expose the decision maker to a successful challenge in the High Court.

**Simon Bell**

**Counsel**

**Clerksroom**

**14<sup>th</sup> October 2022**

## **Little Windmill Farm, Windmill Lane, Cousley Wood, Wadhurst**

### **WD/2022/0662/MAO**

Wadhurst Parish Council refers to a submission, from its legal counsel, which was sent under separate cover to WDC regarding the application of *Monkhill*, 2021. We enclose this submission along with this additional comment regarding the application listed above – to go alongside WPC’s original objection.

Further to this submission, the parish council is convinced that this site should be classed as a ‘Major’ development and this additional comment adds further justification to strengthen this conviction.

What is determined to be “major development” is said to be a matter of planning judgement, reached following consideration of the development concerned and the relevant national (including the NPPF and the PPG) and local policies.

It is not clear as to what criteria Wealden District Council uses to assess whether or not a proposal constitutes “major development” or what guidance is provided to Officers in respect of the “major development test” (“MDT”), but it is assumed that WDC are familiar with the judgment in *R (JH and FW Green Ltd) v South Downs National Parks Authority et al [2018]* and, indeed, the “Maurici Opinions” referred to within that judgment.

The Parish Council has undertaken some research into the criteria and has identified advice provided to LPA’s and Parish Councils in AONB’s and National Parks. From this research, Wadhurst Parish Council

considers that the criteria used by Wealden District Council in this determination should include (but is not limited to) whether a site:

- a) is contiguous with the development boundary;
- b) is in landscape designated and characteristic of the AONB;
- c) is bounded by development (rather than natural boundaries) for at least 75%; is abutting another potential or allocated site;
- d) extends the boundary beyond the existing build line; has features that detract from, or dilute, local character and distinctiveness; development would detract from, or dilute, local character and distinctiveness; has attractive natural features that would be affected by development;
- e) is visible from nearby public spaces;
- f) if built on would affect important views;
- g) is brownfield;
- h) has previously had planning applications refused because of the impact on the AONB or has the LPA previously determined that the development is either major or has a significant impact on the AONB.
- i) if built on, would have a detrimental impact on the landscape, environment or recreational opportunities.

Paragraph 177 of the NPPF provides that in respect of AONBs, permission for major development should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

The Parish Council has therefore constructed a checklist, using the above criteria and applied it to the above site that is currently being considered by WDC (please see below).

**WPC finds that a significant majority (14/ 14) of the criteria are met to suggest that this site should be classified as a 'major' development.**

WPC recognises the challenge of development in a district that covers a considerable protected area, with 60% of the area of Wealden either in the High Weald AONB or the South Downs National Park.

Nevertheless, Wadhurst is wholly within the AONB, so the district council is still tasked under the NPPF in looking to protect the AONB. It also has a statutory duty under the Countryside and Right of Way (CROW) Act, 2000, where Section 85 states that: '*In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*'.

Having demonstrated that this site should be classed as 'major', the WPC observes that *Monkhill*, 2021 remains good law. Given the clarity of the judgment in *Monkhill*, and the precedent it sets, failure by a decision maker to take into account the Court of Appeal's guidance when considering 11(d) of the NPPF, could, and should, be considered to be a failure by the Council to take into account a clearly material consideration when assessing a planning application which could expose the decision maker to a successful challenge in the High Court.

# WADHURST PARISH COUNCIL

## Wadhurst Major Applications Checklist – Little Windmill Farm (WD/2022/0662/MAO)

Criteria	Little Windmill Farm (WD/2022/0662/MAO)	
1. Is the site contiguous with the development boundary?	No	✓
2. Is the site larger than 0.5 hectares or 10+ dwellings are being provided?	Yes	✓
3. Does the development represent a significant proportion of the Core Strategy requirement?	Yes	✓
4. Is the landscape designated and characteristic of the AONB?	Yes	✓
5. Is the site bounded by development (rather than natural boundaries) for at least 75%?	No	✓
6. Does the site abut another potential or allocated site?	Yes	✓
7. Does the site extend beyond the existing build line?	Yes	✓
8. Does the site have features that detract from local character?	No	✓
9. Does the site have natural features that would be affected by development?	Yes	✓
10. Is the site visible from nearby public spaces?	Yes	✓
11. Would the development impact important views?	Yes	✓
12. Would the development detract from local character?	Yes	✓
13. Is the site brownfield (i.e. currently developed)?	No	✓
14. Have planning applications in the last 10 years been refused because of the impact on the AONB, or has the LPA previously determined that the development is either major or has a significant impact on the AONB?	Yes	✓
<b>Overall Assessment</b>	<b>(14 / 14 = ✓)</b>  <b>Major</b>	

Note: ✓ = criterion suggests development is 'major'; ✗ = 'Not major'.

A site is deemed to be 'major' based on a significant majority of factors meeting the criteria.

Notes relating to specific criteria:

1. Criterion 1 – it is contiguous with the conservation area but there's no development boundary in Cousley Wood
2. Criterion 2 – as per footnote on page 68 of July 2021 NPPF (adapted from Woodcote)
3. Criterion 3 – as per the Inspector's judgement on APPQ3115/W/16/3146109.
4. Criterion 6 – interpreted that if it *does* abut then it would be 'major'. Judgement made on the basis that the proposal is only on part of the site (and there have been previous planning applications on other parts of the site).
5. Criterion 9 – 'natural features' are defined to include hedges, routeways, greenways, meadows, trees as well as water bodies, hills, hillocks, plus wildlife habitats and corridors.

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6. Criterion 12 – ‘local character’ is defined as the local vernacular and building features that conform to design guides, including the Wealden Design Guide, the High Weald Design Guide and the Wadhurst Design Code (which is part of the forthcoming Wadhurst Neighbourhood Plan).
7. Criterion 14 – This includes SHELAA assessments that consider the site to be unsuitable for development, as well as previously applications (adapted from Woodcote)

## 8. Live planning applications – see agenda item 15.1 re Monkhill next steps

### 8.1 [WD/2021/0559/MAJ](#)

Weald Hall Residential Home, Mayfield Lane, Wadhurst, TN5 6HX

### 8.2 [WD/2022/0535/MAO](#)

Land to the north of Marling House, Station Rd, Wadhurst TN5 6RT

### 8.3 [WD/2021/2924/F](#)

The Boat House Bistro, Bewl Water, Bewlbridge Lane, Cousley Wood, Wadhurst, TN3 8JH.

### 8.4 [WD/2021/2925/F](#)

Bewl Water, Sailing Hut, Bewlbridge Lane, Cousley Wood, Wadhurst, TN3 8JH

Comment re 8.3 and 8.4 : **The WPC agreed to inform WDC/the inspector about the ‘Save Bewl’ petition which currently has over 60,000 signatures (<https://www.change.org/p/save-bewl-water-local-wildlife-site-from-development-protect-wildlife-and-natural-beauty>) and provide links to the Meridian News Coverage regarding this topic (<https://www.itv.com/news/meridian/2022-10-23/60000-sign-petition-against-development-at-south-east-s-biggest-reservoir> ). [ACTION Clerk]**

**The petitioner is meeting with Southern Water next week and it was agreed that Cllrs P Moore and Shairp would make an offer to join the meeting on behalf of the WPC. [ACTION Cllrs P Moore and Shairp.]**

### 8.5 [WD/2022/1610/MAO](#)

Land to the south of Cousley Wood Road, Sparrows Green, Wadhurst TN5 6SX

### 8.6 [WD/2022/0391/MAJ](#)

Land west of Styles Lane and south of High Street, Wadhurst, TN5 6DZ

**Cllrs Shairp, P Moore, C Moore had attended Wadhurst Castle following the kind invitation extended by of the owner for WPC Cllrs to view and better understand the potential impact of the proposed development on the Castle and its business. They thanked the owner for her time and noted that without visiting in person it was difficult to appreciate the historic garden design that affords the Castle unspoilt views and a sense of ‘being in the middle of nowhere’ despite its proximity to the village centre. The owner offered to show other officers and Cllrs from WPC and WDC should they wish and Cllrs agreed to write to WDC to encourage their committee members to visit for themselves. [ACTION Cllrs Shairp, P Moore, C Moore to draft for Clerk to send.]**

### 8.7 [WD/2022/2128/F](#)

CHITTINGHURST FARMHOUSE, TIDEBROOK ROAD, WADHURST, TN5 6PQ

### 8.8 [WD/2022/0662/MAO](#)

Little Windmill Farm, Windmill Lane, Cousley Wood, Wadhurst.

## 9. Appeals: [WD/2021/2047](#) & [WD/2021/2048](#) - Lady Meads House

Planning Inspectorate Ref: APP/C1435/D/22/3298664

Location: LADYMEADS HOUSE, BEWLBRIDGE LANE, COUSLEY WOOD, WADHURST, TN5 6HH

Proposal: INTERNAL AND EXTERNAL ALTERATIONS. REMODELLING OF THE ROOF TO THE MODERN KITCHEN EXTENSION.

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The Council refused to grant the necessary permission for the above site, and the reasons for refusal can be viewed on the Council's website at [www.planning.wealden.gov.uk](http://www.planning.wealden.gov.uk). The Planning Inspectorate has received notice of a planning appeal against this decision.

The Secretary of State considers that the written representations procedure be followed for this appeal. This procedure requires that those owners and occupiers of properties near the site and those who expressed a view at application stage be informed of the appeal and be given the opportunity to submit further views in writing. Please Note: Any views received in writing by the Council at the application stage will have been forwarded to The Planning Inspectorate, for the Inspector's attention.

**Deadline: 9<sup>th</sup> November 2022**

### **10. To consider any footpaths modification orders and make recommendations:**

Footpaths Right of Way Modification Order; claimed public right of way at Wadhurst, Stonebridge Wood and Oakwood. **Cllr Shairp declared an interest in this matter; deferred as the Committee was inquorate. ACTION: CLERK**

### **11. Planning control and High Street Enforcement: None**

**Breach of Conditions Notice: None**

### **12. To discuss Tree Preservation Orders: None**

### **13. Conservation areas: None**

### **14. Community Infrastructure Levy: None**

### **15. Policy/Correspondence/Consultations**

15.1 Monkhill Court of Appeal Judgment; to agree the next steps. – **the WPC approved the documents prepared by the Barrister, including the criteria considered 'major' by the WPC. The WPC agreed to use the checklist going forward and it was agreed to submit the checklist completed for active applications to WDC alongside the Barristers submission. ACTION Clerk to send to WDC as soon as possible.**

15.2 Wealden Landscape Character Assessment 2022 - **None**

15.3 Wealden Open Space Assessment Report 2022 - **None**

15.4 Wealden Playing Pitch and Outdoor Sport Strategy 2022 - **None**

15.5 Wealden Draft Wadhurst Conservation Area Character Appraisal 2020 - **None**

15.6 Correspondence from a parishioner re proposal for a new part-below ground property at Beech Hill Cottage – Cllr Murphy **(The member of the public who had sent in the correspondence spoke in the public forum for this item.)**

15.7 Wealden Working Group Against Over Development (WGD) - new support service and guidelines. - **None**

15.8 Parishioners comments on social media and WDC response – to consider a reply - **deferred**

15.9 High Weald AONB Management Plan Consultation 2024-2029 & Biennial Review - **none**

### **16. Items for Noting:**

**To consider notices of decisions received:**

**Certificate of Lawful Development: None**

**Raise no Objections: None**

**Prior Approval Required: None**

**Not Issued: None**

**Issued: None**

**Withdrawn: None**

### **Approvals:**

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## **Application No. WD/2021/3037/F**

Location: 1 WALTERS COTTAGES, WADHURST, TN5 6BG

Description: Construction of a new house in the grounds and subdivision of the land (revised house design and site layout to that approved under extant planning permission WD/2019/1357/F).

Decision: approved

*WDC response to Parish Council:*

- *The overall ridge height, scale and mass of the dwelling has been significantly reduced from that which was originally proposed. The proposed dwelling now has the appearance of a 'true' 1.5 storey dwelling/chalet bungalow.*
- *The balconies have been omitted and replaced by appropriately designed and detailed hipped roof dormers.*
- *It is not considered that the level of glazing incorporated within the proposed dwelling would materially increase the level of artificial light spill in this location, which forms part of an established residential area, to warrant refusal, especially considering the legitimate fall-back position of the previous approval.*

## **Application No. WD/2022/2097/F**

Location: SNAPE COTTAGE, SNAPE LANE, WADHURST, TN5 6NS

Description: replacement single storey rear extension

Decision: approved

## **Application No. WD/2022/1671/FA**

Description: removal of planning condition number 2 from application WD/2002/0880/F

Location: GREEN CAP NURSERY, SLEEPERS STILE ROAD, LOWER COUSLEY WOOD, WADHURST, TN5 6QX

Decision: approved

*Comment from WDC to WPC: Whilst this would result in the loss of an agricultural workers dwelling, as set out in the Officer Report, the previous decision of the Council to grant a lawful development certificate (reference WD/2022/0440/LDE) is material to the consideration of this application. This concluded that the use of the dwelling was in breach of the original occupancy condition imposed on the grant of planning permission (reference WD/2002/0880/F) and therefore the breach of the condition was therefore lawful*

## **Application No. WD/2022/1940/PO**

Description: removal of section 106 planning agreement dated 9th October 2002 attached to application WD/2002/0880/F (erection of a two-storey agricultural dwellinghouse with farm office).

Location: GREEN CAP NURSERY, SLEEPERS STILE ROAD, LOWER COUSLEY WOOD, WADHURST, TN5 QX

Decision: WDC has decided to REVOCATE THE SECTION 106 OBLIGATION

*Comment from WDC to WPC: Whilst this would result in the loss of an agricultural workers dwelling, as set out in the Officer Report, the previous decision of the Council to grant a lawful development certificate (reference WD/2022/0440/LDE) is material to the consideration of this application. This concluded that the use of the dwelling was in breach of the original occupancy condition imposed on the grant of planning permission (reference WD/2002/0880/F) and therefore the breach of the condition was therefore lawful.*

## **Application No. WD/2022/1992/FA**

Description: variation of condition 2 of WD/2020/2149/F (resubmission of a full planning application for the conversion and minor alteration of an agricultural building to create a residential dwelling house to include a change of use of land to residential) to increase height of building, replace weathered steel roofing of gambrel to fibre cement, replace stained timber cladding with corrugated weathered steel cladding, inserting new door on eastern elevation and replacement of high-level window with larger window on northern elevation.

Location: COMBE MANOR FARM, COOMBE LANE, WADHURST, TN5 6NU

Decision: approved

*Comment from WDC to WPC: The principle of development for the conversion of the building to a single residential dwelling was previously accepted by the Planning Inspectorate, who allowed the appeal (ref. APP/C1435/W/21/3275207) and granted planning permission under application ref. WD/2020/2149/F. The Inspector concludes at paragraph 15 of their appeal decision that:*

*"Overall, the proposed development would not cause harm to the character and appearance of the area, and would both preserve and enhance the special landscape character of the AONB".*

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*In respect of the level of windows and glazing proposed, the Inspector at paragraph 12 of their appeal decision states:*

*"In view of the size of the openings, I am not convinced that there would be a harmful impact on the inherently dark skies of the AONB and external lighting can be controlled by condition".*

*The proposed changes sought under this application would comply with the Council's guidance for minor-material amendments and would cumulatively not diminish the high quality of the development previously approved. The building would retain its utilitarian and agricultural appearance, and would conserve the character and scenic beauty of the prevailing High Weald AONB landscape.*

### **Application No. WD/2022/0630/F and WD/2022/1410/LB**

Description: internal alterations to main house for en suite bathroom and internal and external alterations and extension of existing annexe outbuilding to create glazed link to form kitchen/family room.

Location: OWLERS, COUSLEY WOOD ROAD, WADHURST, TN5 6EY

Decision: approved

### **Application No. WD/2022/2008/F**

Description: extension and external modification of the former dairy building at combe manor farm to create a new 3-bedroom dwelling, alongside the construction of an outbuilding to accommodate a biomass boiler and wood store, further to WD/2020/2149/F.

Location: COMBE MANOR FARM, COOMBE LANE, WADHURST, TN5 6NU

You recently commented on the above proposal and I now write to advise you that, after considering all the representations received, the Council has decided to **APPROVE** the above application on 13 October 2022.

*The majority of the works proposed, beyond those which were approved by planning permission WD/2020/2149/F, have already recently been consented by the Council under S73 (minor-material amendment application WD/2022/1992/FA). In addition to those approved works, this application seeks an extension to the gambrel section of the building, a total of 16.8m<sup>2</sup> or a 10% increase in the building's footprint, together with the installation of a single storey, green roofed outbuilding to house the biomass boiler plant and associated fuel store.*

*Saved Policy DC8 of the Local Plan, which permits the conversion of agricultural or rural buildings to residential use, does not prohibit extensions; however, is clear that they should not be 'significant'. In this instance, the proposed extension is considered to be minor and would be policy compliant. The proposed outbuilding would be well located in the courtyard of the building. Due to its overall siting, scale, mass and design, it would appear as a subordinate form of development to the existing building and would not cause harm to the character and appearance of the site or impinge on the rural scene.*

*The proposed materials were previously considered and accepted by the Planning Inspectorate, who allowed the appeal (ref. APP/C1435/W/21/3275207) and granted planning permission under application ref. WD/2020/2149/F. The Inspector concludes at paragraph 15 of their appeal decision that: "Overall, the proposed development would not cause harm to the character and appearance of the area, and would both preserve and enhance the special landscape character of the AONB".*

*Consequently, the principle of the conversion of the building to residential use, which included materials, fenestration and detailing, has already been accepted and deemed not to cause harm to the landscape and scenic beauty of the AONB. Therefore, there is nothing material in this case which would permit the Council to deviate from its previous decision.*

### **Application No. [WD/2022/1407/F](#)**

Description: single storey side extension.

Location: MYRTLE COTTAGE, TICEHURST ROAD, WADHURST, TN5 6NE

Decision: Approved

## **17. Urgent Issues at the discretion of the Chair for noting or inclusion on future agenda**

**Meeting ended 12:02 hrs**