

## DETERMINATION UNDER DELEGATED POWERS

<b>Application Number:</b> LW/18/0336	<b>Case Officer:</b> Mr Piotr Kulik	<b>Date Received:</b> 27 April 2018
<b>Site Address:</b> Unit 8 Sheffield Park Business Estate East Grinstead Road North Chailey	<b>Parish:</b> Newick	<b>Date Valid:</b> 9 May 2018
<b>Proposal:</b> Erection of No.2 business units for B1 (Office), B2 (General Industrial) and B8 (Storage and Distribution) and reduction to TPO area for maintenance purposes		<b>Consultation expiry:</b> 15 June 2018
<b>Applicant:</b> Epic Real Estates Ltd		<b>Recommendation Date:</b> 2 July 2018
<b>RECOMMENDATION:</b> That the Outline Planning Application is Refused		<b>Decision Due:</b> <b>4 July 2018</b>

### Decision Notice check list:

S106 Legal Agreement required BEFORE issuing Decision: **NO**

	Signature	Date
Recommendation Agreed by Senior Officer:		3/7/18

	Signature	Date
Decision Notice Checked by:		

### **Representations from Standard Consultees:**

The Woodland Trust – objects to this application on the grounds of direct loss to Wet Wood. This application contravenes both national and local planning policy and should be considered for refusal.

Tree & Landscape Officer Comments – An objection in principle is raised against the development sited within designated ancient semi-natural woodland which is also subject of a woodland classification Tree Preservation Order.

Environmental Health – No comment

ESCC Highways – It is considered that despite some omissions, the TS as submitted provides sufficient evidence to conclude that the proposed development is unlikely to have a detrimental impact on the local highway network. Therefore, I would not object to the application based on highways grounds, subject to conditions.

LDC Regeneration & Investment – The existing owners have demonstrated their commitment to the site through enhancing the existing estate. The scheme also accords with the Council's economic growth ambitions. We are therefore strongly supportive of this application.

Main Town Or Parish Council – Whilst noting that Newick Neighbourhood Plan policies LE1 and LE2 supported small scale expansion of local business premises including on this site, it was agreed to object to this planning application on the grounds that the proposed development would require the removal of part of an area of ancient woodland.

### **Other Representations:**

One letter objecting the proposed works has been received. The grounds for objection are the impact upon the Ancient Woodland, and the proposed works being contrary to planning policy.

### **Policies:**

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Due regard has been had to the following documents:

#### **The National Planning Policy Framework (NPPF).**

The NPPF came into force in March 2012 and sets out the Governments planning policies for England and how these are expected to be applied. The NPPF is a material consideration in the determination of planning applications.

#### **The Lewes District Local Plan (LDLP)**

The LDLP was adopted in March 2003. Some of its policies have now been replaced by the policies of the Lewes District Local Plan Part 1: Joint Core Strategy 2010-2030. Its remaining policies are currently under review and will eventually be replaced by the Local Plan Part 2: Site Allocations and Development Management Policies DPD.

#### **The Joint Core Strategy (LDJCS)**

The LDJCS was adopted by Lewes District Council in May 2016 and sets out the long term spatial vision for the district and will guide development and change up to 2030.

### **Any Neighbourhood Plans**

Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Paragraph 216 of the NPPF confirms that weight that can be given to emerging plans depending on their stage of preparation, extent of unresolved objections to policies, and the degree of consistency with the NPPF.

The relevant policies to this application are:

- Lewes District Council Local Plan: – ST03-Design, Form and Setting of Development
- Lewes District Joint Core Strategy: – CP4-Economic Development and Regeneration
- Lewes District Joint Core Strategy: – CP10-Natural Environment and Landscape
- Newick Neighbourhood Plan: – NNPLE1-Expansion of Existing Retail/Business
- Newick Neighbourhood Plan: – NNPLE2-New-build development of industrial unit

### **Officer Report:**

The site is located towards the extreme northern end of the District, to the east of the A275 and Sheffield Park Station (part of the Bluebell Railway) and to the west of the upper reaches of the River Ouse. The application site is a piece of land adjoining an existing Industrial Park in North Chailey. It sits with a designated Ancient Woodland (AW) site with TPO groups comprising of mixed hardwood trees. The woodland in question is known as 'Wet Wood' and part of it is designated Ancient Woodland in Natural England's Ancient Woodland Inventory.

This application seeks planning approval for the proposed erection of 2No. business units for B1 (Office), B2 (General Industrial) and B8 (Storage and Distribution), as well as reduction to the TPO area for maintenance purpose. The units proposed would have a total floorspace of 2,762 GIA. The existing Business Estate expansion on this particular piece of land was granted in the past (ref. LW/99/1037 and LW/04/2417), which was subject to a legal agreement. The site currently has approximately 144 staff, which is expected to increase by an additional 82 within the next 12 months. In addition to this, the proposed development will increase the number of staff working at the site by approximately 90 making a total of 299 employees.

The applicant has commissioned a detailed Market Assessment and Demand Study which has been submitted with the application. This study highlights the strength of demand for new commercial space across East Sussex, as well as demonstrating the need for greater provision locally to the site. It was also noted that there is insufficient capacity for existing businesses to expand, and so the provision of new space will not only create new employment but also safeguard existing employment. The Council's Regeneration Project Manager considers this Study to be a robust and realistic assessment of the current market, which supports our knowledge of demand in the northern part of the Lewes District. Whilst new space is being created within the Newhaven Enterprise Zone, he acknowledged that this will cater to a different market to Sheffield Park. The study also contains a letter of support from Coast to Capital LEP who acknowledges that the

proposal is in line with their Strategic Economic Plan and the Government's Industrial Strategy.

Nevertheless, the application site includes the area of Ancient Woodland which was designated in 2011, therefore requires full consideration of a number of issues (including ecology, trees and impact on ecosystems) before any encroachment into this area could be accepted. Although the site was granted permissions in the past for an industrial building on this particular wooded part of the total AW area (ref. LW/99/1037 and LW/04/2417), there has been change in planning circumstances since those permissions, and different considerations would apply to the current proposal. This designation as Ancient took place after the creation of Policy NW2 in the Local Plan 2003, thus is a material consideration that post-dates this policy and strongly controls any expansion of the site.

Policy NW2 (relating to Woodgate Dairy) of the Council's Lewes District Local Plan, which was 'saved' in the Joint Core Strategy 2016 but is which not compliant with NPPF (s118 in 11 Conserving and Enhancing the Natural Environment) states:

*"planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss....."*

As highlighted by the Council's Tree Officer, the submitted tree report does not appear to mention the ancient woodland designation or the extant tree preservation order and instead appears to focus on entirely on individual peripheral trees and the bundling the remainder of the trees into a group. No mention is made of woodland archaeology on the peripheral boundary. It is accepted that Individual trees within woodland may have low intrinsic value in themselves, but collectively they form part of an important woodland environment (both above and below ground) which is dynamic and going through the transitioning process of woodland habitat succession.

The woodland, historically known as 'Wet Wood', is designated 'Ancient Semi-natural Woodland' and was made subject to a Tree Preservation Order in 2016 in response to a threat of felling and development proposals and which was considered by the Council's Planning Applications Committee in 2016.

Generally, 'ancient woodland' is any wooded area that has been wooded continuously since at least 1600 AD. 'Wooded continuously' doesn't mean there has been a continuous tree cover across the entirety of the whole site or that the trees themselves are individually 'ancient'. Some ancient woods, however, may link back to the original woodland that covered the UK around 10,000 years ago, after the last Ice Age and because they have developed over such long timescales, ancient woods have unique features such as relatively undisturbed soils and communities of plants and animals that depend on the stable conditions ancient woodland provides, some of which are rare and vulnerable.

The Forestry Commission and Natural England's standing advice is:

*"Ancient woodland is an irreplaceable resource of great importance for its wildlife, soils, recreation, cultural value, history and the contribution it makes to our diverse landscapes. It is a scarce resource, covering only 3% of England's land area."*

For these reasons, where development is proposed, national and local policy exists for the protection of Ancient Woodlands. Paragraph 118 of the National Planning Policy Framework states:

*"planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;"*

The Council is under a duty to protect trees and impose Tree Preservation Orders and section 197 of the Town & Country Planning Act 1990 states:

*'it shall be the duty of the local planning authority to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made by the imposition of conditions, for the preservation or planting of trees'.*

Section 197 of the Act also states that:

*'..it shall be the duty of the local planning authority to make such Orders [Tree Preservation Orders] under section 198 of the Act as appears to the Authority to be necessary...'*

Likewise Section 40 of Part 3 'Wildlife' of the Natural Environment & Rural Communities Act 2006 states:

*"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those function, to the purpose of conserving biodiversity "*

The TPO includes the ancient woodland core and the surrounding secondary woodland some of which was originally planted in advance of the requirements pursuant to planning application LW/04/2417 and its associated s106 legal agreement (reference s106/0333A). The woodland category's purpose, therefore, is to safeguard the woodland as a whole and as a cohesive unit. While some trees may lack individual merit, all the trees within the woodland are currently protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made will also be protected by the Order so as to maintain continuity of the woodland and the amenity that it provides.

Policy NW2 (relating to Woodgate Dairy) of the Council's Lewes District Local Plan which was 'saved' in the Joint Core Strategy 2016 but is not compliant with the current NPPF (s118). The original Policy was dated prior to 1999 and a Woodland Landscape and Wildlife Management Plan prepared at the time was based on the idea that the woodland could be 'translocated'. It was thought that ecological elements of such sites could be physically moved to another location. This was sometimes known as "*habitat translocation*" and it is defined as the wholesale removal of a functioning habitat from one

area to another. Since that time, however, the Joint Nature Conservation Committee (JNCC), Natural England, the Forestry Commission and the Woodland Trust et al have all come out against any form of habitat translocation, particularly as a means of mitigation for habitat and biodiversity loss.

The JNCC's A Habitats Translocation Policy for Britain (2003) clearly states:

*"The translocation of habitats is considered by the statutory conservation agencies not to be an acceptable alternative to in situ conservation. The statutory conservation agencies will continue to make the strongest possible case against translocating habitats from within SSSIs and from ancient habitats (or other areas with significant biodiversity interest) elsewhere."*

It is therefore considered that the impacts on the AW caused by the proposal would include the direct loss of flora and irreplaceable ancient soils and a substantial change in the character of the woodland arising from the development and its ancillary services. As such, this is contrary to the principles set within the NPPF that consider any loss to be unacceptable.

Clearly, the value of ancient woodland is that it is ancient. The complex interrelationships between plants, animals, soils, climate and people have developed over centuries and, for that reason, the habitat is practically irreplaceable. Consequently, the loss and damage to this 'ancient woodland' is not outweighed by any need for, or benefits of, the proposed development. The need for and benefits of potential development in this location would not outweigh the loss of this habitat. It is therefore considered that these constitute relevant material considerations sufficient to outweigh the need for the current Industrial Estate expansion.

**Recommendation:**

Recommend that permission be refused under delegated powers.

**Reason(s) for Refusal:**

1. This decision relates solely to the following plan(s):

<u>PLAN TYPE</u>	<u>DATE RECEIVED</u>	<u>REFERENCE</u>
Existing Layout Plan	9 May 2018	830-15D
Proposed Layout Plan	9 May 2018	830-01E
Location Plan	9 May 2018	1:2500
Proposed Elevation(s)	26 April 2018	18-118-01

Additional Documents	26 April 2018	ECO SURVEY
Tree Statement/Survey	26 April 2018	TCP 01
Tree Statement/Survey	26 April 2018	TS 01
Travel Plan	26 April 2018	TSR 01
Additional Documents	26 April 2018	DEMAND STUDY
Additional Documents	26 April 2018	DEMAND STUDY SUP INFO
Additional Documents	26 April 2018	EDNA
Transport Assessment	26 April 2018	

Reason: For the avoidance of doubt and in the interests of proper planning.

2. It is considered that the impacts on the designated Ancient Woodland and Protected Trees caused by the proposal would include the direct loss of flora and irreplaceable ancient soils and a substantial change in the character of the woodland arising from the development and its ancillary services. As such, this is contrary to the principles set within the Paragraph 118 of the National Planning Policy Framework, which considers any loss to be unacceptable.

