

From: [REDACTED], East Wantley Barn, Northlands Lane, Storrington. RH20 3EZ

FAO Matthew Porter, HDC Planning

Objection to DC/26/0972 and DISC/26/0255

I object to DC/26/0972 (Appearance, Landscaping, Layout and Scale) and DISC/26/0255 (Biodiversity Enhancement Strategy) on the grounds of environmental law and NPPF non-compliance.

No pre-commencement condition for bat protection

The DC/24/2006 Habitat Regulations Assessment presented detailed requirements to mitigate the impact of the development on Barbastelle Bats – one of the UK's rarest bats. **However, the Decision Notice does not contain a specific bats pre-commencement condition.** It does for reptiles and dormice.

At the HDC Planning Committee meeting which approved Outline Planning Permission DC/24/2006 Storrington Ward councillors highlighted the measures required to protect the Barbastelle bats.

The case officer's response highlighted the presence of bats on site and stated that: "As part of the council's appropriate assessment, we've got a suite of mitigations that are recommended by both our consultant ecologist and the applicant's own ecologist, particularly around lighting avoidance and mitigation."

It is therefore of profound concern that no specific bat-related pre-commencement condition was included in the Decision Notice. Also note that the final sentences of the bat mitigation package state: "*This measure is considered appropriate to avoid adverse effects on the integrity of the interest features (Barbastelles) of The Men's SAC. **These will be secured by a condition of any consent.***"

Fortunately Condition 25 does provide a backstop requiring *Conservation of Habitats and Species Regulations 2017 (CHSR 2017)* compliance.

Equally concerning is that neither the Design and Access statement nor the Biodiversity Enhancement Strategy contain any reference to the Barbastelle-related mitigations set out in the HRA. The presence of these bats is not mentioned in either document. I fail to understand how an effective Biodiversity Enhancement Strategy can be produced without referring to the HRA and the supporting bat surveys undertaken for the outline planning permission stage.

The design of the development and the biodiversity enhancement strategy does not appear to have addressed any of the bat-related mitigation requirements set out in the HRA or provide evidence to demonstrate that these requirements have been met. As a result, the application does not to meet the legal requirements set out in *CHSR 2017*. **The application is unlawful. It should therefore be refused.**

The following evidence focuses on non-compliance with HRA and NPPF, relating to the design near the Eastern Boundary, but there may well be other non-compliances not addressed within this objection.

Breach of Habitat Regulation Assessment (HRA) Conditions

The current proposals violate the statutory parameters of the Council's Habitats Regulations Assessment (HRA). As a matter of law, the Council cannot discharge condition **DISC/26/0255** or approve layout **DC/26/0972** while these conflicts remain, as doing so would breach *CHSR 2017*.

Intent to breach of the HRA "No Severance" and Habitat Retention Baseline

The HRA explicitly screened out an Adverse Effect on the Integrity of the nearby Barbastelle bat colony based on a binding legal prerequisite submitted as part of DC/24/2006: *"It is our understanding that no trees have been removed as part of this development and there will be no severance to the flight lines of foraging or commuting bats or removal of habitat within the site."*

The Design and Access Statement (DAS) and layout plans show an intent to breach this baseline. The DAS explicitly states in the design evolution section:

Eastern Edge: **The development required a future access route to the adjacent field**, in addition to accommodating an existing [REDACTED] set, which necessitated a 30m offset.”

A vehicular road stub is incorporated in the design to allow for this.

- **The Legal Conflict:** Constructing a vehicular road at a future time through the eastern boundary forces the physical removal and structural puncture of a species-rich hedgerow and mature tree line.
- **The Impact:** For cover-reliant, low-flying Barbastelle bats, this constitutes a definitive **severance event** of a primary commuting corridor. Because the layout explicitly introduces a requirement for habitat removal and flight line severance, the underlying legal mechanism allowing the HRA to screen out significant adverse effects is invalidated.

The issue is compounded by failure of the Dark Corridor Mandate

The HRA's avoidance measures depend on maintaining a strict **Wildlife-Sensitive Lighting Strategy**. This mandate applies legally to *all* key green infrastructures and foraging zones connecting the West Wantley site to the wider network, including the entire eastern boundary line and the conifer plantation/scrub blocks on the eastern side.

The submitted design is legally flawed because:

- the design has a number of houses facing East-West (33-40) adjacent to the eastern boundary, with no boundary treatment to screen the boundary from the domestic lighting.
- The road through the development is predominantly East-West, without any treatment to prevent vehicle lights from illuminating the eastern boundary.
- The eastern boundary is hedgerow, interspersed with mature trees, leaving a number of significant screening gaps, especially above head height. During autumn, winter, and early spring leaf-fall, the visual and physical density of this boundary drops significantly. Internal residential light, street lighting, and dynamic vehicle headlights from the south-east corner of the development will spill directly through the bare vegetation illuminating the vegetation and trees in the adjacent field.
- **The HRA Violation:** This light spill means the eastern boundary will fail to maintain the 0-lux dark corridor threshold. This light pollution will disrupt the bats' emergence

behaviour and fragment their commuting network, directly failing the HRA's mitigation test.

The applicant has failed to comply with Condition 17 and 25 of the outline planning permission

As highlighted above the DC/24/2006 Decision Notice has no explicit pre-commencement condition relating to the bat-related mitigations highlighted in the HRA. However, condition 17 and 25 provide 'backstop' cover for that omission. Nevertheless, the Council has a legal duty to ensure that a comprehensive mitigation scheme for Barbastelle bats be approved prior to commencement. Otherwise it will fail to meet its obligations under the CHSR 2017 and section 40 of the *Natural Environment and Rural Communities Act 2006* (NERC 2006).

The council's legal duties with respect to the HRA.

I would like to remind the council of their strict legal duties. Under UK case law (reinforced by the landmark Supreme Court ruling *C G Fry & Son v MHCLG*), HRA requirements legally apply to the discharge of conditions stage. The council has a strict statutory duty as a "competent authority" to ensure absolute ecological certainty before signing off.

The bio-diversity enhancement plan contains no specific measures to protect and enhance the habitats of Barbastelle Bats – one of the UK's rarest bats.

The proposed biodiversity enhancement plan appears to be entirely generic. The HRA highlights the specific measures which need to be taken, in line with Bat Conservation Trust guidance, to protect and enhance Barbastelle bat habitats and dark foraging corridors.

Compounding light impacts affect designated heritage assets and an intrinsically dark wider landscape.

The eastern boundary is a hedgerow interspersed with mature trees – see the photo below taken from the adjacent field.. It will not provide contiguous, year-round screening. The current design will result in domestic and vehicle lights from the houses in the SE corner of the development being visible over a wide area to the North-East and East, especially after leaf-fall.



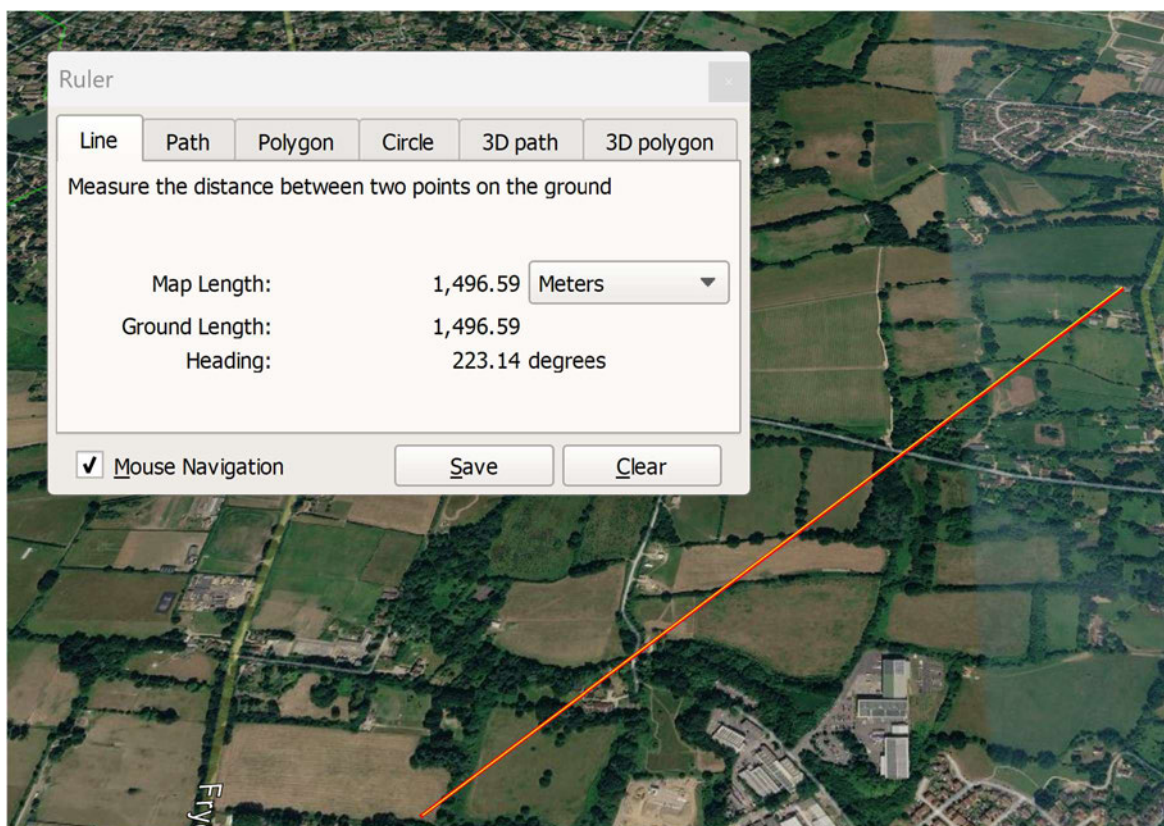
The design and access statement highlights the presence of Grade II Listed East Wantley Farmhouse and Barn approximately 250m away to the NE of this corner of the development. These heritage assets currently enjoy an ‘intrinsically dark landscape’ with only 4 lights visible across the wider 360 degree landscape. This is demonstrated by the photo taken from East Wantley Barn in the winter. Only 1 light is visible (extreme left) across the southern view towards Melton Drive, with the Orion constellation clearly seen.



.NPPF Aug 2026 defines intrinsically dark landscapes as being “entirely, or largely, uninterrupted by artificial light”. That is the case here. The design fails to consider the harm to East Wantley’s setting and it’s place within an intrinsically dark landscape. Lights from the 2 storey houses (33-40) and vehicles using the access road will become visible

from East Wantley – especially once leaf fall has occurred. Glint off solar panels is also likely to be a problem. This appears to be a non-compliance with NPPF Aug 26 P3(2)e which aims to “Limit any adverse impact from artificial light on local amenity, intrinsically dark landscapes ... and nature.” . Historic England’s setting guidance needs to be applied at the design stage.

Close inspection of the sight lines highlights that these lights will also be visible from the outskirts of Thakeham some 1500m to the NE at one end of the elevated ridge footpath which runs east-west, some 1km north of the development. The lights will also be visible along considerable stretches of this footpath.



The lights will also be visible from:

- the footpath east of the development which runs north-south from Downsview Avenue to East Wantley within a Bluebell woodland strip, especially after leaf fall.
- The footpath which runs between East and West Wantley.

If light pollution from the south-east corner will be visible from 3 different footpaths out to a distance of 1.5km and neighbouring historic properties, it highlights that light spill will radiating outward into the wider valley environment. This confirms that the developer has failed to achieve the strict **local containment of light** required under a legally compliant Wildlife-Sensitive Lighting Strategy.

The Council should ensure that lighting, including domestic and vehicle lights conforms to this strategy and the following NPPF Aug 26 requirements:

- P3(1) — assess the effects, including cumulative and off-site effects;
- P3(2)(b) — avoid unacceptable artificial-light pollution on or beyond the site;
- P3(2)(e) — specifically limit adverse effects on local amenity, intrinsically dark landscapes and nature.

Noise, dust and vibration disturbance

In addition to being dark, East and West Wantley are also quiet. These tranquil places are enjoyed both by residents and those using the adjacent rights of way. The noise, dust and pile-driving vibration created during the construction phase needs to be properly managed. These issues affect both the setting of, and potentially have a physical impact on, the heritage assets. For example: construction hours need to be strictly enforced and the artificial noise from reversing construction vehicles, pile-driving and dumping materials needs to be strictly controlled to limit the disturbance and not create excessive vibration.

The Council should ensure that noise is properly controlled and mitigation measures strictly enforced, particularly during the construction phase, to ensure compliance with:

- NPPF August 2026 Policy P3(1) – location, cumulative pollution, health, living conditions and natural environment;
- P3(2)(a) – healthy living conditions / noise and quality of life;
- P3(2)(b) – unacceptable noise pollution on or beyond the site;
- P3(2)(d) – minimise noise, significant observed adverse effects and protect tranquillity.

The personal impact

East Wantley is intrinsically dark and quiet. A couple of years ago a nightingale nested in the eastern boundary of the proposed development. It could be clearly heard in East Wantley. It's presence is recorded on the iRecord database., It's song was magical, highlighting the lack of disturbance along this boundary which the Barbastelle will use for foraging. These bats, and the intrinsically dark undisturbed landscapes they fly in, are rare. They must be protected. The design of this development does neither.

Conclusion and Statutory Remedy Required

Under UK planning law, where a development plan conflicts with the findings of a statutory Habitats Regulations Assessment, the HRA parameters must take legal precedence.

The current application should be refused as it does not comply with CHSR 2017.

The Council should introduce a bat-related pre-commencement condition to ensure compliance with its statutory duties under CHSR 2017 and NERC 2006.

To prevent a clear legal challenge under the Habitats Regulations, the Council must refuse to discharge these conditions until the developer has complied with the bat mitigations required in the HRA. Specific measures include::

1. **Deleting the vehicular "future access" stub entirely** from all layout, circulation, and engineering plans.
2. **Re-designing the eastern buffer** as a dedicated, non-vehicular, unlit, dark green infrastructure zone managed exclusively for biodiversity under the LEMP.
3. **Mandating and maintaining a legally binding evergreen structural planting scheme** (using dense native species like Holly, Yew, and Ivy understories) along the entire eastern edge to guarantee 365-day physical light containment.
4. **Requiring a Winter Light Simulation Plot** to model a "worst-case scenario" (zero leaf cover) to legally prove that 0-lux containment is achieved along the entirety of the eastern and northern foraging perimeters.

The design also needs to have regard for the setting of both West and East Wantley's heritage assets and protect the environment from light and noise pollution in the wider landscape - in accordance with NPPF policies. The intrinsically dark and quiet section of the valley they sit within should be protected, and the impact on enjoyment of public rights of way close to the development and in the wider landscape must be minimised.

Kind regards,

