

**TOWN AND COUNTRY PLANNING ACT 1990**

**SECTION 78**

**PLANNING AND COMPULSORY PURCHASE ACT 2004**

**APPEAL BY TAYLOR WIMPEY UK LTD (FORMERLY TAYLOR  
WOODROW DEVELOPMENTS LTD)**

**Appeal against the decision of Wealden District Council to refuse outline  
planning permission for a mixed use scheme comprising 300 dwellings (including  
30% affordable housing) 930m<sup>2</sup> of B1 business use, formal and informal open  
space, access roads and highway improvements including footpaths, landscape  
proposals and environmental enhancements**

**On land at Bird in Eye (North), Framfield Road, Uckfield, East Sussex**

LPA Reference: WD/2006/2173/MEA  
PINS Reference: APP/C1425/A/07/2042597/NWF

---

**OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT**

---

**PETER VILLAGE QC**

**ROBERT WHITE**

**4-5 Gray's Inn Square  
Gray's Inn  
London WC1R 5AH**

**[www.4-5.co.uk](http://www.4-5.co.uk)**

**January 2008**

## Introduction

1. The appeal proposals at Bird in Eye North comprise the following elements:
  - 300 dwellings, including 30% affordable housing;
  - B1 business uses (approx 930m<sup>2</sup>);
  - Highway improvements to existing roads, coupled with pedestrian and cycle facilities;
  - Provision of formal and informal open space for recreation and leisure, along with provision for habitat creation and protection;
  - Comprehensive surface water drainage strategy; and
  - Landscape proposals and environmental enhancement.
2. The application is in outline form, with all matters reserved except access into the site. A design and access statement forms part of the appeal documents indicating the design principles governing the development; house type and mix; an indicative layout and disposition of the buildings; and minimum and maximum building sizes. The application was accompanied by an ES to allow the decision maker to assess fully the environmental impacts of the development.
3. The appeal site itself is well related to the existing settlement boundary of Uckfield, being located immediately south of the railway line, and east of existing residential, retail and commercial development along Framfield Road. Uckfield itself is a town with extensive facilities and good public transport connections to the wider area.
4. As such, the scheme represents mixed use development in a sustainable location in a town which is identified by development plan policy as being suitable for accommodating major new housing development.
5. The Appellant's evidence will demonstrate that there is a chronic, and immediate, need for new housing (including affordable) to be delivered within

Wealden District, that Uckfield is the most appropriate settlement where housing growth should be accommodated, and that the appeal site is the site best placed to meet the identified need.

6. It will be shown that there is insufficient previously developed land, either within or outwith settlement boundaries, to accommodate the necessary "step change" in delivery of new housing required to eliminate the housing deficiency in the District<sup>1</sup>, and that it is inevitable that large Greenfield releases will have to be made. This has already been recognised by WDC through the release of (what on any reasonable assessment are) far less sustainable and appropriate green field sites. In such circumstances, the principles of sustainable development require the impacts of such development on the environment, ecology and the character of the area to be minimised as far as possible<sup>2</sup>. It will be shown that development on the Appeal Site can be undertaken in such a way that it effectively protects the environment and makes prudent use of natural resources<sup>3</sup>.

#### **The Need for additional housing in Wealden District**

7. PPS 3 requires Wealden District Council ("the Council") to demonstrate that it has a continuous 5 year supply of land for new housing<sup>4</sup>. It should be stressed at the outset that the onus is placed firmly on the Council to demonstrate that it has such a 5 year supply of housing. The importance of the 5 year supply is made clear by the Government in para 71 of the PPS: where the Council is unable to demonstrate an up to date 5 year supply of deliverable sites, it should "consider favourably" planning applications for new housing, having regard inter alia to the policies in the PPS.

---

<sup>1</sup> WDC Cabinet Report 1/8/07

<sup>2</sup> See PPS 1

<sup>3</sup> Contrast the appeal site with Downlands Farm, which, by virtue of its landscape impacts, adverse impact on ancient woodland and ecological interests, represents a profligate use of natural resources and, thus, development which is wholly unsustainable

<sup>4</sup> PPS 3 para 7

8. The Council is unable to show the required 5 year supply. To aid the inquiry, the Appellants have produced a joint statement on housing land supply<sup>5</sup>. TW's approach to the calculation of HLS is fully set out in that document and does not need to be repeated in these submissions. The calculations demonstrate that when assessed against either the adopted Structure Plan housing requirement or the emerging South East Plan requirement, the Council's supply of deliverable housing land falls woefully short. The shortfall is, we submit, nothing short of extraordinary: 3123-2753 against SP requirements and 1761-1391 against SE Plan requirements<sup>6</sup>. In terms of a 5 year supply, this represents 2.4-2.1 years against Structure Plan requirements and 3.3-2.8 years against SE Plan requirements<sup>7</sup>.
9. On either basis, the supply of land is inadequate and in accordance with para 71 of PPS 3, additional land should be brought forward in order to address the shortfall. This is a material consideration which significantly weighs in favour of the appeal proposals.
10. Whilst agreed by the Appellants, the approach to the calculation of housing land supply and the need for additional housing land to be made available now does not appear to be agreed by the Council's planning witness. This is at odds with the position of the Council's Cabinet which, as we have already indicated, identified only as recently as 1/8/07 that "the scale of housebuilding required to eliminate the housing deficiency in the District will require a step change in delivery".
11. The Council's witness places significant reliance in the supply calculation on sites "allocated" in the Wealden Non-statutory local plan. TW fundamentally disagrees with this approach. To do so is to seek to elevate "allocations" in the non-statutory plan to the same status as sites allocated in adopted local plans, but the non-statutory plan is self-evidently not of equal status. It has not been through independent scrutiny, tested by an inspector, and thus can only have

---

<sup>5</sup> JW Appendix 1

<sup>6</sup> Ibid para 6.1

<sup>7</sup> Ibid para 7.1

limited weight. TW is of the view that no allowance should be made for “allocation” sites in the non-statutory local plan where no planning applications have been made. Such an approach is consistent with the advice in paragraph 54 of PPS 3, which states that sites must be identified to be deliverable ie available; suitable and achievable. Once again, PPS 3 firmly places the burden on the Council to demonstrate that its identified sites are deliverable and fulfil the above requirements. Allocated sites in the non-statutory plan plainly do not.

12. TW is of the view that there is a chronic need for new housing in the District, and agree with the Council’s Cabinet that a step change in delivery of housing is required. Allowing the appeal will help address the shortfall in line with the advice in PPS 3.

13. It is equally relevant that the Council has identified a shortfall not only in general housing but also in the provision of affordable housing. As the Cabinet Report identifies, the delivery of approximately 1300 affordable homes is a “key corporate priority” of the Council. This priority is unable to be met on current trajectories. The grant of planning permission at BIE North will make a significant contribution to the provision of affordable housing, by delivering 90 affordable homes. Once again, that is a factor which weighs heavily in favour of the appeal proposals.

#### **Uckfield is the most sustainable location for new growth**

14. In the event that it is concluded that additional housing land is required, TW submits that the most appropriate location within the District to accommodate new housing growth is the settlement of Uckfield. This submission is supported by adopted and emerging development plan policy.

15. The adopted Structure Plan identifies a sequential approach to the location of new development. That sequential approach identified the towns of Uckfield, Hailsham and Polegate as the most sustainable locations for further growth<sup>8</sup>.

---

<sup>8</sup> Structure Plan paras 4.14 & 6.12

16. Of these, Uckfield is unquestionably the most sustainable. It serves as a local employment centre<sup>9</sup> and provides a retail and service base for the surrounding rural area. It has good rail connections. It is identified in the Structure Plan for a potential strategic housing allocation to be implemented 2006-2011 and that its functions as a residential, employment, shopping and service centre will be developed<sup>10</sup>.

17. The emerging RSS continues the policy support for Uckfield as a preferred location for housing growth. Of the housing directed to Wealden district during the plan period, 600 dwellings should be provided for by means of planning growth at Uckfield<sup>11</sup>. The Panel identified the sustainability merits of Uckfield as follows:

- It is the only sizeable town outside the AONB;
- It has a relatively high level of local jobs (6,250) and a diverse range of jobs within commuting distance;
- It is identified in the Structure Plan for a potential strategic housing allocation.

18. Uckfield, therefore, is to be regarded as the most sustainable town to accommodate new growth. However, there is no available PDL within the town which can accommodate the required level of development. Thus it is inevitable that any new development will be located outside the town's current boundaries.

19. The evidence will demonstrate that Bird In Eye North is a highly sustainable and suitable location to accommodate new mixed-use development within Uckfield.

### **The Planning Merits of the Appeal Site**

20. In landscape terms, it is a site which lies within the strong visual enclosure of the Uck valley. Of necessity, this means that the development will be visible

---

<sup>9</sup> In particular it has two principal business areas at Bellbrook & Ridgewood-see WBP 2

<sup>10</sup> SP Policy 22

<sup>11</sup> RSS Panel Report para 26.41

from parts of the town to the north of the appeal site, but that is not harmful to the setting of the town or the landscape character of the area. For the reasons given by Mr Cooper, new development should take place, as a priority, within the existing "bowl" landform of the town, and, because of the attractive character of the countryside surrounding the town, care should be taken to avoid outward facing development, beyond ridgelines or woodland boundaries. There is no reason in landscape terms for refusing planning permission for development at BIE North.

21. The appeal site is well related to the existing facilities within the town, being a short walk<sup>12</sup> from the rail station, bus station, supermarkets and town centre shops and services. In addition, the site is adjacent to the more local facilities provided along Framfield Road<sup>13</sup>. Thus, development at this location will provide the opportunity for trips to be made by modes other than the car, and, in particular, by walking. In this location, the site's proximity to local facilities means that it is entirely unnecessary for TW to provide a pedestrian/cycle river crossing north of Bird in Eye. However, TW is willing to make land available to the County Council to enable such a link to be provided if thought to be desirable in due course.
22. As set out in the evidence of Mr Russell, TW is prepared to provide a package of transport measures to further enhance the accessibility of the site by walking and cycling. These include a new foot/cycle path linking the site on its western boundary with Framfield Road; a new parking scheme for Framfield Road; and a series of measures to enhance pedestrian facilities along Framfield Road. These have been devised in collaboration with East Sussex County Council and their consultants.
23. The planning application was accompanied by a full Transport Assessment, whose scope had been discussed and agreed with the highway authority prior to submission of the application.

---

<sup>12</sup> 20 min walk: APR para 3.2.2

<sup>13</sup> APR para 3.2.1

24. In assessing the traffic impact of the development on existing junctions within the town, a robust trip rate of 0.87 vehicles 2-way in the am peak was used. Two junctions on the High Street either operate near to capacity in the design year, with and without development, (Framfield Road/High Street), or over capacity (Bell Lane/High Street). In terms of the former junction, even using this robust trip rate, the development only adds 2-3 additional vehicles per minute to existing traffic.
25. Notwithstanding the limited impacts of the development on the operation of these junctions, it is recognised that the town experiences congestion at certain times and TW has sought to mitigate the impact of development traffic on the traffic in the High Street. Consultants appointed by ESCC have constructed a traffic model for the town centre in order to develop and test potential traffic management and highway solutions for the town centre. Three schemes are being considered. TW believes that it has been agreed by ESCC and their consultants that, under each of the 3 options, with the introduction of the traffic flows generated by BIE (North and South), the town centre highway network and junctions would operate within acceptable levels of capacity.
26. Further, TW understands that, subject to funding, the highway authority and the Council are committed to the development of a town centre highway improvement scheme. TW is prepared to make appropriate contributions to such a scheme, strictly in line with the principles set out in Circular 05/05. In particular it will expect to make the same pro rata contributions that the Council required of other sites in Uckfield, "allocated" for development in the non-statutory plan and which have been granted planning permission.
27. In the event that the town centre scheme does not progress for whatever reason, that should not be used as an excuse to stymie growth in this sustainable town. There is an interim "bridging" solution under consideration by ESCC which TW is prepared to contribute towards, again, strictly in accordance with the advice in Circular 05/05.

28. Finally, TW has developed a Green Travel Plan for the development, for both the residential and employment uses proposed. This will further encourage modal shift from the private car to other modes of transport. This will be secured by condition.
29. TW has demonstrated through its ecological assessment that there are no ecology impediments to the development of the site. In particular, the appeal proposals have been designed to preserve the majority of the hedgerows and retain the ancient woodlands in the east and west with appropriate buffer zones to minimise indirect effects. It is anticipated that this reason for refusal will be resolved through the imposition of conditions.
30. The appeal site lies adjacent to a small industrial site. The development proposals have been carefully formulated to ensure that the new development will be compatible with the existing industrial development. This can be achieved through the final design and layout of the scheme. Dr Cogger's evidence demonstrates that there is no in principle noise reason why the proposed development should not take place at this location. No such in principle concern is raised by WDC's witness. Again, it is expected that this reason for refusal will be resolved through the imposition of appropriate conditions.
31. Thus it will be demonstrated that the appeal site is an appropriate location to accommodate the proposed development. Planning permission should be granted at Bird in Eye North.
32. The Appellant's evidence will demonstrate that in the event that, the Secretary of State concludes that only one appeal should be allowed, of the three sites represented at this inquiry, Bird in Eye North should be the preferred choice for new development. In particular, it will be demonstrated that the development proposed at Downlands Farm will cause harm to interests of acknowledged importance, including landscape character, visual impact, and ecology of the area, and that it is the least suitable of the 3 sites.

**PETER VILLAGE QC**

**ROBERT WHITE**

**15 January 2008**

**4-5 GRAY'S INN SQUARE**

**GRAY'S INN**

**LONDON WC1R 5AH**