



**IN THE MATTER OF  
THE TOWN AND COUNTRY PLANNING ACT 1990**

**AND IN THE MATTER OF  
LAND AT DOWNLANDS FARM, BIRD IN EYE NORTH & BIRD IN EYE  
SOUTH, UCKFIELD, CONJOINED APPEALS.**

**APP/C1435/A/07/2046982**

**APP/C1435/A/07/2042597**

**APP/C1435/A/07/2053422**

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**OPENING SUBMISSIONS  
ON BEHALF OF  
WEALDEN DISTRICT COUNCIL,  
THE LOCAL PLANNING AUTHORITY**

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**Introduction and housing land supply:**

1. These submissions are made on behalf of Wealden District Council ("WDC") as local planning authority, in respect of three conjoined appeals for (principally) residential development, at Uckfield, totalling 1250 units.
2. These 1250 units would come on top of 400 units allocated in the Non-Statutory Wealden Local Plan ("NSWLP"), permitted by WDC pursuant to that plan and recently released from a High Court challenge. The provision of 1650 units, the majority of which are to be delivered in the next five years, all at the town of Uckfield, and in the absence of proper allocations for that purpose, would be a grave departure from the plan-led system, and an outcome to which WDC is fundamentally opposed.
3. Uckfield is a town with good sustainability characteristics and reasonably well connected in public transport terms. It is also, however, subject to constraints of topography and morphology which limit the capacity of the highway network, and the capacity of the landscape setting to accept significant

development. In addition, its morphology leads to limited locations where significant urban extensions can be placed within sustainable distances to local services and facilities. It is also only one town of many in Wealden.

4. This inquiry is not, cannot be and should not be attempted to be turned into a local plan inquiry. This is not a forum suitable or intended to be able to assess, District-wide, the most appropriate location for development. The degree of consultation, community engagement, consideration and debate that comes with the forward planning system is missing in three s. 78 appeals fighting over which, between them, should be permitted at Uckfield. The appellants have not sought to bring evidence that their sites are the only or best ones available even in Uckfield, let alone the whole District, to deliver sustainable housing. The focus of this inquiry will not be the far ranging review of options; it will be one town and, specifically, three sites within one town.
5. WDC will ask the Inspector and the Secretary of State to consider long and hard before allowing PPS3 to be used to deliver anything like 1250 units in one town in 5 years, outside the plan-led system. It considers there are grave implications for the democratic accountability within the planning system, and grave doubts over the certainty that the best outcome in for good planning will be achieved.
6. Once built, these houses will not be going away. If built in an unsustainable location, the patterns of unsustainability thereby established will be continued, effectively, in perpetuity. If sustainable development is to mean anything, it must mean looking to the long term. Sustainable development must mean making the right decisions now, to influence and safeguard the future. It would make little sense to grasp at a "quick fix", against a purely mathematical exercise on housing requirement, if the consequences would be long term conflict with the aims of sustainability which underpin the very essence of good planning.

7. WDC can say "purely mathematical exercise" because it will lead evidence that based, on the South East Plan (Panel Report) year on year requirement from 2006 (its start date), WDC can show a housing land supply in excess of 5 years. There is no need, indeed, no justification, to develop non-allocated greenfield land at Uckfield, as here proposed. The plan-led system should be permitted to get on with its job: identifying the best solution in planning terms to the meeting of the community's needs, in close consultation with that community.
8. Evidence will be led by both sides on the supply of housing in the next 5 years. There is some debate about four large sites. There is a sliding difference on small sites. There is a mulish refusal on behalf the appellants to give credit to NSWLP sites currently without permission (in the face of what is happening in the real world). However, even more fundamental differences come in establishing the proper requirements. The appellants only "create" a shortfall adopting one of two wholly academic stances.
9. The first is simply to refuse to look to the SEP at all, but rely instead on the Structure Plan which will, very shortly be replaced by the SEP and which, once replaced, will have its housing requirements from 2006 substituted retrospectively by the SEP housing requirements. The justification for this is that, *as we stand here*, the SEP is not, yet, adopted and so is not, yet, the Development Plan.
10. Time will defeat that argument. The Secretary of State's modifications are due out in "early 2008". The Secretary of State maintains that she is on target to adopt the SEP by autumn 2008. This is a set of appeals which will be going to the Secretary of State (via GOSE) for determination. The five year period runs to October 2012. It starts in October 2007. The SEP will be adopted at or about the time for determining these appeals and these appeals will be

determined by the same person -- the Secretary of State. The SEP it will run its requirements from 2006 (ie covering retrospectively the whole of the 5 year period in question).

11. Consequently, while, as a result of timing, the inquiry may have to look into a crystal ball to foretell the policy future for the next 5 years, that "future", for the decision-maker and for the significant majority of the 5 years itself, will not be an uncertain prediction, it will be the (certain) present. It makes no sense, just because of the timing of the inquiry, to assess a 5 year requirement by a plan that will, in short order, have been replaced *in respect of the entirety of those 5 years*.
12. The other academic stance adopted is to concede that one may look to the SEP from 2006, but to then insist on adding to it a shortfall against policy which pre-dates the SEP (ie the against the replaced SP, to 2006 [an error exacerbated by, curiously, calculating the SP shortfall from 2001-2006 rather than over the entire SP period 1991-2006]), and then insisting that this shortfall against a replaced requirement must all be delivered within the next 5 year period.
13. SEERA has defeated this argument. It has confirmed that the SEP requirements 2006-2026 do not require a rolling forward of any shortfall as an additional requirement within the following 5 years. The terms of the SEP, itself, indicate that any shortfall or surplus against the RPG should be "addressed through the LDF". That gives the right approach and the right forum: "addressing" is not "adding"; the LDF is proper forward planning, not planning by appeal; the correct time-frame is the LDF horizon, not that of a s. 78 appeal founded on PPS3's 5 year land supply requirement.
14. The appellants are, therefore, playing with numbers to create a sense of urgency and uncertainty *now*. If the SEP were adopted today, the SP

requirement would be past history. In the meantime, the appellants must hold onto the SP as long and as hard as they can. It is only by doing so that they can hope to have permitted these greenfield sites, in the absence of an allocation, and in the face of a non-statutory LP, in respect of whose strategy neither the strategic planning authority, nor government office had objection and in respect of whose lawfulness, the Court of Appeal has favourably ruled.

15. To justify significant greenfield housing in locations of poor accessibility (with or without site-specific harm) on the basis of a SP in its last gasp and to do so *ad hoc*, on appeal, is, WDC would strongly urge, far indeed from the method likely to secure the proper planning for sustainable development.

**Strategy for and Constraints of Uckfield:**

16. The NSWLP allocates 400 units to Uckfield. It distributes the rest of the housing requirement to other settlements in the District. The delivery of housing under the NSWLP would have been materially aided had one of the appellants here not required WDC to go to the Court of Appeal to defend the lawfulness of following GOSE's suggestion of a non-statutory plan. The delivery of the planned 400 units at Uckfield would have been materially aided had one of the appellants here not sought to challenge the grant of planning permission (only to withdraw the High Court challenge in December).
17. The strategy of distributing housing in the way the NSWLP has done was not objected to by East Sussex County Council, nor GOSE. The 400 at Uckfield reflected the very real difficulty of finding sustainable sites for significant urban extensions, and of overcoming the highways problems associated, principally, with the town centre. Uckfield is a settlement which has grown up either side of a river crossing and is divided by a railway line. It has grown to very nearly the utter edge of its landscape containment and additional

development sites are remote from services. It has a highways infrastructure which, without a step change requiring public powers, cannot accommodate significant additional growth.

18. The inquiry will hear evidence on all of these matters. WDC considers that Uckfield is not suitable for significant additional growth, possibly at all, but certainly outside the careful framework of spatial planning which can only be accomplished through the LDF. Without a housing land argument, the appellants have no case for permission at Uckfield; even with a housing land argument, WDC considers that the appellants' sites should not be approved unless shown, through the proper forward planning procedures, to be the most appropriate locations in the District as a whole for a long term solution to the needs of the District as a whole. This is not a task for which this inquiry is equipped.

#### **Negotiations and Narrowing of the Issues:**

19. Notwithstanding its opposition in principle, WDC pays tribute to the constructive approach of the appellants' consultant teams. Significant narrowing of the issues has been achieved in the run up to the inquiry.
20. Perhaps the most significant is in respect of highways. For BIEN and BIES, the appellants have acknowledged and accepted that permission should not be forthcoming until a means of overcoming highways constraints is established. The details will be presented in evidence, but the principles are: firstly, that the proper contribution to town centre improvements is secured; second, that the site's own transportation issues are addressed in a manner to make them as sustainable as is possible given their location; and third, that in the interim (ie before a town centre solution is in place) measures are secured to create "headroom" on the existing network to accommodate development flows.

The conclusion is that the town centre need not be a reason to resist BIEN and BIES.

21. What no one can negotiate away is the location of these two sites and their accessibility by non-car modes to essential services and facilities. The simple position is that they are remote compared to accepted guidance. However, what has been achieved is agreement that the package of works in respect of pedestrian and cycle access improves the situation to the maximum extent possible. Thus, while WDC objects to the sites in locational terms as unsustainable, if the Secretary of State considers that either or both should be permitted, WDC does not contend that the appellants should be doing more.
22. None of the above applies to Downlands, where location, accessibility and town centre impact are all at issue.
23. On ecology, agreement has been reached with BIES that, with the mitigation package agreed, there is no outstanding objection. At BIEN, WDC is of the view that a similar package could be agreed, albeit with consequences for the masterplan and landscape impact; discussions are on-going [update].
24. On noise, it has been agreed at BIEN, that with mitigation and attenuation measures to be incorporated within the masterplan, so as to reduce the impact of the existing operations at "The Yard" on future residents. The issues which remain relate to a Planning (as opposed to a technical noise issue). There is the potential for a problem in respect of an unrestricted B2 use in a residential area, such that the masterplan results in an unsatisfactory distribution of land uses.
25. On landscape, it has been agreed that there is no objection to BIES, once the principle of development is established.

26. On s. 106 matters, constructive discussions are on-going, with the expectation of agreed contributions and mechanisms [update].
27. Consequently, it is expected that for site-specific matters, the concentration of evidence at the inquiry will be:
- Downlands: town centre highways impact, accessibility, ecological harm and landscape/visual impact;
  - BIEN: accessibility and landscape/visual impact;
  - BIES: accessibility.
28. It will come as no surprise, therefore, that, if a choice is to be made between the sites, WDC would rank them: first, BIES, then, BIEN, and last (and in currently inconceivable circumstances) Downlands.
29. However, before coming to rank the sites on their specific manifestations of harm, the appellants must first persuade the Secretary of State that the housing land situation establishes the principle of developing these unallocated greenfield land, contrary to the strategy set out in the NSWLP and outside the forward planning system.

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