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## **Town and Country Planning Act 1990**

**Appeal by Taylor Woodrow Developments Ltd against the refusal of Wealden District Council to permit an application for the approval of reserved matters for**

**MIXED USE DEVELOPMENT OF LAND TO PROVIDE AT LEAST 300 DWELLINGS (INCLUDING 30% AFFORDABLE HOUSING), 930 SQ.M. OF B1 BUSINESS USE, FORMAL AND INFORMAL OPEN SPACE, ACCESS ROADS AND HIGHWAY IMPROVEMENTS INCLUDING FOOTPATHS, LANDSCAPE PROPOSALS AND ENVIRONMENTAL ENHANCEMENTS.**

**LAND AT BIRD IN EYE (NORTH), FRAMFIELD ROAD, UCKFIELD**

Wealden District Council Ref:  
WD/2006/2173/MEA

Planning Inspectorate Ref:  
APP/C1435/A/07/2042597

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### **STATEMENT OF CASE**

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## **1.0 Appeal Site and Surroundings**

- 1.1 Reference will be made to the appeal site and its surroundings insofar as they are relevant to the appeal including
- a. The location of the site relative to Uckfield and its facilities
  - b. The location of the River Uck to the north of the site and implications for on site flooding
  - c. The sloping nature of the site and current uses
  - d. Trees within the site and at the fringe of the site, 2 areas of which are Ancient Woodland;
  - e. Hedgerows on the site
  - f. Public Footpaths and public vantage points
  - g. Development boundary for Uckfield
  - h. Public and private roads serving and adjoining the site
  - i. Residential and Commercial developments in the vicinity, including the existing industrial uses enclosed by the application site
- 1.2 An appeal plan, to a scale of 1:2500 will be produced, showing key elements of the above factors.
- 1.3 The Council may submit any other material, including photographs and illustrations, to support its case.

## **2.0 Planning History**

- 2.1 This site was included in the First Deposit Draft of the review of the Wealden Local Plan, January 2003. The site proposal also included land to the south of Framfield Road which is not part of the appeal scheme. The merits of allocating this land for development were considered by the Wealden Local Plan Review Special Review Committee at its meeting on 15<sup>th</sup> December 2003. Following detailed consideration, the Council determined not to include this site in the Revised Draft Plan.
- 2.2 The planning history of the industrial estate enclosed by the site is attached to this statement.
- 2.3 Relevant planning permissions and resolutions relating to sites elsewhere in Uckfield are referred to in paragraph 6.4

### **3.0 Consultations**

3.1 Reference will be made to all consultation responses received, including any received from:

ESCC Highway Authority  
ESCC - Development Contributions  
ESCC - Strategic Planning  
ESCC – Archaeology  
East Sussex and Weald NHS Primary Care Trust  
Southern Water Services  
WDC Head of Policy and Environment  
South East England Regional Assembly  
Natural England  
WDC Arboriculture and Landscape Section  
WDC Waste Management  
Sussex Wildlife Trust  
Environment Agency (Sussex Area Office)  
Police (Crime Prevention)  
WDC Pollution Control  
WDC Housing Department  
Government Office for South East  
Framfield Parish Council  
Uckfield Town Council

### **4.0 Application, subject of Appeal**

4.1 The application sought planning permission for

- *at least* 300 dwellings, consisting of both open market and 30% affordable housing
- B1 business uses, comprising approximately 930 square metres
- Formal and informal open space for recreation and leisure, along with provision for habitat creation and protection
- Comprehensive surface water drainage strategy
- Access roads and other highway improvements, coupled with pedestrian and cycle facilities
- Landscape proposals and environmental enhancement

and was received complete by the Council on the 1<sup>st</sup> November 2006 and refused by notice dated 18<sup>th</sup> January 2007 following the meeting of the North Area Planning Committee 11<sup>th</sup> January 2007.

4.2 The planning application was submitted with an Environmental Statement; notwithstanding the fact that the outcome of the screening process was that the scheme was unlikely to be Environmental Impact Assessment (EIA) development. A copy of the screening opinion was sent with the Council's questionnaire.

- 4.3 The submission was in outline: the only plan which is part of the application is the "Ownership Plan" (1.38 of the Planning Statement submitted with the planning application). All other plans are indicated as being for information purposes. However, the application form states that access is an integral part and not a reserved matter, and the Council is unaware of a plan which specifies the access for which full permission is sought.
- 4.4 Consequently, the applicants are requested to clarify at an early stage which part of their access proposals are to be considered as an integral part of the planning application
- 4.5 There is information in the Environmental Statement relating to highway matters but the submission explains this is illustrative only. It should be noted that off site highway works suggested along Framfield Road are not included within the application site area. Any off site highway works would therefore need to be secured by legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended).
- 4.6 The reasons given for refusal were:
1. The proposed development represents an unacceptable and unjustified form of development of a site which lies outside the limits of the defined development boundary for Uckfield and Framfield, contrary to the provisions of Planning Policy Statements 1 and 7; Policies S1, S4, S10 and EN1 of the East Sussex and Brighton & Hove Structure Plan 1991-2011; Policies GD2, EN1 and DC17 of the Adopted Wealden Local Plan 1998 and Policies GD2 and DC15 of the Non Statutory Wealden Local Plan.
  2. The development proposal would lead to an unacceptable increase in existing safety hazards and unacceptable traffic conditions in the immediate area, specifically rural lanes around the village of Framfield and Uckfield Town Centre, an area that is already heavily congested at peak times and the proposal is therefore contrary to Policy TR3 and Policy S1 of the East Sussex and Brighton & Hove Structure Plan 1991-2011, TR3 of the Wealden Local Plan (adopted 1998) and TR2 of the Non Statutory Wealden Local Plan (2005).
  3. The proposal does not satisfactorily demonstrate that adequate provision will be made to encourage sustainable modes of transport and therefore, the proposal is contrary to Policies S1(c) and TR3 of the approved East Sussex and Brighton & Hove Structure Plan and Policies TR1 and TR2 of Non Statutory Wealden Local Plan Interim Guide for Development Control (2005)
  4. Notwithstanding the provision of an Environmental Statement, insufficient information has been submitted to address impact of the development proposals on landscape management, habitat enhancements, effect of pedestrian and cycle links on habitats, layout of development, space allocation for buffer zones between the built form and retained natural features (including adjacent ancient

woodland - Wealden Ancient Woodland Survey 2005) and impact on connectivity with other sites for protected species. Based on the submitted information, therefore, the proposed development package is contrary to the provisions of PPS9, Policies S1, EN17, EN18, EN20 of the East Sussex and Brighton & Hove Structure Plan 1991-2011; Policies EN1, EN5, EN12, EN16 of the Adopted Wealden Local Plan; Policies NE1, NE14, NE15 of the Non Statutory Wealden Local Plan.

5. No mechanism exists to secure affordable housing on site and as a result the proposed development is contrary to Policies H4 and S7(d) of the East Sussex and Brighton & Hove Structure Plan 1991-2011, HG3 of the Adopted Wealden Local Plan and Policy HG4 of the Non Statutory Wealden Local Plan.
  6. Significant areas of the site are noise sensitive. Despite the provision of an Environmental Statement, it has not been adequately demonstrated to the satisfaction of the District Planning Authority that the site could be redeveloped to secure the description of development set out in the application and take into account the noise constraints on site. Accordingly, the proposed development is contrary to Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Guidance Note: 24 Planning and Noise; Policies S.1(b), E5 and EN1 of the East Sussex and Brighton & Hove Structure Plan 1991-2011, Policies EN27 and BS5 of the Adopted Wealden Local Plan and Policies BE1, HG8 and BS5 of Non Statutory Wealden Local Plan, coupled with the advice contained within Adopted Supplementary Planning Guidance 'Housing Estate Design' (2004).
- 4.7 Specific reference is made to grounds of refusal 4 and 5 later in this statement

## 5.0 Planning Policies

- 5.1 Upon re-examination of the case, some policies referred to in the Notice of Decision cannot be supported by substantial evidence.

The policy references in the following grounds of refusal **will not** be pursued at the inquiry:

Reason 4: EN5 of the adopted Local Plan and NE1 of Non Statutory Wealden Local Plan Interim Guide for Development Control (2005)– refers to water resources.

Reason 6: E5, BS5 of Local Plan and BS5 of Non Statutory Wealden Local Plan Interim Guide for Development Control (2005) – refers to safeguarding business land.

- 5.2 However, there are key policies not referred to in the Notice of Decision, which will be referred to in support of the Council's case.

The following policies **will be** relied upon at the Inquiry:

EN8 of Local Plan and NE7 of Non Statutory Wealden Local Plan Interim Guide for Development Control (2005) relating to impact of development on impact on landscape of the Low Weald

BE1 of Non Statutory Wealden Local Plan Interim Guide for Development Control (2005) is also relevant to the impact of development on the landscape

S2 of Structure Plan on infrastructure

TR1 of Structure Plan relating to Transport and Environment Strategy.

5.3 In summary, therefore, the Council's case relies upon the following policies contained in the Development Plan:

East Sussex and Brighton & Hove Structure Plan 1991 – 2011. (December 1999)

EN1 - The Environment, General Policy

S1 – (a) (b) (c) (d) Criteria for the 21<sup>st</sup> Century: Sustainable Development

S2 - Infrastructure

S4 - Strategic Pattern of Development

S10 - The Countryside

TR1 – Integrated Traffic and Environment Strategy

TR3 - Accessibility of Development

Adopted Wealden Local Plan (December 1998)

EN1 - Sustainable Development

EN8 - Landscape Conservation of the Low Weald

EN12 - Protection of Trees and Woodland

EN16 - Impact of New Development on Nature Conservation and Wildlife Habitats

EN27 - Layout and Design of New Development

HG3 - Affordable Housing Outside the Development Boundaries

GD2 - Development outside Development Boundaries

DC17 - Housing Development

## Non Statutory Wealden Local Plan Interim Guide for Development Control (2005)

Adopted for Development Control purposes in December 2005. (The status of this Local Plan, including Judicial Review, together with progress on the Local Development Framework process at Wealden District Council, will also be clarified).

GD2 - Development outside Development Boundaries

DC15 - Housing Development outside Development Boundaries

BE1 - Design Criteria

ENV 7 – Landscape Conservation in the Low Weald

HG4 - Affordable Housing in New Development Schemes

TR1 - Accessibility of new Development

TR2 – Transport Requirements for New Development

- 5.4 Reference will also be made to guidance contained within Government Policy documents, including PPS1, PPS3, PPG4, PPS7, PPS9, PPG13, PPS23, PPG24 and PPS25, together with other appropriate guidance and documents.

### **6.0 Submissions**

#### Land Supply: Overview and Background

- 6.1 The Non-Statutory Local Plan identified sites to meet the East Sussex Structure Plan housing requirements for the period up to 2011. The Structure Plan required 880 dwellings per annum to be built in Wealden for the period 2006-11. There was also a small additional shortfall to be met, from the period 1991 to 2006 (total of 512).
- 6.2 However, due to potential difficulties in bringing forward some of the sites identified in the Non-Statutory Local Plan, the Council is currently unable to prove a 5 year land supply in accordance with the requirements of PPS3. This is the case in relation to the need to meet Structure Plan housing requirements. It is, however, anticipated that the South East Plan will be adopted in spring / summer 2008 and from this date the housing requirement for Wealden will be set by this document. The draft South East Plan stipulates an annual housing requirement for Wealden of 400 dwellings per annum (significantly below the Structure Plan figure of 880 dwellings per annum). In this respect, once the South East Plan is adopted (assuming that the final figure in the plan is significantly below the Structure Plan figure of 880 dwellings per annum) then a substantially lower level of housing site supply will be required in order to meet the 5 year requirement.

- 6.3 As the Council is currently unable to prove a 5-year land supply (which is at present based on the requirement to provide sites to meet Structure Plan requirements) then in considering planning applications for housing, regard should be had to the policies in PPS3, including the considerations in paragraph 69. It is also a material consideration that, once the south East Plan is adopted, it may well be the case that the Council can prove 5-year land supply.
- 6.4 Planning permissions and favourable resolutions relating to residential estate development in Uckfield are set out below.
- WD/2006/2908/MEA Dated 23 January 2007, relating to Land north of Eastbourne Road, Uckfield
  - WD/2006/2269/MEA Dated 21 December 2006, relating to land at Sandpits, Lewes Road, Uckfield
  - Committee resolution to grant planning permission to Heron Land Developments/Persimmon Homes Ltd/Gallagher Estates Ltd, on Land North of Mallards Drive Uckfield Reference WD/2006/2171/MAO

Judicial Review of these decisions is sought by a rival developer who wishes to carry out residential estate development on a site to the north of, and further from the centre of Uckfield. The council's evidence will up-date the Inquiry on the progress of the Judicial Review and evidence will be given on relevant implications for land supply and planning strategy.

#### Highway Safety

- 6.5 The increase in traffic generated by the proposal will intensify existing highway hazards in the area surrounding the appeal site, add to congestion on the roads leading into the town centre and in the town centre itself, and result in increased use of rural roads unsuitable for increased traffic volumes. The proposal will therefore be contrary to the interests of highway safety in Uckfield and Framfield.

The applicants have produced plans for highway improvements along Framfield Road in the vicinity of the application site which are supported in principle by the Highway Authority. However, evidence will be given on those aspects of the detailed plans which are considered to be unacceptable to the Highway Authority.

The Local Planning Authority oppose the adverse visual impact of the proposed improvements to Framfield Road

#### Sustainable Modes of Transport

- 6.6 The Inquiry will be informed that the proposal does not satisfactorily demonstrate that adequate provision will be made to encourage sustainable modes of transport. Evidence will explain the location of the site to key

facilities required to sustain the development and the transport implications of redevelopment on the appeal site.

#### Landscape and Ecology

- 6.6 Ground of refusal 4 takes account of the illustrative master plan and other supporting information. There are two areas of ancient woodland at the fringes of the area proposed for development and there are substantial lengths of important species-rich hedgerow within the site. It seems likely that when proposals are submitted at the "reserved matters" stage more buffer space will be required in the vicinity of these features than indicated in the illustrative master plan to ensure adequate protection of trees and wildlife.
- 6.7 The Council also consider that dwellings should be placed further from the existing B2 commercial area in the centre of the site than shown in the Master Plan if future occupants are not to be unreasonably disturbed by the noisy activities taking place from the commercial area.
- 6.8 The net effect of these considerations is that there will be substantially less land remaining for the development of the site.
- 6.9 It is considered that the erection of a significant proportion of 3 and 4 storey development is not consistent with the existing character of the Low Weald landscape at the fringe of Uckfield and the overall scale of the development will be detrimental to the appearance of the area.
- 6.10 The detriment to the landscape will be exacerbated if less land is available for development than indicated in the master plan and it is not considered that 300 dwellings can be erected on the site without having a significantly unacceptable impact on the landscape of the area.
- 6.11 The Council will also demonstrate that off site highway works will adversely affect the character of Bird in Eye Hill.

#### Affordable Housing

- 6.12 The provision of new affordable housing is a key strategic objective of the Council in line with PPS3. The Council can demonstrate a proven need for affordable housing. The Non Statutory Local Plan requires sites exceeding the revised thresholds to designate 30% of units as affordable housing. In terms of the appeal development, this equates to approximately 90 units.
- 6.13 Whilst discussions have taken place with the appellant and Council's Housing Department, no legal agreement was submitted to address this point.

The Council **would not** contest reason for refusal 5 if a suitable legal agreement was completed securing appropriate affordable housing on site.

#### Noise

- 6.14 The Council will say that the continued presence of the existing B2 commercial area will result in an unsatisfactory juxtaposition of residential and commercial development whereby access to the commercial area from Framfield Road will pass between and close to residential development, and whereby dwellings will be in unduly close proximity to a noisy commercial area.

Conclusion

- 6.15 Notwithstanding the scale of land availability to enable residential development in the district the extent of unacceptable harm likely to be caused by the appeal proposal justifies the decision to refuse the planning application.

**7.0 Conditions**

- 7.1 Conditions will be suggested at the Inquiry, on a wholly 'without prejudice' basis, should the Inspector be minded to allow the appeal.
- 7.2 It is anticipated that conditions will be formulated in liaison with the appellants and set out in a Statement of Common Ground.