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**TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 APPEAL**

BY

**HERON LAND DEVELOPMENTS LIMITED,
PERSIMMON HOMES (SOUTH EAST) LIMITED
AND GALLAGHER ESTATES LIMITED**

***SITE AT LAND AT BIRD IN EYE FARM SOUTH,
UCKFIELD TN22 5HA***

**APPLICATION FOR 197 DWELLINGS, INCLUDING AFFORDABLE HOUSING,
WITH ASSOCIATED ACCESS, STRUCTURAL LANDSCAPING AND
RECREATIONAL SPACE (INCLUDING 4 LAPs AND 1 LEAP)
PINS REF: APP/C1435/A/07/2053422**

**STATEMENT OF CASE
ON BEHALF OF THE APPELLANTS**

17 OCTOBER 2007

WEALDEN DISTRICT COUNCIL	
19 OCT 2007	
ACTION	
BY	
PLANNING BUSINESS UNIT	

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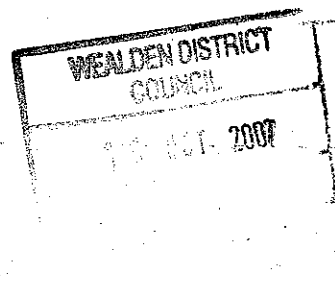
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SECTION ONE - INTRODUCTION

1.1 This statement is prepared on behalf of Heron Land Developments Limited, Gallagher Estates Limited and Persimmon Homes (South East) Limited ("the Appellants") in relation to their appeal reference APP/C1435/A/07/2053422 ("the Appeal"). It sets out the matters to be addressed in evidence to the Appeal inquiry.

1.2 The Appeal relates to the refusal by Wealden District Council ("the District Council") of outline planning permission for 197 dwellings, including affordable housing, together with recreational space, local areas for play (LAPs) and 1 local equipped area for play (LEAP) and structural landscaping, at land at Bird in Eye South, Uckfield ("the Appeal Site"). The Appellants' planning application ("the Application") was submitted on 21st December 2006.

1.3 The Appellants will demonstrate that there exists a substantial shortfall in housing land supply for the District in the remaining period of the Structure Plan to 2011. It will also be demonstrated that five years of housing completions will not be achieved without further planning permissions being granted in the near future. The Application was advanced on the basis of assisting to meet the housing requirements, including affordable housing, on a site that has been the subject of consultation through the emerging Local Plan process in relation to its proposed allocation.



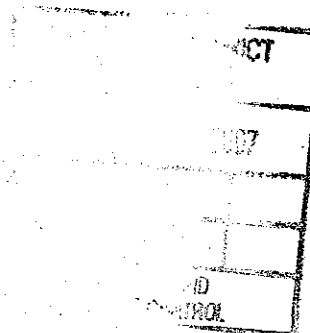
1.4 The Application was determined on the basis of a Delegated Officer's Recommendation, without recourse to Committee. The Decision Notice dated 6th July 2007, sets out the following Reasons for Refusal:

- 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 and Hove Structure Plan 1991 - 2011; Policies GD2, EN1 and DC17 of the adopted Wealden Local Plan 1998 and Policies GD2 and AC15 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 and Hove Structure Plan 1991 - 2011, TR3 of the Wealden Local Plan (adopted 1998) and TR2 of the non-statutory Wealden Local Plan (2005).*
- 3 *Notwithstanding the provision of an Environmental Statement and taking account of enhancement proposed as part of the application, insufficient information has been submitted to address the impact of the development proposals on landscape management, habitat enhancements, effect of pedestrian and cycle links on habitats, layout of development, space allocations 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, the proposed development package is contrary to the provisions of PPS9, Policies S1, EN17, EN18, EN20 of the East Sussex and Brighton and 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.*
- 4 *The proposal does not satisfactorily demonstrate that adequate provision will be made to encourage sustainable modes of transport, contrary to Policies S1(C) and TR3 of the approved East Sussex and Brighton and Hove Structure Plan and Policies TR1 and TR2 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 and Hove Structure Plan 1991 - 2011, Policy HG3 of the adopted Wealden Local Plan and Policy HG4 of the non-statutory Wealden Local Plan.*

1.5 The Appeal was lodged against the decision of the District Council on 3rd September 2007.

1.6 The Planning Inspectorate confirmed firstly that the Secretary of State shall determine the Appeal and secondly that the Appeal will be linked to two other appeals relating to proposed residential development at Uckfield (the sites at Bird in Eye North and Downlands Farm respectively).



SECTION TWO - THE APPLICATION SITE AND SURROUNDING AREA

2.1 The Application Site is currently open land and is located on the eastern side of Uckfield, and to the south of Bird in Eye Hill.

2.2 Uckfield

The Non-statutory Wealden Local Plan notes that Uckfield has a population of around 13,200. It functions as a local employment centre providing a range of jobs in manufacturing and services, as well as a shopping centre for both its residents and those in the surrounding rural area.

2.3 The Site and Surrounding Area

The Application Site comprises approximately 9.6 hectares, predominantly of open grassland. It generally slopes upwards from west to east, from the boundary adjacent to the Framfield Stream to the boundary adjoining the Bird in Eye Farm buildings. More detailed descriptions of the Application Site are provided in the Landscape Assessment and Flood Risk Assessment which accompanied the Application. The evidence to the Inquiry will supplement this.

2.4 The Application Site has access from Bird in Eye Hill, which currently serves the complex of buildings and uses at Bird in Eye Farm. A new junction with Bird in Eye Hill

is proposed as part of the Proposed Development, which is slightly to the east of the existing access.

2.5 There is frontage development to Bird in Eye Hill on both the north and south sides. This includes development up to the boundary of the Application Site. Beyond the Framfield Stream to the west is land known as "land north of Mallard Drive" or "Harlands Farm", which was included within the overall residential allocation in the First Deposit Draft Plan and which was carried forward to the Non-statutory Wealden Local Plan. It is the subject of a resolution to grant planning permission for 146 dwellings.

2.6 The Application Site is within walking distance of the fire station, local shops, sub-post office, primary school and the community hospital.

2.7 Uckfield town centre is approximately 1 kilometre to the north-west of the Application Site. The town centre includes two supermarkets, a variety of retail, food and drink outlets, various banks and professional services, a post office, library, bus and railway stations and the Town Council offices.

2.8 The town is served by a rail link to London Victoria and has excellent highway links to surrounding towns and employment areas in East and West Sussex.

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SECTION THREE - THE PROPOSED DEVELOPMENT

3.1 The Application seeks permission for residential development on the Application Site, which was proposed as an allocation in the First Deposit Draft of the Wealden Local Plan. Approximately 6.1 hectares of land is to be used for the Proposed Development, of the total Application Site area of 9.6 hectares. 197 dwellings are proposed.

3.2 The Application is submitted in outline, but details of the access are included for determination.

3.3 The Design & Access Statement which accompanied the Application describes the Proposed Development in more detail. This document includes a range of illustrative material, including a masterplan, which provides information in respect of the proposed use, the amount of development, an indicative layout, scale parameter and indicative access points.

3.4 Five play areas will also be provided, comprising 4 LAPs and 1 LEAP.

3.5 The Application Site includes significant areas of woodland and open space, particularly adjacent to the Framfield Stream and its southern boundaries. These will be described in more detail in evidence to the inquiry.

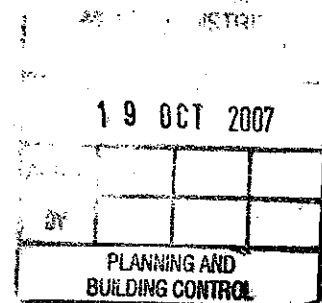
3.6 The Proposed Development results in a density of approximately 32 dwellings per hectare.

SECTION FOUR - PLANNING POLICY BACKGROUND

4.1 The Appellants will refer to relevant policies at regional, Structure Plan and Local Plan levels and will demonstrate the appropriateness of planning permission being granted.

4.2 Relevant national planning guidance is set out in Planning Policy Statements, in particular PPS1, PPS3 and PPG13.

4.3 Reference will be made to Regional Planning Guidance (RPG9) and the emerging South East Plan. The provisions of the East Sussex and Brighton and Hove Structure Plan (1991 - 2011) will be referred to, particularly in relation to housing requirements. Reference will be made to policies in the adopted Wealden Local Plan. The history of the review of the Wealden Local Plan will be set out, including reference to the First Deposit Draft, in which the Application Site was proposed as an allocation. The Non-Statutory Wealden Local Plan of 2005 will also be referred to.



SECTION FIVE - THE APPELLANTS' CASE

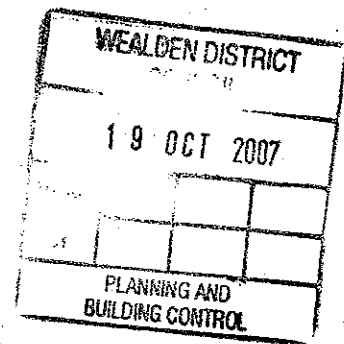
5.1 It will be demonstrated that there is an urgent need to grant planning permissions for sites that can deliver housing requirements, and in particular five years' supply of housing.

5.2 The requirement that at least five years' supply of housing land for development should be available has been reinforced through the publication of Planning Policy Statement 3 ("PPS3") : Housing, in December 2006. This is an important material consideration. It stresses that the five year supply should be land that this is developable. It goes on to state that to be considered developable, sites should meet the following criteria :

- (a) *available;*
- (b) *suitable; and*
- (c) *viable.*

5.3 The Appellants will demonstrate that the Application Site is developable.

5.4 It is clear that there has been a significant delay in the delivery of housing within the District, and this is highlighted in the case of Uckfield. In the Appellants' view the



delays are fundamentally at odds with the planning requirements set out by Government above and the housing needs of the area.

5.5 It will be demonstrated that the District Council cannot demonstrate an up-to-date five years' supply of deliverable sites, and that there is less than five years' supply of deliverable sites in any event.

5.6 Paragraph 72 of PPS3 goes on to note that Local Planning Authorities should not refuse applications solely on the grounds of prematurity.

5.7 In order to deliver a five year supply of housing, additional housing sites are required, and this will involve development of land which is currently outside of the limits of defined development boundaries, including those for Uckfield and Framfield. The advice in PPS3, however, makes it clear that, notwithstanding the current development plan position, Local Planning Authorities should consider favourably planning applications for housing in circumstances where there is not a five year supply of deliverable sites. Prematurity is not a ground for refusal.

5.8 In respect of traffic issues, the proposed off-site highway improvements, which have been agreed following consultation with the Highway Authority will be described. It will be demonstrated that the Application Site can be safely accessed and that the increase in travel demand generated by the Proposed Development can be safely accommodated on the local highway network.

5.9 In respect of environmental issues, it is unclear from the reasons for refusal what the underlying ecological concerns of the Council are. Reason for refusal 3 appears to have been copied from a refusal notice related to another site (perhaps Bird in Eye North). However, it will be demonstrated that the Application Site has been the subject of detailed ecological appraisal, and supported by the comprehensive ecological assessment submitted with the Application. That assessment has been the subject of discussions with the relevant consultees, and it will be demonstrated that the matters raised in reason for refusal 3 have been appropriately addressed.

5.10 The fourth reason for refusal states that the Proposed Development does not satisfactorily demonstrate that adequate provision will be made to encourage sustainable modes of transport. It will be demonstrated that the Proposed Development is located in a way which would help promote sustainable travel choices and is accessible to a range of facilities (jobs, leisure, retail) by foot, cycle and public transport.

5.11 The fifth reason for refusal states that no mechanism exists to secure affordable housing on site. However, the Proposed Development clearly provides for affordable housing and this matter will be secured by way of planning obligation made pursuant to section 106 of the Town and Country Planning Act 1990, to be submitted at the inquiry.

SECTION SIX - DOCUMENTS

6.1 The Appellants may wish to refer to the following documents :-

1. Application, relevant correspondence and supporting documents.
2. Planning history of the Application Site.
3. Relevant Planning Policy Guidance and Circulars including PPS1, PPS3, PPG13 and Circulars 11/95, 10/97 and 05/2005.
4. RPG9 and the emerging South East Plan.
5. East Sussex and Brighton and Hove Structure Plan (1991 - 2011).
6. Wealden Local Plan Review - First Deposit Draft.
7. Wealden District Non-Statutory Local Plan 2005.
8. Wealden District Adopted Local Plan 1998.
9. Any other relevant planning decisions, both by the District Council and at appeal.
10. Details of the Application Site and the surrounding area.
11. Any other documents the Appellants consider relevant arising from the District Council's consideration of the Application and its evidence to the Appeal.

Boyer Planning Limited
October 2007

