



Wealden
District Council
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Town and Country Planning Act 1990

**Appeal by Heron Land Developments, Persimmon Homes and
Gallagher Estates against the refusal of Wealden District Council
to permit an outline application for**

**THE ERECTION OF 197 DWELLINGS INCLUDING AFFORDABLE HOUSING,
WITH ASSOCIATED ACCESS, STRUCTURAL LANDSCAPING AND
RECREATIONAL SPACE (INCLUDING 4 LAPS AND ONE LEAP).**

LAND AT BIRD IN EYE FARM SOUTH, UCKFIELD

Wealden District Council Ref:
WD/2006/3564/MAO

Planning Inspectorate Ref:
APP/C1435/A/07/2053422/NWF

Pre-Inquiry Statement

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 Framfield Stream to the north of the site and implications for on-site flooding.
 - c. The sloping nature of the site and current uses.

- d. Trees at the southern and eastern fringes of the site, both of which are Ancient Woodland.
 - e. Development boundary for Uckfield in the Adopted Local Plan.
 - f. Public and private roads serving and adjoining the site.
 - g. Existing developments in the vicinity of the application site including Bird in Eye Farm to the north which includes a listed Oast House.
- 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 Application, subject of Appeal

- 2.1 The application is for proposed development as set out on the head sheet to this document development. It was received in completed form by the Council on 12th April 2006 and refused by notice dated 6th July 2007 under the powers delegated to the Head of Planning & Building Control.
- 2.2 The applicants sought a formal Screening Opinion under the 1999 Environmental Impact Assessment Regulations and were informed that an Environmental Assessment would not be required under the regulations. The applicants responded to the Council's request and submitted additional assessments set out in the District Council's letter of 5th October 2006.
- 2.3 The submission is in outline. The only plan which appears to be part of the planning application is the site plan at scale 1:2500 (ref 98.284). Paragraph 3.2 of the accompanying planning support statement indicates that all matters are reserved apart from "access". The application form (question 8) indicates that an existing vehicular and pedestrian access is to be altered, and the illustrative plan indicates the proposed location of the access on the "Illustrative Master Plan" (ref JJG.U2 SK04).
- 2.4 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.
- 2.5 The application is to be considered at a conjoined Public Inquiry on 15th January 2008 which will also consider appeals against refusals of permission for development elsewhere in Uckfield at Bird in Eye North to the north of the application site and at Downlands Farm.
- 2.6 The application is to be determined by the Secretary of State.

3.0 Planning History

- 3.1 This site was included in the First Deposit Draft of the review of the Wealden Local Plan, January 2003. The Draft Plan also included land to the north of Framfield Road which is not part of this appeal proposal. The merits of allocating this land for development were considered by the Wealden Local Plan Review Special Review Committee at its meeting on 15th December 2003. Following detailed consideration, the Council determined not to include this site in the Revised Draft Plan.
- 3.2 There is no recent planning history recorded on the appeal site apart from the Screening Opinion referred to in paragraph 2.2 above

4.0 Consultations

- 4.1 Reference will be made to consultation responses received, as necessary, to support the Council's case. In addition to observations from other sections and departments of the Council, consultee responses were received from:-

ESCC - Highway Authority
ESCC - Development Contributions
ESCC - Strategic Planning
ESCC - Archaeology
Environment Agency (Sussex Area Office)
Southern Water Services
Natural England
Police (Crime Prevention)
Wealden District Council - Housing Department
Framfield Parish Council

In addition, 19 letters and e-mails objecting to the proposals were received by the Council.

5.0 Planning Policies

- 5.1 Planning policy EN5 relating to water resources in ground of refusal 3 will not be relied upon in the Council's evidence.
- 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 referred to in evidence:

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.

TR1 of Structure Plan relating to Transport and Environment Strategy.

- 5.3 In summary, therefore, the Council's case will refer to the following policies contained in the Development Plan:-

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

S1(a), (b), (c) and (d) - Criteria for the 21st Century: Sustainable Development

S3 - Infrastructure

S4(g), (l), (j) and (k) - Strategic Pattern of Development

S10 - The Countryside

S22 - Uckfield

EN1 - The Environment, General Policy

EN17 - Nature Conservation protection

EN20 - Habitat Compensation

TR1 - Transport 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

HG2 - Affordable Housing within new schemes

GD2 - Development outside Development Boundaries

TR3 - Traffic Impact of New Development

DC17 - Housing Development

The Government Office for the South East have informed the respective authorities by letter dated 21st September 2007 that all the above policies can be saved. They therefore continue to form a part of the Development Plan.

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

The Council will also refer to this plan, which was adopted for Development Control purposes in December 2005. The status of this Local Plan, and

relevant Judicial Review, together with progress on the Local Development Framework process at Wealden District Council, will also be clarified. The following policies will be referred to in evidence:-

GD2 - Development outside Development Boundaries

DC15 - Housing Development outside Development Boundaries

BE1 - Design Criteria

ENV7 - Landscape Conservation in the Low Weald

HG4 - Affordable Housing in New Development Schemes

TR1 - Accessibility of new Development

TR2 - Transport Requirements for New Development

Draft South East Plan

- 5.4 Appropriate references will be made to the draft plan and the recommendations of the Panel of Inspectors following the public examination of the plan. Particular reference will be made to the proposals for housing provision in policy H1 of the plan, the proposed provision within the 2 sub-regions within the Council's area, and the panel's recommendations thereon. Reference to the SE Plan's Transport policies will also be covered, specifically T1.

Central Government Advice

- 5.5 Reference will also be made to policies and guidance contained within Government Policy documents, including PPS1, PPS3, PPS7, PPS9, PPG13, together with other appropriate guidance and documents. Reference will also be made to the DfT's Guidance on Residential Travel Plans, DfT's Manual for Streets, Circular 02/07 on Planning and the Strategic Road Network and the DfT/DCLG Guidance on Transport Assessments (2006).

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.
- 6.2 Policy H1 of the Draft South East Plan requires the provision of 8,000 dwellings over the period 2006-2026 within the District of Wealden, 4,600 in the Sussex Coast sub-region of the District and 3,400 within the rest of Wealden area within which the appeal site is located. The panel recommended that a total of 9,600 dwellings be provided in the District, 5,600 in the coastal area and 4,000 in the rest of Wealden.

- 6.2 The site is not allocated for housing development in a statutory development plan. It lies outside of the adopted plan development boundary and therefore national policy towards the protection of the open countryside applies (PPS7).
- 6.3 The Council is currently unable to prove a 5 year land supply in accordance with the requirements of PPS3 having regard to the requirements of the Structure Plan. However, evidence will show that an adequate supply of land will be available having regard, inter alia, to the advanced stage in the preparation of the Regional Spatial Strategy and its emerging provisions
- 6.4 The Council will demonstrate that there is no compelling and overriding housing supply case to grant planning permission having regard to the provisions of paragraphs 69 and 71 of PPS3.
- 6.5 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 developer who wishes to carry out residential estate development on a site at Downlands Farm, which is further from the centre of Uckfield. The Council's evidence will update 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

- 6.6 The increase in traffic generated by the proposal is not acceptable given the existing highway and sustainable transport infrastructure within Uckfield. 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.
- 6.7.1 Although it is acknowledged that the details submitted in support of the application indicated a commitment to contributing towards or providing a car parking and pedestrian improvement scheme to improve the free flow of traffic on Framfield Road/Bird-In-Eye Hill (B2102) and to improve the accessibility of the site, no details of the scheme were submitted in support of the application.

- 6.8 The District and County Councils consider that permission should not be granted for major development at the fringes of Uckfield until traffic relief measures have been introduced within the already congested town centre, and until development can take place in accordance with the provisions of the Local Development Framework. However, if the Secretary of State is minded to allow the appeal, and without prejudice to the Council's case, contributions towards town centre traffic improvements and appropriate sustainable transport measures should be secured through a legal agreement, and evidence to support this contention will be forthcoming at the Inquiry. The legal agreement should also make contributions to improvements in local bus services serving the site.

Sustainable Modes of Transport

- 6.9 The Inquiry will be informed that the proposal does not satisfactorily demonstrate that adequate provision will be made to encourage sustainable modes of transport by users of the site. The issue of modal choice and the current inadequacy of the existing network to deal with non-motorised users of the network will be presented. Evidence will explain the location of the site in relation to key facilities required to sustain the development and the transport implications of development on the appeal site.

Landscape and Ecology

- 6.10 Evidence will be given in respect of the extent to which the development will protrude into the landscape on rising land beyond the natural boundary to the development of Uckfield provided by the Framfield Stream and valley vegetation and the importance of ancient woodland at the fringes of the site to the ecological and landscape value to the locality.
- 6.11 The illustrative master plan and design and access statement indicates that acceptable buffer zones can be provided between the areas of proposed housing development and the important landscape and habitat features provided by ancient woodland at its fringes. It also appears that adequate space can be made available for pedestrian and cycle routes to be introduced within the site at the fringes of the housing development (although the site contours may dictate amendments to their location).
- 6.13 It is less certain whether the proposed balancing ponds at the south western part of the site and the access proposals at the north western part of the site can be undertaken without undue harm to perimeter woodland.
- 6.14 The development is bound to have an untoward effect on the ecological value of the site and its surroundings, but this may in part be able to be compensated by the ecological value arising from domestic gardens and balancing ponds which will be created.
- 6.15 Furthermore, the impact can be mitigated by good management and the application of the conditions such as those suggested by the Environment Agency, which are attached to this statement.

- 6.16 Therefore, subject to compliance with appropriate conditions, the scale of harm is not sufficient to justify refusing the application on either landscape or ecological grounds.
- 6.17 However, it is considered that the appellants should show, at this outline stage, how the relatively sensitive environment of the appeal site and its surroundings will be safeguarded by conditions and on-going management. Particular attention is required in respect of:-
- (i) Access arrangements to woodland and wetland areas, and how potentially damaging activities in the woodland (e.g. motor-cycling) can be avoided.
 - (ii) Realising the ecological potential of the buffer zones.
 - (iii) Long –term management measures to safeguard the area.
 - (iv) The impact of large engineering operations to create balancing ponds and the impact upon nearby woodland.
 - (v) The impact of access at the north western corner of the site.
 - (vi) Accommodating the use of the site to facilitate migration of toads across the site to the pond to the south west in the vicinity of Harlands Farm.
- 6.18 The Council will demonstrate that off-site highway works will adversely affect the character of Bird in Eye Hill.

Affordable Housing

- 6.19 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 59 units.
- 6.20 The appellants have indicated their intention to provide affordable housing and this will need to be backed-up by an appropriate legal agreement.

The Council would not contest reason for refusal 5 if a suitable legal agreement was completed securing appropriate affordable housing on site. Unless and until that happens, this remains a reason for refusal and the Council will be required to present evidence on this point.

Infrastructure

- 6.21 It is considered that the conjoining of the appeal proposals has made it impracticable for the appellants to demonstrate how they would comply satisfactorily with County Structure Plan policy S3 insofar as it relates to the provision of County Council infrastructure and facilities.

- 6.22 The greater the number of dwellings approved, the greater the need for additional school accommodation and redefinition of the pattern of provision across the town. Consequently, the scale of the provisions can only be reasonably assessed following the outcome of all three appeals to be considered at the conjoined inquiry.
- 6.23 Therefore, without prejudice to the Council's overall case, the District and County Councils would be prepared to consider entering into a legal agreement with the appellants designed to ensure contributions are agreed following the determination of all 3 appeals. This "two-stage approach" would cover all of the possible outcomes other than the dismissal of all 3 appeals. It would avoid the abortive time and expenditure of agreeing contributions on the full range of outcomes possible from the permutation of different possible appeal decisions. This would be a more reasonable approach for all concerned.
- 6.24 The Council will report the outcome of any discussions with the appellants to the conjoined inquiry and will also present any legal agreement it enters into with regard to the 3 appeals.
- 6.25 Southern Water have informed the Council that the 3 proposed developments which are the subject of the conjoined inquiry will give rise to deleterious effects upon the existing foul sewerage system for Uckfield and have indicated that they will be submitting an independent pre-inquiry statement.

7 Conclusion

- 7.1 Notwithstanding the scale of land available to enable residential development in the District in accordance with Structure Plan requirements to 2011, the extent of unacceptable harm likely to be caused by the appeal proposal justifies the decision to refuse the planning application.

8 Conditions and Heads of Terms of Agreement

- 8.1 Conditions will be presented to the Inquiry, on a wholly 'without prejudice' basis, should the Inspector be minded to allow the appeal. It is anticipated that conditions will be formulated in liaison with the appellants and set out in a Statement of Common Ground.
- 8.2 Also without prejudice to Council's case, it will produce heads of terms of legal agreements for consideration by the appellants prior to the submission of its proof of evidence.

Bird in Eye South, Uckfield

197 dwellings and associated development

Environment Agency suggested Ecological Conditions

No development shall commence until details of site landscaping and ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. These landscaping details shall include:

- 1) appropriate ecological enhancements (including those incorporated into the SuDs scheme, Section 8.8 FRA and Drainage Strategy);**
- 2) compensatory habitat creation and landscape planting;**
- 3) measures specifically to address retention and enhancement of the site's ecological connectivity through ecological corridors and networks;**
- 4) a scheme for human access restrictions to the retained and created habitats (including access control measures, as mentioned in Design and Access Statement section 8.1);**
- 5) a scheme for future habitat/landscape management of the site. Thereafter, the scheme shall be completed in accordance with the approved plans.**

Reason:

This is a large scale development and ecological enhancements should be an intrinsic part of the plans. This is in keeping with PPS1 'Delivering sustainable development', PPS9 'Biodiversity and Geological Conservation' and the draft South East Plan. Policy NRM4 of the draft South East Plan seeks to avoid a net loss of biodiversity and to actively pursue opportunities to achieve a net gain of biodiversity across the region. PPS9 states how planning decisions should maintain, enhance, restore, and add to biodiversity interests, and recognises that development proposals provide opportunities for including beneficial biodiversity features as part of good design. Furthermore, PPS9 recognises the need to maintain, strengthen and integrate networks of natural habitats within development. Fragmentation and isolation of habitats should be avoided. This is in line with Wealden Local Plan Policies EN14, EN15 and EN16.

No development shall commence until a scheme of lighting, designed to minimise impacts on wildlife, the habitats and particularly watercourses on site, is submitted to and approved in writing by the Local Authority.

Thereafter the scheme shall be carried out in accordance with the approved plans.

Reason:

To prevent the detrimental effects of development scheme lighting on habitats and associated wildlife. Lighting will need to be designed to minimise light spillage into the areas of ancient woodland and towards the watercourses.

No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Authority. This CEMP shall include:

- **Method statements detailing how environmental impacts will be prevented during construction (e.g. erection of temporary fences around retained habitats);**
- **Full details of construction site drainage and treatment and attenuation of runoff, designed to prevent pollution/sedimentation of any watercourse or wetland area during construction.**

Thereafter the development shall be carried out in accordance with the approved plans.

Reason:

The production and implementation of a Construction Environmental Management Plan is essential in ensuring that all potential environmental impacts of construction will be prevented or minimised. The presence of ancient woodland and associated watercourses and wetland areas is a particular concern at this site, and these Biodiversity Action Plan (BAP) habitats must be protected during the works. This is also in line with the Wealden Local Plan Policies EN14 and EN16.

NB: According to the Comprehensive Ecological Assessment, no BAP habitats are present on site, but wet woodland is present and this is a UK priority BAP habitat.

No development shall commence until the results of an up-to-date ecological surveys including protected species survey of the site, along with any necessary resulting mitigation measures, are submitted to and approved in writing by the Local Authority.

Reason:

To prevent damage to protected species, a material planning consideration. Without up-to-date surveys it is impossible to ensure that no such harm is done. The currently submitted ecological survey information was collected between 2000 and 2005, and thus may not represent the current ecological issues on the site.