

OUR REF: CT/PE/2020/0134/E

ASK FOR: Mrs C Turner Tel: [REDACTED]

DATE: 14 April 2020

YOUR REF:

Mr Andrew Elliott
[REDACTED]
[REDACTED]

Head of Planning and Environmental Services

Dear Mr Elliott

**Re: PE/2020/0134/E
100+ DWELLINGS/ 5000+ COMMERCIAL FLOORSPACE. POTENTIAL MIX USE
SCHEME.
LAND ADJ TO LOWER HORSEBRIDGE AND BOSHIP ROUNDABOUT**

Further to our conference call on the 9th April 2020, I have set out the key issues regarding the proposed development of the above site.

The Site

The site is located on the southern edge of Lower Horsebridge adjacent to the Boship roundabout junction between the A22, A267 and A271 and close to the north-western edge of Hailsham. The River Cuckmere forms the southern boundary of the site. A PROW extends along the northern edge of the site and crosses through the middle of the eastern side of the site. The site forms part of the wider River Cuckmere corridor which continues to the north towards Hellingly and to the south towards Upper Dicker. This corridor is an important stretch of undeveloped land which separates the village of Lower Horsebridge from the urban area of Upper Horsebridge and Hailsham. It is a low lying area with a significant part of the site within flood zones 2 or 3.

To the north-east of the site is the village of Lower Horsebridge which includes the village recreation ground which abuts part of the site. To the south is an area of informal public open space which extends between the edge of the Welbury Farm development and the River Cuckmere. There are glimpsed views of the Welbury Farm development to the south.

Vegetation along the boundary with the A22 provides some enclosure but there are clear views across the hedgerow boundary from the A271. The Landscape and Ecology Study concluded that *“Overall despite the proximity of the urban area the site has a strong pastoral character and creates an effective separation between Lower Horsebridge and Upper Horsebridge.”*

Housing Land Supply



Paragraph 73 of the NPPF requires local authorities to identify a supply of specific deliverable sites to provide a minimum of 5 years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than 5 years old. The five-year supply of sites additionally requires a 5% buffer to ensure choice and competition in the market for land, 10% where the local planning authority wishes to demonstrate a five year of deliverable sites through an annual position statement or recently adopted plan to account for any fluctuations in the market during that year and where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%.

As set out in the Authority Monitoring Report December 2019, the Council can currently demonstrate 3.67 years supply of housing land.

Paragraph 11d of the NPPF advises that where there are no relevant development plan policies, or the policies which are most important for determining the applications are out of date which includes applications for housing where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.

With regard to the proposed site, the special emphasis in the presumption in favour of granting planning permission in such circumstances (Paragraph 11) does not automatically apply because of Footnote 6 and the application of policies in the Framework under Paragraphs 175 and 177. However, with a positively concluded Appropriate Assessment the presumption in favour is engaged for sustainable development.

Even if that is wrong, or the competent authority for the Appropriate Assessment reaches a negative conclusion (disengaging the presumption in paragraph 11 of the NPPF), the shortfall in the supply of housing land is a material consideration that weighs heavily in favour of allowing residential development. However, this is on the premise that any scheme accords with all other local policies including flood risk, sustainable development, highway impact, design etc.

Principle of Residential Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) states '*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*'. This therefore provides a presumption in favour of the development plan.

Section 70(2) of the Town and Country Planning Act states '*In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations*'. Development should therefore be determined in accordance with the Local Plan unless material considerations indicate otherwise. Currently for the purposes of Section 38(6) of the PCPA 2004, the current development plan for the area in which the application site is located comprises the Policies of the Wealden Local Plan 1998 which were saved in 2007 and the Core Strategy Local Plan which was formally adopted on 19 February 2013.

The site is outside the development boundary within the Wealden Local Plan (1998). Policies within the 1998 plan resist new housing development in the countryside which is not essential for agriculture or forestry needs or has some other similar justification for a rural location (such as rural affordable housing exception sites) as set out in saved Policies GD2 and DC17 of the Wealden Local Plan 1998. Outside of the development boundaries, residential development is

generally resisted in accordance with Policy GD2. The proposed site does not comply with any of the exception policies in the 1998 Local Plan. The site is not within any strategic development area identified within Policies WCS4 and WCS6 of the Core Strategy.

The proposed residential development is therefore contrary to the adopted local plan and should be refused unless material considerations indicate otherwise.

The site (Reference 780/3100) was considered unsuitable for both housing or employment in the Strategic Housing and Economic Land Availability Assessment January 2019

“The site comprises of several fields used for grazing located on the southern edge of Lower Horsebridge adjacent to the roundabout junction between the A22 and A267 and close to the north-western edge of Hailsham. The river Cuckmere forms the southern boundary of the site and the B2104/A271 forms the eastern boundary. A public right of way extends along the northern edge of the site and crosses through the middle of the eastern side of the site. The site forms part of the wider River Cuckmere corridor which continues to the north towards Hellingly and to the south towards Upper Dicker. This corridor is an important swathe of undeveloped land which separates the village of Lower Horsebridge from the urban area of Upper Horsebridge and Hailsham. It is a low-lying area and most of the site is within flood zones 2 or 3 and therefore at risk from flooding which precludes development in this location.”

Having regard to the withdrawal of the Submission Wealden Local Plan in February 2020, potential development sites are being reviewed and therefore the development of this site should be promoted through the Local Plan process and submitted for consideration through the SHELAA.

Ecology and Landscape Impact

The site lies in a predominantly rural landscape close to the urban edge of Horsebridge and Hailsham.

At the County Level of Landscape Character Assessment, the site lies within the north eastern edge of the Eastern Low Weald Landscape Character Assessment. At the local level of landscape character assessment the site lies under the Local Landscape Character Type: Open Clay Vales and within E6: Hellingly Local Landscape Character Area and Landscape Setting Area Hailsham 9. The distinctive characteristics of Hailsham 9 include the *“gentle meandering corridor of the River Cuckmere, which is lined with a patchwork of predominantly pastoral ancient fields.”* (Wealden Landscape Character and Settlements Assessment 2014) The Open Clay Vales LLCT was assessed in the Wealden Landscape and Settlement Character Assessment (2014) as having High Landscape Sensitivity and High Landscape Value. The site borders the River Cuckmere which is a landscaped feature of high sensitivity. The Cuckmere Valley forms an important green/blue corridor and creates a valuable sense of separation between Lower Horsebridge and the large urban area of Upper Horsebridge and Hailsham to the south.

“Blue Infrastructure, which comprises undeveloped areas of floodplain which typically have a pastoral character and often feature semi-improved grassland, wet woodland and marsh grassland, forms a very important component part of the local ‘Green Infrastructure’. Blue Infrastructure provides both a corridor of movement, particularly for species such as bats, which navigate through the landscape using features such as watercourses and hedgerows and aquatic mammals (otter and water vole). It also provides a valuable foraging resource for a wide range of animal species, including amphibians, certain species of reptile, and most species of bat. Floodplain and riparian habitats may also support notable plant species and wetland invertebrates” (Landscape and Ecology Studies 2017). The Landscape and Ecology Studies indicated the site as having a high ecological interest because of the nature of the habitats it supports (riparian and wetland species). Development of the site was identified as potentially

creating a pollution risk to the wetland habitats of the Cuckmere River unless there was adequate mitigation.

The Landscape and Ecological Studies April 2017 identified a number of measures to minimise potential landscape and visual impacts from development which included:

- The riverine landscape quality of the Cuckmere River and its tributaries is important and needs to be retained/protected and enhanced;
- Retain the sense of separation between Hellingly and Lower Horsebridge and between Upper Horsebridge and Lower Horsebridge to enable the clear identities of the settlements to be maintained.

The site is clearly visible from the A271, there are glimpsed views from the A22 and PROW and therefore in my opinion, development of this site would have a significant impact on the landscape character of the area – even if confined to the western part of the site on the land adjacent to the A22. On this basis I am of the view that the development would significantly harm the character and appearance of the area and would therefore be in conflict with Policy EN8 of the Local Plan and Policy WCS12 of the Core Strategy. These policies require amongst other things, development to conserve the Low Weald landscape, conserve landscape character and to improve environmental conditions in the area. The proposal would also conflict with the aims and objectives of the revised Framework which seek to ensure that developments add to the overall quality of an area, are sympathetic to local character and contribute to and enhance the natural and local environment, including by recognising the intrinsic character and beauty of the countryside.

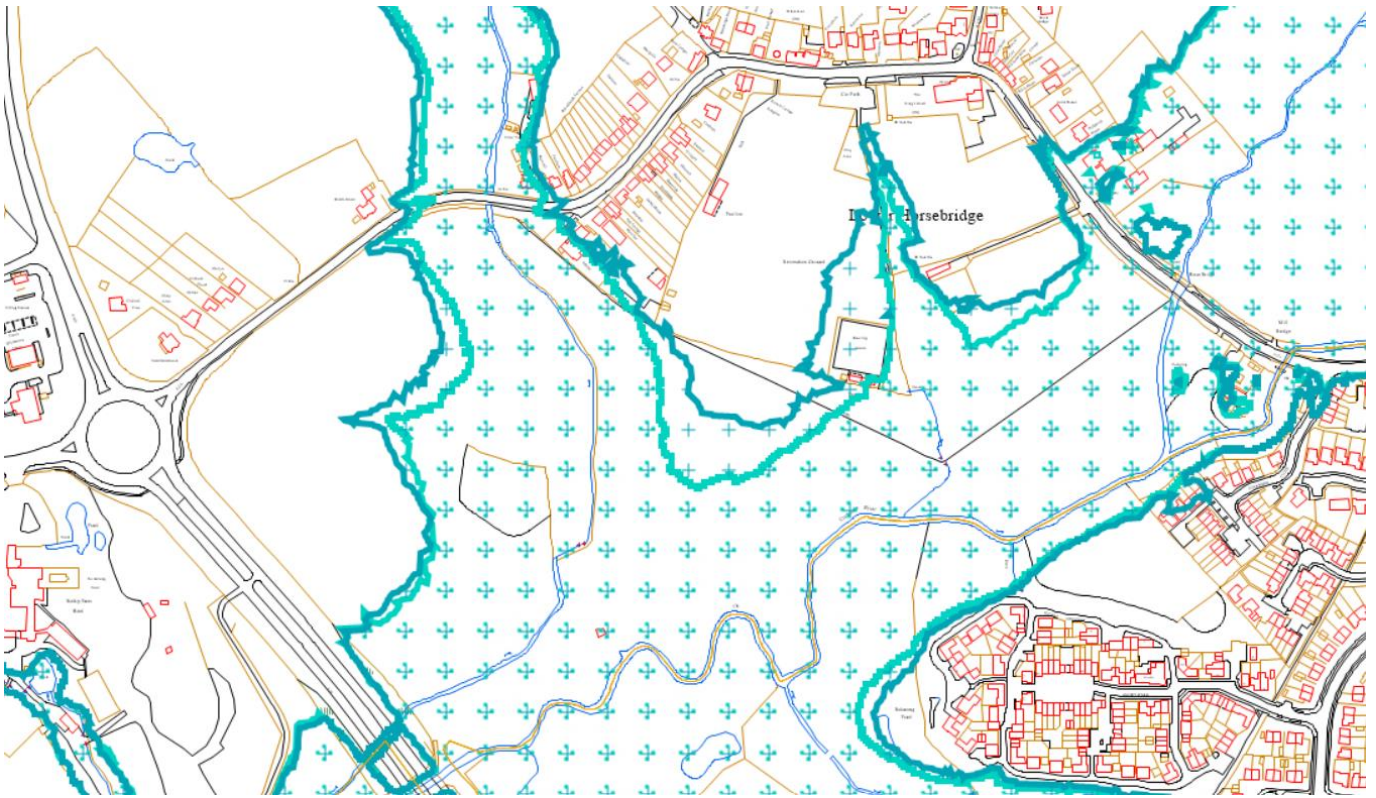
A Landscape and Visual Impact Assessment would need to accompany an application.

An application would need to be accompanied by an ecological appraisal of the site (supported by recent phase 2 surveys as required) considering the potential for impact on biodiversity and protected species and any potential mitigation that would be necessary, in addition to biodiversity enhancements. A Lighting Impact Assessment would also be required because of the impact on bats.

Other Matters

It is noted that notwithstanding the fact that officer's consider development inappropriate in this location and contrary to the development plan, that it is intended to submit a planning application, therefore this information is given on a without prejudice basis and does not imply that development would be supported.

Flood Risk and Drainage



The Council's data on the extent of flood zones 2 and 3 is shown on the extract above. This shows that flood Zones 2 and 3 extend further into the proposed sites compared to that shown in the pre-application submission documents. This impacts on all three sites reducing the area of land within Flood Zone 1.

In addition, on the eastern site (Site C) where it abuts Horsebridge Road the site lies within Flood Zone 2 and 3. This means that development on this site would mean that it would be cut off from the main access road by Flood Zone 2 and 3. If the site specific flood modelling confirms this, a sequential and exceptions test would be required if development was proposed on Site C.

With regard to flood risk you are advised to undertake pre-application discussions with the Council LLFA (suds@eastsussex.gov.uk) and the Environment Agency (planningssd@environment-agency.gov.uk).

If an application is pursued, a site-specific assessment will need to be undertaken so all forms of flood risk at the site are fully addressed. This should allow for the maximum conceivable flood extent corridor derived through flood modelling.

Noise and Air Quality Assessments

The proximity of the site to two extremely busy roads one of which is a dual carriageway and a busy roundabout, noise and air quality assessments would need to be submitted if an application was to be pursued. I suggest you contact the Council's Environmental Health for the scope of such assessments (pollution@rother.gov.uk)

Access

The development will require strategic highway modelling to assess the full impacts of the proposed development on the wider network. A Transport Assessment, Travel Plan and Stage 1 Road Safety Audit will be required.

There are clear issues relating to the sustainability of the site having regard to Paragraph 108 of the NPPF with regard to sustainable transport modes, safe and suitable access for all users to the site being achieved and ability to mitigate any significant impacts from the development on

the transport networks or on highway safety. I consider that the sustainable transport modes and safe and suitable access for all users will be difficult to address.

You are advised to consult ESCC Highways regarding all aspects relating the access and traffic modelling etc. (Development.Control.Transport@eastsussex.gov.uk)

I confirmed I was not aware of proposals for a Lower Horsebridge by-pass but indicated the applicant should check with ESCC Highways Department. I advised there are proposals for strategic road improvements to the Boship roundabout but the details of the extent of the works would need to be checked directly with ESCC Highways.

Sustainable Development

The development would need to demonstrate that it can meet all three overarching objectives for sustainable development - economic, social and environmental.

Affordable Housing

35% affordable housing would be required as set out in policy AFH1 Affordable Housing Delivery Local Plan (AHDLP).

Custom and Self Build Housing

The Self-build and Custom Housebuilding Act 2015 (as amended) and the associated Self-build and Custom Housebuilding Regulations 2016 are also both significant material considerations. Amongst other matters, the purpose of the Act is to allow individuals wishing to build their own home to register their interest in acquiring a suitable plot of land with the relevant authority. Specifically, the Act makes provision for Local Authorities to maintain a register of people who are seeking to acquire a serviced plot in their area in order that they may build houses for them to occupy as homes; and the Council is required to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period (this comes from Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended)).

As at mid November 2019, there were 73 individuals on the Council's Self-Build and Custom Housebuilding Register. It is necessary to breakdown this figure having regard to the annual base period, which falls at the end of October each year after production of a legally compliant Register after 31st March 2016. For Wealden two of these individuals were registered in the 31st March 2016 – 30th October 2016 base period, 24 were registered in the 31st October 2016 – 30th October 2017 base period, 24 were registered in the 31st October 2017 – 30th October 2018 base period and 20 applicants have been registered in the 31st October 2018 – 30th October 2019 base period. No associations are currently enrolled on the self-build and custom housebuilding register.

In the period since 31 October 2016, 94 planning permissions have been granted wherein landowners have sought (and obtained) a CIL self-build exemption. In line with practice adopted by very many other LPAs, these permissions with a CIL self-build exemption have been counted against the requirement of the Self-Build Register. It would address the relevant need and as such, we have not sought to secure need on other recent planning permissions considered by the committee.

However, there have been a flurry of recent appeal decisions around the Country on this specific topic. The general thrust of decisions issued is that reliance on a CIL Self-Build exemption does not necessarily ensure dwellings would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended). These are seen as test cases on the subject matter and it appears many LPAs are reacting accordingly.

The Submission Wealden Local Plan 2019 had included emerging policy HG7 but that has fallen away in line with the Plan declared unsound.

However, the NPPG on Self-Build and Custom Housebuilding states that relevant authorities could include policies in their local plans for self and custom housebuilding, but this is not a requirement. It also states that relevant authorities could seek to meet demand by engaging with landowners who own sites that are suitable for housing. So whilst there is no development plan policy in play, there is a legal duty for the Council to grant planning permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.

To be legally compliant, plots relied upon as custom or self-builds must be secured in a Legal Agreement. In this current case 5% of the number of dwellings would be secured to, in part, enable the Council to meet its statutory obligations with respect to the duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended).

Spatial and Design Issues

Details of the layout were not discussed in depth as there are fundamental policy objections to the proposed development. Even if the principle of development was considered acceptable, the number of units indicated on the illustrative layout, in my view, would constitute overdevelopment.

Amenity Space

Outdoor amenity space would be required to provide on-site amenity space in accordance with Policies LR3 and LR5 of the Wealden Local Plan and the Draft SPG Outdoor Playing Space which comprises equipped children's play space, casual informal amenity space and youth and adult recreation space.

Children's' play space will be required to be provided on site in accordance with the space standards set out in the Council's draft supplementary planning guidance entitled Outdoor Playing Space dated February 2003 which uses 2.5sqm equipped children's' play space, 4.5sqm for casual informal open space and 17sqm for youth and adult recreation per bedroom.

Conclusion

In summary, there is no explicit planning policy that would support a residential development on the site proposed in either the 1998 Plan or Core Strategy, although the Council's current position with regard to housing land supply is a material consideration that weighs in favour of sustainable residential development. There are however clear issues relating to the sustainability of the site with regard to the environmental impact.

Having regard to the issues I have set out above, officers would not support development on this site.

I hope this advice is helpful, but would point out that these comments represent an informal opinion on the proposals, based on the information available, and are offered without prejudice to the consideration and formal determination of any future application which may be submitted to the Council.

Yours sincerely

CA Turner

for Head of Planning & Environmental Service