



23rd February 2024

The Planning Inspectorate, Bristol
(Via Appeals Casework Portal)

Dear Sirs,

Planning Appeal: Planning Inspectorate ref: APP/C1435/W/23/3335625

LPA Application ref: WD/2022/3222/MAO

Land South of A271, and East of A22, Lower Horsebridge, Hailsham

We are writing in order to **object** to the above proposals and make representations to the Planning Inspectorate.

We are writing as local residents and confirm no commercial interests within the Horsebridge / Lower Dicker / Hellingly areas.

We previously made representations to Wealden District Council on the related planning application and re-attach these representations. We would ask that the appointed Inspector carefully reviews these representations and takes them into account in his/her consideration of the appeal and decision.

To summarise some of the key issues we would wish to highlight:

Flood Risk: A significant part of the site is within Flood Zone 3. The quantum and density of development proposed is such that the development would rely on the areas in the flood zone for provision of communal open space and play areas.

Given that part of the site is in Flood Zone 3 a sequential test is required with regard to flood risk. There are clearly many other sites in the relevant Housing Market Area (Eastbourne and South Wealden) which do not incorporate land in Flood Zone 3. Furthermore, the Council has produced a regulation 18 Local Plan which seeks to identify appropriate sites for housing and does not rely on this site. Therefore the lack of compliance with the Sequential Test and therefore at odds with the NPPF in this regard would form a strong reason alone for dismissal of the appeal.

In addition to the sequential test point, there is also the practical point that the areas proposed for amenity provision and play are inaccessible for long periods each winter due to being within the functional flood plain of the river Cuckmere.

Density / visual impact and landscape character: 4.36 of the Appeal Statement refers to a quantum of 148 homes and a density of 40 dwellings per hectare. This appears incorrect as the proposals are for 124 homes on a net area of 2.77ha which is a net density within the developable part of the site of about 44.76ha or 35 dph gross. The indicative details continue to show dense perimeter block forms of up to 3 storeys in height along the main road frontage in order to achieve the quantum proposed which is entirely at odds with the rural / semi-rural character of the site and surrounds and thereby at odds with the National Design Guide and contrary to saved Wealden Local Plan Policy EN8 which seeks to preserve the low rolling character of the Low Weald Countryside.

Turning to **heritage**, the Heritage Addendum submitted with the appeal suggests there is no historical association between the site and the Boship Farmstead to the west; this is at odds with the Heritage Desk Based Assessment submitted with the Planning Application, which states at 5.14 that in the context of Brook House not serving a larger landholding, that 'the occupant of the site area to the south of the road was different again **and it farmed as part of the large holding of Boaship Place to the south (now Boship Farm Hotel) (LB12).** *(N.B. bold is our emphasis)*

This casts doubt on the veracity of the assessment and conclusions drawn within it. The proposals clearly will have an effect on the historic setting of the Boship Farmstead. Furthermore, the heritage assessment submitted with the appeal acknowledges harm to the setting of Brook House though seeks to argue this has been reduced through the amendment to the layout, moving the edge of the housing development further west. However this will further cast doubt on the ability of the site to acceptably accommodate the amount of development proposed. Additionally, the removal of quite a large section of roadside hedge and installation of a new road junction and associated kerbs, pavements etc will in itself have a notable impact on the currently rural setting opposite Brook House. The proposed position of the road junction has not changed.

We would refer the Inspector to the concerns in the attached letter regarding the significant impact upon the Boship roundabout which is a major and strategic road intersection at the confluence of 3 'A' roads, the A22, the A267 and the A271 and which is already over capacity and suffers from severe queueing on a daily basis during peak hours, especially from the eastern arm where the site is located.

Strategic Planning within Wealden

Wealden District Council has recently published a draft regulation 18 Local Plan and has resolved to formally consult in the Spring of 2024. Whilst at the time of writing this has little weight, this may change by the time the appeal is determined.

It is of relevance that the site is not identified as an allocation for housing or any other uses, serving to underline the inappropriate nature of the development proposed in this location, that would obliterate an attractive tranche of Low Weald countryside, which provides valuable functions as a visual break between settlements as well as being functional flood plain. The site is outside of any proposed development boundary in the emerging WLP. It is also the case that with the changes to the land supply requirements (4 years rather than 5)

that by the time the appeal is heard that the presumption in favour of sustainable development set out at 11d of the Framework may fall away.

Thank you for giving these points serious consideration and respectfully request that the appeal be dismissed.

Yours faithfully,

[Redacted signature]

[Redacted name]
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Enc: Letter previously sent to LPA

cc. Wealden District Council Planning

18th March 2023

Attn Mrs C. Turner

Dear WDC Planning,

Planning Application: WD/2022/3222/MAO

Land South of A271, and East of A22, Lower Horsebridge

We are writing in order to **object** to the above planning application.

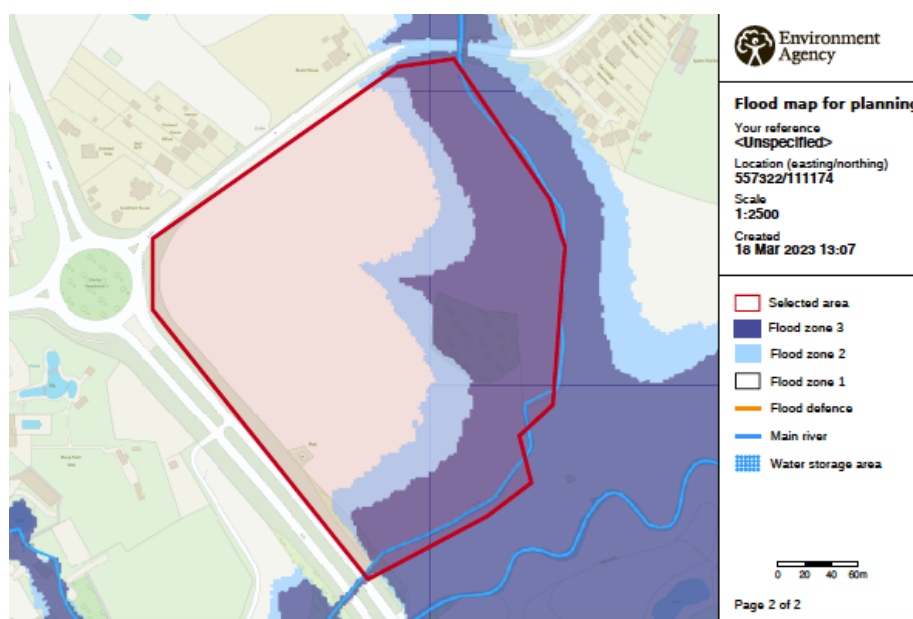
We are writing as local residents and confirm no commercial interests within the Horsebridge / Lower Dicker / Hellingly areas.

We object with particular regard to the following topics of importance.

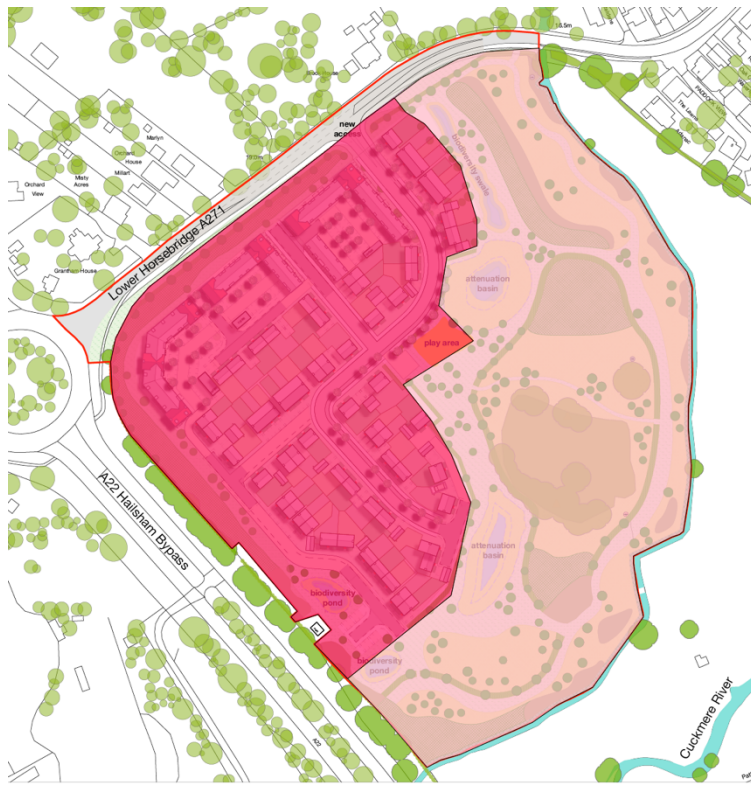
Flood Risk

It is noted that the red line site includes a significant proportion of land within Flood Zones 2 and 3* (medium and high risk) – as indicated from the EA flood mapping extract below.

**Hereafter referred to as FZ2 and FZ3*



The following visual shows the areas containing the dwellings and play area in dark pink, and the areas containing public amenity areas, pathways, SUDS basins etc in light pink. These generally coincide with the flood zones (2 and 3) though the play area is located in FZ2. The darker area is about 3.5 hectares, the lighter area is just over 3.8 hectares. The fact that such large areas are within the FZ2 and FZ3 also has implications for the density – net density for 124 housing units excluding the lighter shaded areas would be **35.4** dwelling per hectare (nett). This is a cramped form of development particularly given the rural / semi rural characteristics of the site.



The FRA suggests that a sequential test has been complied with as no residential development (buildings or garaging) is located in FZ2 or 3. However this is **not** the correct basis for the sequential test. The sequential test is a site wide test and either applies or it does not. **In this case the sequential test clearly applies and it has not been demonstrated that the proposals comply with the sequential test.**

The sequential test requires that the applicant demonstrates no sequentially preferable sites are available within the relevant search area. There is a degree of discretion on the search area however it should be noted that in recent appeals, including at least two in Pevensey Bay, Wealden has contended that the area should be the whole SHMA market sub-area within which the site is located, and Inspectors have agreed. Not only that, but in an appeal ref WD/20/1604 PINS ref 22/3299553 in respect of The Moorings, Pevensey Bay, the Inspector agreed with the position that, despite the proposed dwellings being in Flood Zone 1, as parts of the site were in Flood Zone 3, including outdoor amenity space and parking areas, the Sequential Test did apply. They commented that flooding of these parts of the site could cause safety risks and great inconvenience to future occupiers'. They continued '**Thus evidence of flood risk within the appeal site necessitates the need for the sequential test to be applied to the proposal**'. The Inspector considered it appropriate to apply a Sequential Test search to

the wider Housing Market Area. Importantly, placing built form outside of FZ3 within the site, and relying on design/resilience measures was not sufficient. Para 023 of the NPPG states that 'avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Even where an FRA shows the development can be made safe throughout the lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied'. It is important that the Local Planning Authority acts consistently in such matters and accordingly it is considered a Sequential Test should apply in this instance, and furthermore, an Exceptions Test would apply in the event that the Sequential test is passed. It should be noted that it is for the Local Planning Authority to apply and consider the Sequential test, rather than the Environment Agency. Considering more detailed flood resilience measures rather than a first principles sequential test, could be seen as putting the cart before the horse.

As the Council has itself pointed out in recent evidence elsewhere, there are many sites in South Wealden that are not affected by Flood Zones. **Therefore the sequential test is failed unless the site is amended to take the red line boundary wholly outside of Flood Zones 2 and 3.**

It should be noted that unlike the site at Pevensey Bay, which has never historically flooded, significant parts of the application site do regularly flood and from observation locally over a 6 year period, are under standing water for several weeks every winter. This means that the majority of areas suggested to meet the open space requirements for the development would be unusable through flooding as well as ground saturation for significant periods. The photographs below were taken on 16 January 2023 and illustrate recent extent of flooding. The photographs show land outside of the site in the foreground, but with land in the site shown in the middle and far distance. On the first image, the wooded copse which is a key feature on the illustrative layout plan, and individual Oak tree to the right of the image, are both wholly under water. On the second image, the mobile telephone mast provides a useful reference point.





If the site were amended to exclude FZ's 2 and 3, then of course the open space, SUDS and play facilities would need to be accommodated within the reduced available site area.

Heritage

The submitted Heritage Assessment notes some important considerations. The site has a historical association with the Boship Farm farmstead, which although visually weakened by the A22, nevertheless is still a consideration, particularly as the field pattern in the vicinity of the site is described as mediaeval / ancient. This association goes to the broader consideration of setting as confirmed in case law - *R (Williams) v Powys County Council*, and that the issue of setting is about more than just a purely visual consideration.

Furthermore, the Assessment accepts harm to the adjacent Listed Building (Grade II) of Brook House – and the site offers a 'positive contribution of moderate importance' to its setting. The DBA concludes there will be a medium level of less than substantial harm arising as a result of the changed character of the site.

Given these considerations, it is considered that the tilted balance is reset (i.e para. 11d of the NPPF does not apply as the starting point in this case), and the acknowledged heritage harm militates against the proposals.

The Council has a Statutory duty (s66 (1)) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building and its setting which gives rise to a strong statutory presumption against development which would cause harm to the setting of listed buildings. This is regardless of the level of harm as reflected at para. 199 NPPF. Even if the harm is agreed to be less than substantial the balancing exercise cannot ignore the overarching statutory duty imposed by s.66(1). Post *Barnwell Manor and Mordue* there is a need to give considerable importance and weight to the desirability of preserving heritage assets and to read para. 202 of the NPPF in conjunction with para. 199.

Furthermore, the quantum of development and associated illustrative layout shows a dense built form with hard frontages along the A271 at odds with prevailing character and showing a lack of sensitivity to the acknowledged heritage setting of Boship Farm to the west and more immediately Brook House to the north-east. The illustrative layout shows rear garden

enclosures close to the frontage opposite Brook House further harming the setting with a poorly conceived transition from the proposed development to the retained communal amenity areas.

Landscape and spatial planning

The site and adjoining land is a visually prominent, important and vulnerable remaining tranche of Low Weald Countryside. It is highly visible from both the road network, and PROWS which run close to and across the site, and of course dwellings that overlook the site. It is typical of the low, rolling nature of the Low Weald. It provides an important visual break between Lower Dicker and Horsebridge village as well as providing a buffer between the northern edge of Hailsham and the surrounding villages.

Furthermore, the 2014 CBA study identifies the site as within Area 9 which as **high landscape sensitivity, high landscape value** and **low capacity**. The Planning / DAS Statement seeks to dilute this assessment by commenting that the Welbury Meadows development has impacted the status of the site in landscape terms. However, that development itself has landscape buffers and established hedgerow and tree planting around it and forms the edge to the town of Hailsham which then has the river basin to the north of it. The site and surroundings retain a rural character particularly viewed West-East and East-West (for example from the eastern public fields of Welbury Meadows) such that the attractive character of the landscape is presently retained. Other development has been permitted around the edge of Horsebridge, but the difference in this instance is that the site, if developed, would be physically divorced from the established village (separated by flood plain) and therefore relate poorly to it and would furthermore merge Lower Dicker and Horsebridge settlements whilst relating poorly in visual terms to both. This is unlike the small developments permitted to the SW and SE of the village, and indeed the larger developments permitted off North Street, which do not erode gaps between settlements and directly adjoin the village. Erosion of gaps between Low Weald Settlements has previously been given significant weight in Appeal decisions such as an Appeal in Horam whereby the development was considered to erode the gap between Horam and Marle Green (PINS ref 19/3235754; WDC ref: WD/18/0509/MAJ).

Quantum of development

The Flood Zone constraints mean that the developable area of the site is significantly impacted. Although the proposal is indicative and for 'up to' 124 dwellings, it appears that the development has been rather shoe-horned into the NW corner of the site (as noted above a nett density of around 35 dph which is excessive and out of character with the locality). The quantum indicated on the illustrative plan does not appear realistic.

It shows flatted forms of development forming a hard edge to the A271 and A22 frontages which is out of character with the loose knit, detached properties north of Lower Horsebridge Road – contrary to National and Local Design Policies including locally saved Policy EN27 and the Wealden Design Guide.

Furthermore, the flats do not appear to have communal garden space and with the rear facades bordering large car parking areas which would be noisy and with effects from car lights causing disturbance. The combination would in our view be a poor living environment.

The lack of communal garden areas is at odds with the adopted Wealden Design Guide SPG. At the front of the flats, the landscaping scheme shows new dense tree planting – this will take time to mature and furthermore risks shading out the windows of the indicated flats.

Additionally, putting the flats in such close proximity to two major 'A' roads, at a significant intersection that is likely to be expanded with additional traffic lanes in the not too distant future will be difficult to mitigate. Open windows will be impossible owing to traffic noise and pollution. Consigning residents to mechanical ventilation on a purpose built, greenfield development would not be acceptable practice.

As mentioned earlier in this letter, the proposed layout relies on open space almost exclusively within Flood Zones 2 and 3. These areas are under water for many weeks of the year. Aside from the critical Sequential Test point, this means that open space, including play areas will at times be out of action and will be hard to maintain, especially if intermittently submerged by flood water. Additionally, the Play Area is shown next to a large drainage pond, which would raise safety issues as would the potential flooding of these areas.

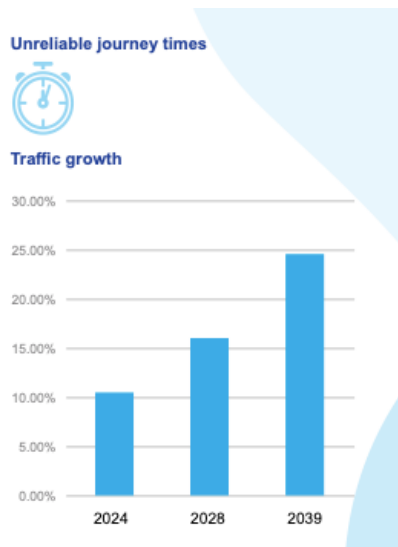
All of this strongly suggests that, in addition to the 'in principle' policy tests, the amount of development proposed is also excessive and unrealistic. As it is an outline application, it will take time to deliver and the nature of the application combined with the proposals for a discount supermarket indicated recently at a public exhibition would potentially imply the proposals are speculative and may be a 'way in' to secure even more valuable retail development. It is noted that the application is by a land promoter rather than a developer and therefore delivery is likely to take quite some time.

Highways

Under the NPPF proposals that would have a severe impact on the highway network should be refused. In this instance, the site would access the A271 on a stretch of road approaching the Boship roundabout, which is already over-capacity and heavily congested on a daily basis, particularly in the peak hours*. The proposed scale of development will exacerbate existing queues through the village, interrupting further any flow of traffic approaching this junction. This is likely to cause even greater rat – running up North Street and back down the northern arm approach to the Boship, along the A267 from the Hellingly direction. This already occurs and it is not clear that the Transport Assessment takes account of this.

The Transport Statement confirms that in the 2030 'with development' scenario there will be a 65.84 second peak hour delay approaching the Boship roundabout compared with a 43.98 second delay without development. There will be some 43 cars exiting the site in the morning peak hour, many of which will be seeking to join the already lengthy queues approaching junction. The A22 (W) arm of the roundabout shows a 617.07 seconds delay with development in 2030 (i.e over 10 minutes), compared to 569.31 seconds without. These impacts clearly are material to the highway network especially in the context of a junction that is already over capacity in 2023. The T.A. report confirms the widening works proposed will not resolve the 'with development' delays to the southern arm of the roundabout. Queue times at the A267/B2104 junction also increase markedly in the 2030 'with development' scenario.

**The capacity, congestion and safety issues along with already anticipated future traffic growth have prompted ESCC to consult upon a package of junction improvements and to secure funding from Government and other stakeholders including WDC (via CIL monies). This includes the Boship A22/A271 junction. A visual from the consultation document projects the future traffic growth and impacts on journey times – a 25% growth in traffic is anticipated by 2039.*



Conclusion

Whilst it is well known that there is an acknowledged 5 year housing land supply situation in Wealden, this does not mean that every site is suitable for residential development, nor that every proposal for residential development is acceptable.

In this instance there are overriding factors ('footnote 7' points as they are known) which reset the tilted balance and are capable of overriding any presumption in favour of development. Furthermore, they are capable of justifying refusal of development in their own right.

In this instance, these overriding factors, in order of likely impact in the planning balance would be:

- Lack of compliance with a sequential flood risk test
- Heritage harm which resets the tilted balance and furthermore requires careful and full consideration given the Council's Statutory Duties.
- Potentially severe highway impacts. Even the submitted TA acknowledges that the proposal will increase queue lengths at key junctions: which in the context of already over-capacity junctions and long queue lengths could be considered a severe impact.

Furthermore, additional site specific factors which also weigh against the proposals are:

- The effect of the proposals on the spatial cohesion of the area, forming a detached fragment of development from Horsebridge village and eroding the definition of development between Horsebridge and Lower Dicker.

- Landscape effects on a highly sensitive and visually prominent tranche of Low Weald Countryside.
- Lack of demonstration that the site can safely and suitably accommodate 124 new dwellings with regard to appropriate form, siting, and amenity space (both for flats and in terms of open space that is not subject to flood risk and sequential test consideration). Impacts of noise and pollution in tandem with the form of development suggested which would cause a poor living environment for future occupiers.

Accordingly, the proposals fail various key planning tests and would request that the Local Planning Authority gives full consideration to these and **refuses** the application. Potential reasons for refusal would likely focus on flood risk and lack of compliance with sequential test; 'footnote 7' constraints relating to flood risk and heritage meaning the 'tilted balance' does not apply – therefore clear that harm relating to these issues as well as character, density, landscape impact outweigh any benefits in this instance; design / quantum being excessive leading to a poor level of amenity for future occupiers; impact upon the free flow of traffic approaching the A22/A271 junction and other key local junctions, some of which operate over capacity at peak times.

Many thanks for consideration of these points.

Yours sincerely,

[Redacted signature]

[Redacted name]

[Redacted address line 1]
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