

Highways Rebuttal on Behalf of East Sussex County Council

Bird in Eye south, Framfield Road, Uckfield

Planning Application Ref: WD/2021/2198/MAO
PINS Ref No: APP/C1435/W/22/3307820



Index

1	Introduction	2
2	Rebuttal	3
	Sustainable Accessibility	3
	Site Main Access Junction	4
APPENDIX 1	Arboriculture Rebuttal Note	8

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1 Introduction

- 1.1 My name is Roger New. I have been asked by East Sussex County Council to give evidence on behalf of the Highway Authority relating to the highways and transport aspects of Planning Application WD/2021/2198/MAO, Planning Inspectorate Ref APP/C1435/W/22/3307820.
- 1.2 This document is the Highways and Transport Rebuttal to the Proof of Evidence of Mr Matt Twinberrow submitted on behalf of the Appellant. Section and paragraph numbers referred to in my rebuttal refer to the numbering adopted in Mr Twinberrow's Proof of Evidence, unless otherwise attributed to other source documents.
- 1.3 In this rebuttal I will be addressing specific points which merit response in writing. Additional responses to the Appellant's evidence will be given in evidence in chief.
- 1.4 Impacts of the Appeal proposals on the town centre highway network and mitigation are agreed between the parties. The rebuttal will therefore address matters under two main headings:
 - Sustainable Accessibility; and
 - Site Main Access Junction

2 Rebuttal

Sustainable Accessibility

Para 4.4

This para quotes CIHT 'Planning for Walking' **[CDI.3]** as suggesting that most people will walk to a destination that is less than 1 mile (1.6km). What the document actually says (on page 8) is: *"Most people will only walk if their destination is less than a mile away. Land use patterns most conducive to walking are thus mixed in use and resemble patchworks of "walkable neighbourhoods," with a typical catchment of around 800 m, or 10 minutes walk."*

In my PoE I have demonstrated that walking as the mode of choice becomes increasingly less likely as distances to destinations exceeds 1km and only constitutes a minor proportion of all trips at 1 mile (1.6km) and beyond. Table 5 of Mr Twinberrow's PoE shows that only 10% (7 out of 71) of the listed key facilities are 1km or less from the site, and that 65% (46 out of 71) are at least 1.6km from the site.

Paras 4.10-4.12

These paras quote the Inspector's report at Alfold **[CDK.25]**.

At 4.10 - A 'genuine choice' needed – i.e. in respect of both distance and quality (In my PoE I have demonstrated that this is not true for BIES)

At 4.12 - 'There are adequate services and facilities which can be accessed without needing a car' (This is not true for BIES as shown in my Rebuttal to Para 4.4 above).

Para 4.20

This para states that Bird in Eye Hill footway widths are generally between 1.5m and 2.0m wide.

This is not so – the width is 1.5m-1.8m as stated in para 7.21 of Mr Twinberrow's PoE, the TA **[CDA.15]** and the WCHAR **[CDA.59]**.

Para 4.21

This para quotes from 'Inclusive Mobility' **[CDA.16]** and that while 2m is the minimum footway width that should be provided, 1.5m minimum width could be acceptable due to physical constraints.

The suggested reduction is clearly not intended to apply to the whole length of a route such as Framfield Road but allows for some intermittent reduction due to undefined *"physical constraints"*. The 'route' minimum is 2.0m. As stated in paras 4.16-4.19 of my PoE, other relevant design guidances **[CDI.3, CDI.4, CDI.11]** concur that 2.0m should be considered to be the minimum design width.

Para 4.35

This para states that the recorded 9-10 2-way cycle trips on an average weekday on Bird in Eye Hill demonstrates that cyclists consider the route to/from the town centre to be safe to use.

The figure of 9-10 cyclists per day is simply a count. Any link to perception of safety is pure conjecture. If you do link the two, the small numbers surely demonstrate the opposite.

Paras 4.40-4.44 (Conclusions)

Summarised, these paras state that the Appeal Scheme is sustainable in transport terms.

I cannot agree for all above reasons and in light of the more detailed review in my PoE. The site is too far from key destinations to be attractive to walking and the quality of the route is too poor to encourage walking as a preferred sustainable mode. The route is unattractive for cyclists, falling far short of the requirements of LTN 1/20 **[CDI.12]**. Mr Twinberrow has failed to demonstrate otherwise.

[note that, as stated in Section 6 of Mr Twinberrow's PoE, proposals for a new controlled (zebra) crossing on Framfield Road in the vicinity of The Alma Arms remain, at the time of writing, subject to further discussion].

Site Main Access Junction

Mr Twinberrow's PoE switches between DMRB and MfS as being the standards applicable to the design of this junction, depending on the argument being advanced. MfS is NOT applicable. MfS2 **[CDI.2]** states that 'a street is defined as a highway that has important public realm functions beyond the movement of traffic'. Bird in Eye Hill is therefore not a street and would not become one with the proposed development which does not change its character.

Para 3.19

This para suggests that MfS1 **[CDI.1]** specifies SSD formula values for speeds above 60kph (37 mph) and that, coincidentally, these are the same as DMRB uses.

MfS1 clearly states that (para 7.5.1) *"This section provides guidance on stopping sight distances (SSDs) for streets where 85th percentile speeds are up to 60 km/h."* MfS2 **[CDI.2]** (para 10.1.1) states that it incorporates section 7.5 of MfS1. MfS2 Table 10.1 comments that the SSD formula values are as TD9/93 (now CD109) – this is not a coincidence, it is what DMRB requires and DMRB applies to the site main access junction.

Paras 3.38 & 3.40

Para 3.38 states that there have been no recorded accidents on this stretch of Bird in Eye Hill. Para 3.40 concludes "the highway network "is demonstrably safe and would not be rendered unsafe with the introduction of traffic from the Appeal Scheme".

The Appeal Scheme introduces a new junction onto this section of highway with a significant volume of side road traffic and new turning movements. The existing accident record is not relevant to the need to ensure that the new site main access junction design is safe.

Paras 5.12-5.19

These paras assert that DMRB is not appropriate as it relates to motorways and trunk roads, as traffic volumes (all vehicles and HGVs) are much higher than on Bird in Eye Hill.

The Design Manual for Roads and Bridges (DMRB) is a suite of documents setting out current design standards relating to the design, assessment and operation of motorway and all-purpose trunk roads in the United Kingdom. It is also used by local highway authorities in the design and assessment of relevant local roads. MfS applies only to 'streets' (which Bird in Eye Hill is not) with observed speeds of up to 60kph (37mph). DMRB is more to do with ensuring safe design than providing capacity. Local highway authorities routinely use DMRB for design purposes in locations where MfS does not apply. The quote from LTN 1/08 **[CDI.6]** in para 5.19 is not relevant as LTN 1/08 applies to streets which Bird in Eye Hill is not.

DMRB standards distinguish between motorways (where junctions of the type proposed at the site main access junction are not allowed) and other trunk roads (where such junctions are allowed), and between varying standards of trunk road (e.g. dual carriageway, single carriageway). Where, for new junctions on a single carriageway road, a design aspect is related to the speed or volume of traffic using the junction, DMRB standards reflect that (e.g. visibility requirements which vary according to speeds, and the need for diverge / merge lanes at junctions which varies according to volumes). Where a design aspect, to deliver acceptable safety, is not dependent on either speed or volume, the relevant DMRB standard is universal over all speeds and volumes. CD123's **[CDI.7]** requirements for kerb radii and through lane widths are universal.

Paras 5.11 & 5.22 – 5.42

These paras seek to demonstrate that the proposed access design (Rev K) is safe in respect of corner radii, vehicle tracking and through lane widths.

Para 5.11 correctly states the requirements of CD123 **[CDI.7]**. ESCC's long-standing view is that the through lanes should be 3.0m, the minimum required. ESCC has also consistently required that the corner radii should be 10m (not the 8m proposed which appears to have no basis in any standards) which itself constitutes a Departure from the full standard set out in para 5.11 of Mr Twinberrow's PoE, but a Departure, subject to satisfactory vehicle tracking, that ESCC were prepared to accept as not unacceptably compromising safety.

Regarding through lane widths, DMRB CD123 **[CDI.7]** requires a minimum of 3m for safety reasons for all road users not just HGVs. There is no opportunity given to relax that requirement. Any non-compliance would be a Departure. ESCC consider that such a Departure is not acceptable on safety grounds. Para 5.22 correctly states that the tracking shows that no vehicle entering or leaving the site would cross into the oncoming through lane but that is not the issue. The tracking shows that such vehicles would significantly over-run into the right turn lane and across the access road centreline. Para 5.23 quantifies the numbers but these are not insignificant – every day there are 8 such vehicle movements, i.e. 8 potential safety conflicts, and that is based on the current occupiers of the BIEFarm buildings. There is no limitation on occupancy in the relevant planning permission and therefore no guarantee that considerably higher volumes of HGV traffic could arise in the future a site occupancy changes.

Para 5.24 is an example of Mr Twinberrow switching between the standards he considers applicable to the site main access junction, firstly referencing MfS (which is not relevant as this applies to streets, which Bird in Eye Hill is not) and low speed environments (which is not the case for through traffic at the proposed site main access junction) but then, secondly, referencing CD123 as justification for dismissing the need to take the percentage of HGVs into account. Para 5.24 also misleadingly quotes the percentage of HGVs on the proposed site access road only; para 5.16 states the percentage to be higher at 2.95% on Bird in Eye Hill itself.

Paras 5.38 to 5.42 do not adequately address ESCC's concerns: that the narrow through lanes (only 2.75m when the maximum width of an HGV is 2.55m wide - 2.6m if refrigerated - plus wing mirrors) doesn't leave much room for driver positioning variability, particularly if they are travelling on the main road at speeds similar to the observed approx. 42-45mph 85%ile; and that, because of the bend on the approach from the east, driver behaviour, and the lack of clear notification of the junction's presence, there would be a risk of vehicles travelling from the east though the junction coming into conflict with vehicles waiting in the right turn lane. The 2.75m through lane widths proposed are substandard (CD123 **[CDI.7]** requires 3m minimum) and ESCC see no compelling argument that such a Departure from standards is acceptable.

Paras 5.43 – 5.63

These paras describe changes made to the proposed site main access junction subsequent to 021 Rev K which was the scheme included in the reconsultation.

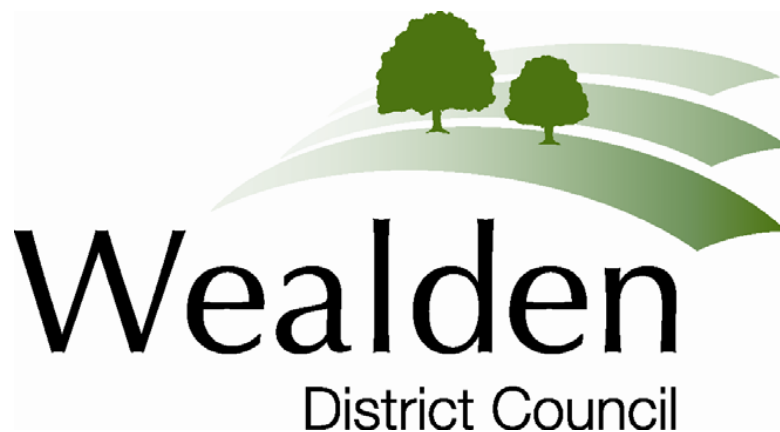
The latest iteration at the time of writing this Rebuttal evidence is 021 Rev P. This incorporates the 3m wide through lanes and 10m kerb radius which were long-standing requirements of ESCC. It also includes white lining on the approach to the junction from the east, plus advance signing, to manage lane discipline. At the time of writing, 021 Rev P is the subject of internal consultations within ESCC. I will be able to update the Inspector at the Public Inquiry on the outcome of those consultations, which will take account of Mr Twinberrow's submissions relating to construction methodologies, but initial concerns include the safety of the junction in satisfactorily accommodating turning vehicles (as demonstrated by the associated tracking drawings), and the deliverability of the design given the very small clearances between the proposed carriageway and the highway boundary on both north and south sides of the junction. The latter has given rise to concerns about potential impacts on the integrity of the trees on 3rd party land on the southeast side of the access road. A rebuttal note prepared by Ben Rainbow, Wealden District Council Biodiversity and Arboricultural Officer refers and is attached at Appendix 1.

In addition, as with 021 Rev K **[CDA.55]**, 021 Rev P makes no provision for non-motorised users at the junction, in particular no provision to allow cyclists to safely cross between the site access road and the eastbound carriageway.

In para 5.60 Mr Twinberrow claims that the changes made between 021 Rev K, which was the scheme included in the reconsultation, and Rev P are *"very minor and do not cause prejudice to any interested parties with regard to the Wheatcroft Principle"*. ESCC do not consider the changes to be 'very minor' but that is a matter for the Inspector to determine.

In para 5.62, Mr Twinberrow asserts that *"the highway layout agreed at the time when planning permission is granted is typically regarded as a 'general arrangement'"* and that further incremental amendments may stem from the subsequent S278 detailed design stage. The Appellant is seeking detailed planning permission for the means of access. As such, the proposals have to be demonstrated as being deliverable, rather than just a general arrangement.

APPENDIX 1 Arboriculture Rebuttal Note



Town and Country Planning Act 1990

Appeal by Croudace Homes Ltd

OUTLINE PLANNING APPLICATION FOR THE ERECTION OF UP TO 290 DWELLINGS,
ASSOCIATED LANDSCAPING, INFORMAL OPEN SPACE AND STRATEGIC SANG,
WITH ACCESS FROM THE B2102

Land at Bird in Eye South, South of Bird in Eye Hill, Framfield, TN22 5HA

Wealden District Council Ref:

WD/2021/2198/MAO

Planning Inspectorate Ref:

APP/C1435/W/22/3307820

Rebuttal Note Concerning Arboricultural Matters for Proposed Highways Access

CONTENTS

	Page
1 Introduction	1
2 Rebuttal	1

1 INTRODUCTION

- 1.1. My name is Ben Rainbow. I am employed by Wealden District Council as Biodiversity and Arboricultural Officer. I am providing evidence regarding ecology and arboriculture on behalf of Wealden District Council for planning application WD/2021/2198/MAO and appeal reference APP/C1435/W/22/3307820.
- 1.2. This document is a rebuttal note addressing arboricultural matters associated with the highways access proposed as part of the scheme.

2 RUBUTTAL

- 2.1. I understand the highway junction proposed for the scheme has been subject to a number of variations of design and features of the access have changed as a result.
- 2.2. The impact to trees have not been made clear on the submitted plans and, since discussing revision P document (ref: Proposed Access - Right Turn Lane dated 02/02/2022 ref: 5330/021 P) with East Sussex County Council Highways, it has only just been recognised that there are likely further implications on trees and woodland that would result from the new access and associated changes to the highway. Therefore, these comments apply to both revisions P and K of the proposed access plans. This are discussed below.
- 2.3. With regard to the impacts of scheme's new highway junction, there are a number of what are considered valid arboricultural considerations that I believe have not been assessed as part of the planning application arboricultural impact assessment (AIA) nor applicant's subsequent Proof of Evidence arboriculture submission (proof of evidence on arboricultural matters report ref: BHA.C3574_POE_RH). The impacts upon trees and woodland within influence of the proposed highways access are not clear in submitted documents to date and no arboricultural assessment has been provided be able to comment upon.

What are considered outstanding arboricultural issues include:

- 2.4. The impact of woodland bank removal, ground re-grading and new access visibility splay requirements on trees and woodland, including root protection area (RPA) incursion. It is understood an individual tree arboricultural impact

assessment has not been undertaken on the woodland edge trees subject to interface with road junction, neither has sufficient supporting arboricultural information suitable to demonstrate all relevant arboricultural considerations have been made, such as: tree retention or removal plan, tree protection plan or arboricultural method statement or schedule of works (e.g. facilitation pruning).

- 2.5. Although arboricultural assessment upon individual trees has not been undertaken at this location, it appears at least one category A mature oak tree would require removal and several other mature and semi-mature trees would be affected along the roadside to implement the proposed access. It is reasoned that the impact upon trees and woodland of the highway junction infrastructure at this location has not been sufficiently established or assessed.
- 2.6. The stability of trees post-development. From the highway plans provided, including document Proposed Access - Right Turn Lane dated 02/02/2022 ref: 5330/021 P, it appears the woodland edge bank that currently exists at the side of the road would require partially removing and or regrading and potentially a number of trees to be removed to create and maintain a suitable visibility. Section 7.4.1 of BS5837:2012 Trees in relation to design, demolition and construction states: 'Where permanent hard surfacing within the RPA is considered unavoidable, site-specific and specialist arboricultural and construction design advice should be sought to determine whether it is achievable without significant adverse impact on trees to be retained. NOTE Specialist arboricultural advice includes, for example, advice on the tolerance of a tree species to the installation of a permanent hard surface within the RPA or tolerance of salt damage'. Section 7.4.2.3 states: 'New permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA'. An arboricultural assessment of impacts to the mature woodland edge trees has not been undertaken and - in the absence of such information - it appears RPA incursion will be in excess of recommended amounts on a number of mature tree specimens, most notably nearer the proposed highway junction/access. This may result in unanticipated tree and woodland damage and/or further requirements for tree removal.
- 2.7. Works to land and trees not in landowner control. It is unclear if the applicant has permission to undertake work beyond the highway boundary on adjoining landowner's land. Common law rights with relation to trees only extend to cutting

back vegetation such as tree branches overhanging land to property boundaries. Highway and Arboricultural Association guidance refer to the duty of care beholden into third parties to ensure they do not make neighbouring trees dangerous or unstable.

- 2.8. Arboricultural or ecological mitigation. The amount of tree and woodland loss or impact resultant from the work has to date not been quantified for the proposed highway junction/access. Therefore, specific arboricultural or ecological mitigation has not been identified or provisioned/allocated for the scheme.

Ben Rainbow | Biodiversity and Arboricultural Officer
Planning and Environmental Services, Wealden District Council

END



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