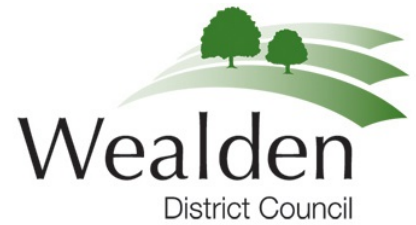


OUR REF: [REDACTED]/PE/2024/0122/E

ASK FOR: [REDACTED]

DATE: 04 June 2024

YOUR REF:



Mr Steven Brown
Woolf Bond Planning Ltd

Head of Planning and Environmental Services

Dear Mr Brown

**Re: PE/2024/0122/E
UP TO 235 DWELLINGS, A REDUCED SANG, A REVISED ACCESS DESIGN, AND
THE OMISSION OF LAND TO THE SOUTH OF BIRD IN EYE SHAW.
LAND AT BIRD IN EYE FARM, SOUTH OF BIRD IN EYE HILL, FRAMFIELD,
UCKFIELD**

This letter serves as a summary of the main matters discussed during the pre-application meeting on 23rd May 2024.

Can I thank you for engaging with the Council at pre-application stage and hope the service offered added value to the project.

The site has a recently dismissed appeal subject to Public Inquiry for a greater amount of development over a larger site area. The revised scheme presented at the pre-app is attempting to overcome the principle matters that the scheme was dismissed at appeal for.

This pre-application advice as reflected in the meeting does not set out a full comprehensive appraisal of the development in totality but focusses on the main points of difference that were determinative from the appeal. The meeting focussed on the key points set out in para 6.4 of the pre-app letter. This structured the meeting and the pre-app comments are made in reference therefore to that 'agenda'. It is assumed you are aware of all major policy requirements for the scheme based on the previous submission.

1. Principle of development

Paras 49-53 of the Appeal decision were agreed to be clear that the location of the development in terms of proximity to Uckfield and options for non-car transport means were acceptable to the Inspector and the development boundary breach was not fatal to any development of the site.



Clearly this position was adopted based on the fact that the most relevant local plan policies (including those for housing) were out of date and that the Council does not have a 5yr (or 4yr) housing land supply.

As you are aware the Council is working towards a new local plan (which this site is not within presently in terms of a growth option) and seeking to secure a 4yr housing land supply position to protect the passage of that plan in line with para 226 and footnote 8 of the NPPF. The plan has concluded its reg 18 consultation such that the Council would be required only to demonstrate a 4yr supply of housing at the present time. The supply is below this presently but active steps are being made to bring it above 4yrs.

Were the Council to achieve a positive housing land supply position and/or an up to date Local Plan, which this site did not fall in, this would alter the planning balance in terms of the principle of development of this site. In regard to this, it was set out that you intend to continue to engage with the plan process to seek inclusion of the site.

One further matter highlighted was that because of the ASNW, Heritage and flood risk matters the Presumption in Favour had not been engaged for the appeal scheme. That would remain the case for any revised scheme unless those matters for which the NPPF directs refusal could be addressed. Obviously were any revised scheme able to engage the presumption in favour the planning balance would materially alter in favour of the scheme as any remaining harm would have to significantly and demonstrably outweigh the considerable benefits (accepted by the Inspector) of the scheme.

2. Highways access and design

It is understood that you have separate pre-application engagement with ESCC highways. Clearly there were matters of highway safety identified and supported by the Inspector.

The roundabout solution is designed to alleviate these. Commentary was made by officers over the need to ensure any highway solution does not cause potential conflict with the parcel of land to the north (confirmed to be in the same ownership). It is understood there is a 'joined up' approach to the highway solution to prevent prejudicing other land coming forward.

Technical matters of highway safety will be assessed by the Highway Authority. It was stressed that the solution will need to protect the important trees around the access point.

Discussion was made about the possibility of retaining the previously proposed vehicular access into the eastern portion of the site to the northeast of the industrial units (primarily in relation to the wider concerns over heritage impacts set out below). It is understood that there may be conflict between the new access arrangements proposed and the retention of this point of access. It is an area that with the comments below on design and heritage may need further investigation.

3. Schematics

The scheme is outline with all matters except access reserved. This would include the access point and the main arterial routes through the development usually. As set out in the heritage section there is still concern over the western part of the development that includes the main access road through the site in the proposed scheme.

Overall the illustrative scheme does seem a fairly dense layout with a predominance of dominant on-street parking and significant use of rear parking courts. These are all features that would be undesirable in design terms to the LPA. There is little space for landscaping within the built areas.

Whilst the scheme would reserve appearance, scale, layout and landscaping it is not clear that the quantum of development can be accommodated in an appropriate form. The appeal decision is broadly silent on this matter owing to the overriding conflicts on principle issues. I would suggest the illustrative details show some concerns over the ability to deliver the quantum of development in an appropriate manner at RM. This could be covered in an 'upto' inclusion within the description of development, but in association with comments regarding heritage etc it may be that the quantum of development needs to be reduced.

These concerns are further emphasised by the topography on the site that could further impact on design and layout, dependent on the extent of cut and fill and the resultant need for greater separation distances between units to meet the requirements of the Wealden Design Guide in terms of privacy.

4. Ecology (ASNW, SANG,BNG)

The revised scheme has removed the southern SANG land removing the need for pathways through the ASNW. In addition, all built form lies outside the 50m buffer to the ASNW and the 15m buffer was explained to be respected for all other engineering works such as the SUDS basins.

In addition, the buffer area will be planted with landscaping that will seek to minimise intrusions from residents within the zones with recreation routes outside the 15m buffer and planting designed to 'prevent' easy access to the ASNW.

Whilst the buffer areas would comply with minimum requirements of NE standing advice for the minimum buffer there are a number of matters raised by the Inspector in para 25 of the appeal decision in relation to ASNW woodland not solely relevant to the ASNW buffer. Any submission would need to demonstrate how these impacts would be prevented from causing loss or deterioration of the irreplaceable habitat as they were identified independently from the path through the ASNW as matters that could cause some deleterious impacts.

Clearly the Appeal scheme did not demonstrate any exceptional reasons to permit loss or deterioration of the irreplaceable habitat under para 186(c). As such unless a revised scheme can demonstrate no loss or deterioration of the irreplaceable habitat the NPPF would retain a direction to refusal as the inference is that a lesser scheme would be less likely to demonstrate exceptional reasons to permit.

The SANG area shown on the revised scheme was explained to meet the size requirements for the number of residents of the scheme and could secure appropriate walking routes etc to meet the requirements of the Natural England guidance for SANGS. This would need to be proven through submissions with the revised scheme.

Since the appeal scheme was submitted the Biodiversity Net Gain regulations have come into force. Any new application will need to have regard to the BNG regulations. Any submission will require the Statutory Biodiversity Metric to be completed and submitted with any application. Development will need to demonstrate a minimum BNG of 10%. Whilst the appeal decision refers to a BNG of 40% it was explained this would not be the case for the revised scheme which would seek to meet the 10% requirement.

5. Heritage

Whilst heritage was not an issue for the original appeal in 2008/2009 and was not a point of difference between parties at the most recent appeal the Inspector raised significant concerns over the impact of the development to the heritage significance of the listed Oast House. This assessment is set out in para 58 with the harm identified as being less than substantial in para

61 of the appeal decision. Paras 63-69 carry out the public benefit test under para 208 of the NPPF.

In terms of harm to the setting the main factors related to the visual impact to the rural setting of the Oast House and the impact to the tranquillity of its setting. The scale of development was also considered to compete with and distract from the landmark quality of the building.

The pre-app scheme has sought to reduce the amount of built form to the west of the Oast House. It is accepted that it is the western part of the site that results in the harm to the setting of the heritage asset. Whilst reduced development is shown in this area the view provided by the Heritage Officer was that the scheme did little to materially reduce the identified harm from the appeal scheme. There is still significant residential development in the rural setting of the Oast House and the long and engineered access road would result in similar levels of harm to the dismissed scheme.

The view was that the development to the northwest corner should be excluded and the southern portion shrunk back to the easement with the road moved to utilise the original north-eastern access to the eastern part of the site. It is understood there may be highway constraints to this but from a heritage perspective this would be a significant improvement in terms of setting impacts. Such changes would obviously reduce the quantum of development that could be accommodated on the site.

The conclusion given on the amended scheme, the subject of this pre-application, was the level of harm would be comparable to the appeal scheme.

Turning to benefits these were set out by the Inspector. There are no new and additional public benefits to the revised scheme other than some works proposed around the Oast House itself to include remedial work to the building. These were not considered by the Heritage Officer to be significant public benefit given the current good condition of the building and the existing immediate setting.

There would be less housing provided along with reduced public benefits associated with this. Additionally the SANG would be sized to meet the needs of the development only reducing significantly any wider public benefit from the larger SANG. The BNG is reduced from the 40% previously quoted lessening the public benefit of this.

In summary, the level of harm to the heritage asset is not materially reduced in the view of the Council in the pre-app scheme and the actual public benefits are reduced such that even were there any marginal reduction in harm to the setting, this would be offset in the public benefit test in terms of lesser public benefits. It appears that further consideration is needed prior to submission of any scheme to go further on preservation of the setting of the heritage asset to avoid a direction to refusal under the NPPF. Clearly, the recent appeal decision is a significant material consideration in this assessment.

6. Drainage and Floodrisk

Whilst the R6 party raised issue over drainage of the site the appeal decision is clear that this was not a matter that warranted refusal it being able to be controlled via condition/at RM stage based on the Inspector's conclusions in the decision letter.

It was discussed that there seemed to be some confusion in terms of areas that were actually in floodzone 2 or 3 within the appeal decision. During the meeting the most recent SFRA mapping with climate change was shown to suggest the cycle/pedestrian access point to the NW was likely to be outside any area at risk of flooding. The wider developed areas of the site were also (as accepted in the appeal) in floodzone 1 and outside the areas at risk from surface water flooding.

However, you confirmed that the outfall for the SUDS scheme is in FZ3 and there is a small area of surface water flood risk around the proposed access point. It is agreed that where part of the site falls in an area at risk of flooding (from any source) a sequential test is required. Failure of the sequential test would direct refusal.

Consideration of a sequential approach to development on the site (managing the surface water risk and putting the developed areas in FZ1 in this case) and the exception test and para 173 criteria would only apply were the sequential test passed. It is for the LPA to determine if the sequential test is passed but as the applicant you would need to provide the information through any application submission to assist the LPA in applying the test.

The appeal decision set out that the sequential test provided for the appeal scheme was not appropriate in terms of the area for which reasonably available sites was considered.

Para 027 of the NPPG sets out for individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. Para 028 sets out that reasonably available sites are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged by the development. The absence of a 5yr supply is not relevant to the sequential test for individual applications and that would apply here.

There is no justifiable position to suggest that the sequential test should be limited to the area of 7km of the Ashdown Forest as set out in the appeal decision. I would suggest the wider HMA is most likely to be the smallest area that could be considered, though actually a scheme such as this could in reality be considered 'district wide'. HMA are set out in the Wealden Local Housing Needs Assessment 2021. If you wished to submit an outline of what would be considered site parameters for other reasonably available sites I may be able to assist in confirming these prior to you carrying out abortive work. It could include a selection of smaller sites or part of a larger site potentially.

The site is assessed under the Council's SFRA 2 (2023). Use of the SFRA 1 (2022) and SFRA 2 to frame the sequential test would be of assistance to you.

Unless you can provide a red site area that excludes areas at risk of any form of flooding there appears to be no exceptions for the drainage outfall in terms of application of the sequential test. This is based on a cursory search through appeal decisions and the NPPG. Should I become aware of any concession to this within appeal decisions or guidance I will forward these on.

Presently there is heavy scrutiny towards foul drainage capacity within the District, particularly with regard to unauthorised use of stormwater outfalls. Consents where granted are subject to a Grampian condition requiring all network reinforcement and capacity issues required to be provided as part of the development with the improvements identified pre-commencement and no occupation until they are delivered.

7. CIL and S106

The development is CIL liable. Appropriate forms will be required with the submission.

A S106 would be required as part of any scheme. This would reflect that provided for the Public Inquiry. This would include the Uckfield Highway Improvements, off site Youth and Adult facilities, SANG provision, affordable housing and Custom and Self-build.

Other

You are aware the Council is progressing a new plan that has recently completed its Regulation 18 consultation. There are a number of additional policy requirements within this document so you should be aware that the longer any submission takes the more weight may be afforded to these policy requirements.

Validation Requirements

For validation requirements please refer to the adopted documentation on the Council's website [Wealden-District-Council-Validation-Requirements-Jan-2021-v3.pdf](#)

Conclusion

The revised scheme presently does not provide sufficient change from the dismissed scheme to indicate a positive resolution is possible. Heritage is a major factor in this but there are other matters relating to the need to pass a sequential test and deal with ASNW impacts that still require further work.

Overall, based on the illustrative plans, it also appears that the quantum of development sought could prevent a good quality built environment as part of any reserved matters so some consideration should be given to the illustrative details and the quantum of development to show that effective landscaping of the POS and streetscape can be achieved and open space/playspace provisions can be well integrated.

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

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for Head of Planning & Environmental Services