

Land at Bird In Eye Farm, South Of Bird In Eye Hill, Framfield (WD/2021/2198/MAO) – Lead Local Flood Authority position



Date: 2 August 2023

Document summary

Summary of the Lead Local Flood Authority’s position on the proposed development at Land at Bird In Eye Farm, South Of Bird In Eye Hill, Framfield, TN22 5HA, which will be included in Wealden District Council’s Statement of Case for APP/C1435/W/22/3307820.

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Lead Local Flood Authority Statutory Response to the Local Planning Authority.

Site description

The appeal site is a greenfield site (agricultural land) located to the south of Bird in Eye Hill, to the east of Uckfield. The site covers 41 hectares, approximately 16 hectares of which would be the developable area for residential dwellings.

The development proposals are for Outline planning application for up to 290 dwellings, associated landscaping, informal open space and strategic SANG, with access from the B2102. Appearance, landscaping, layout and scale are reserved.' as described in the submitted Flood Risk Assessment.

The Planning Application is for full planning permission and the Appeal (against non-determination) is supported by a Technical Note on Surface Water Drainage Strategy.

There is no significant flood risk to the development from external sources as identified by the planning submission or in our data sets. There are some small areas of surface water flood risk indicated in the modelling but not to the degree that would be a hazard to the development or materially reduce the ability of the proposed drainage system to function as intended.

An extract of our flood risk data sets is shown below in Figure one with the site outlined in red against the aerial photograph background. For context the light blue shading is the extent of flood risk for the 1000 year return period flood risk from surface water modelling.

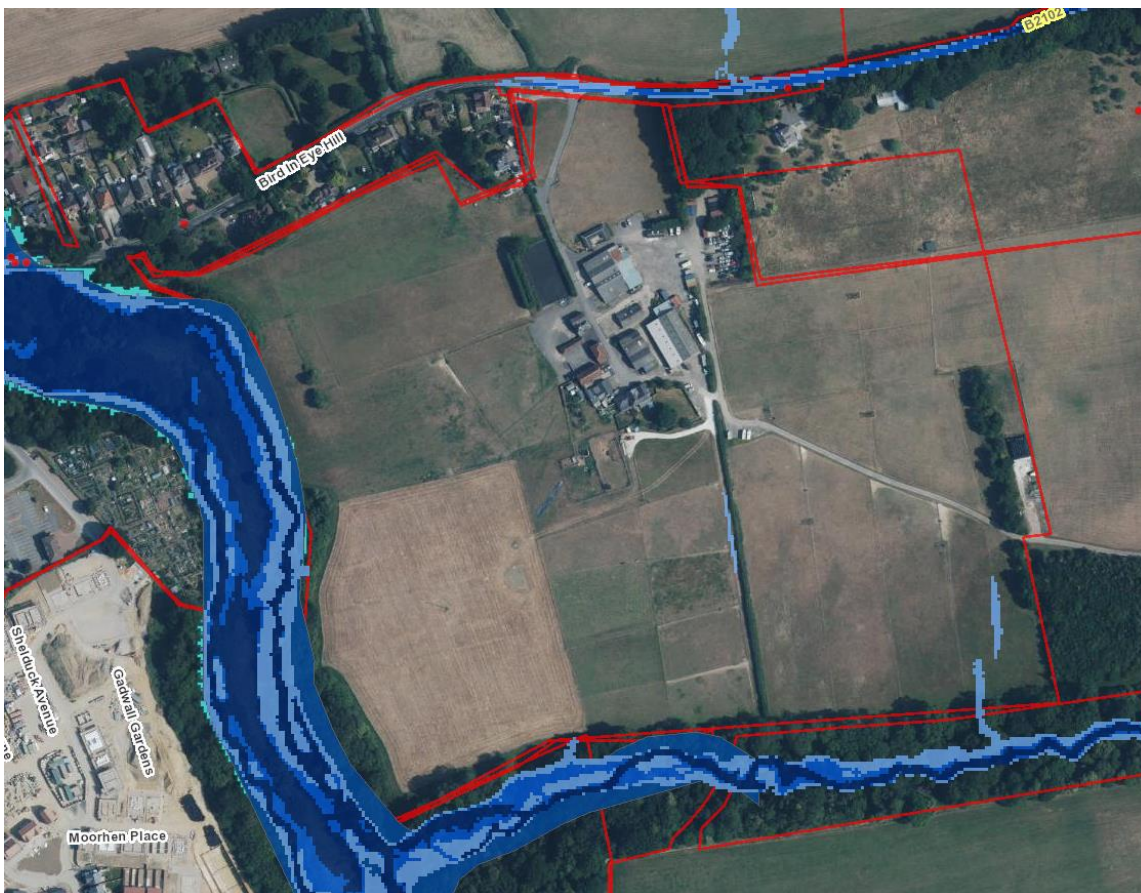


Figure 1: Extract from ESCC Surface Water Flood Risk Dataset

Lead Local Flood Authority's position

This Appeal has arisen in the context of non-determination and therefore there are no 'reasons for refusal' related to drainage or flood risk, but we have produced this Statement to set out our position.

The County Council as the LLFA is responsible for local flood risk, which includes ordinary watercourses, surface water and groundwater. Therefore, any response to a planning consultation is given within this area of responsibility as the Competent Authority.

The planning application was for outline planning approval with layout being a reserve matter. Our requirements, at this stage, is for the proposals to demonstrate that the drainage strategy is feasible within the development boundary and for the quantum of development. In so doing it should prove that our flood risk and sustainable drainage requirements are capable of being met, subject to a reserve matters application for determination of the planning site layout, and further technical design considerations (which can be dealt with by planning condition).

The original basis for the drainage strategy was to discharge to the adjacent watercourse. This was since altered to be an infiltration solution to avoid the need to undertake works in the designated ancient woodland or buffer. Following further ground investigation results, which were unfavourable, this has been returned to the original solution, albeit with a point of discharge further upstream. The proposed outfall is shown in figure 2 below which is an extract from the Stantec Technical Note dated January 2023 titled '*Technical Summary – Surface Water Drainage Strategy*'.

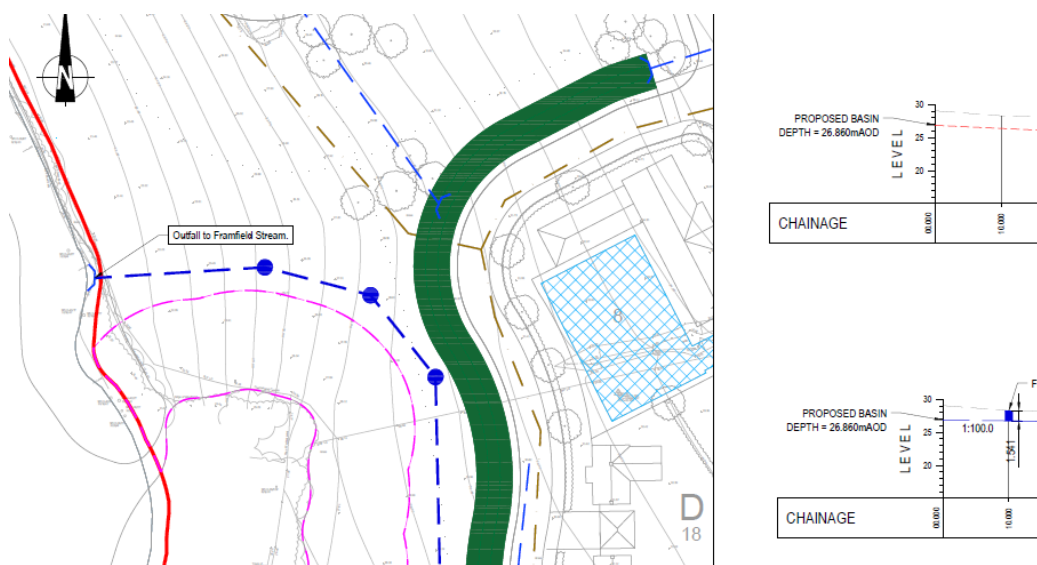


Figure 2: Extract from Stantec drawing 48494/2002/SK05 rev A

We do not object to the solution. Our only material concern is that the proposed outfall is shown on the plans just outside of the site boundary and therefore may be 'offsite works'. Our position is that as an engineering operation in planning terms and to ensure ownership and/or control of the land to ensure the works can be constructed and maintained in perpetuity without reliance on a third-party consent, all drainage works should be within the site boundary and legal ownership of the applicant. Alternately a legal agreement with a third-party landowner would need to be established.

We understand from the Applicant's Consultant that the land is within the ownership of the applicant, who is the riparian owner of the watercourse bank. Therefore, in our view, and given the close proximity of the works to the site boundary, either a unilateral undertaking can be provided to confirm the outfall can be constructed and maintained in perpetuity for the lifetime of the development by the freeholder of the development and any subsequent management company or adopting body, or alternatively the design and/or planning red line could be clarified to contain all drainage works within the site.

This is essential to ensuring the outfall, being the only viable option to drain the site, remains in under the control of the owner of the development land, whether sold or retained by the current owner.

Should the Planning Inspector be minded to grant this appeal, we request that the ability to construct, access the outfall in perpetuity (for maintenance), and to discharge surface water to the watercourse is legally established as part of the planning process for the lifetime of the development. The following condition can then be applied to the Outline Planning Consent to control the detailed design and successful implementation of the drainage system:

Prior to Commencement of Development

No works onsite shall take place until details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority including the following elements:

1. Detailed drainage drawings and calculations shall be submitted based upon an agreed drainage strategy which shall confirm that surface water runoff from the proposed development shall be limited to greenfield runoff rates (if not discharged to ground) and surface water attenuation up to and including storms with a 1% (plus climate change allowance) annual exceedance probability [AEP] shall be stored without flooding onsite or downstream. Evidence of this (in the form hydraulic calculations) shall be submitted with the detailed drainage drawings.
2. The details of the outfall of the proposed attenuation basin and how it connects into any watercourse or other outfall shall be provided as part of the detailed design. This shall include cross sections and invert levels with specific reference to the landownership boundary.
3. The detailed design of any shallow soakage and attenuation systems should be informed by findings of groundwater monitoring between autumn and spring together with infiltration testing at the design depth and location of the proposed soakway. The design should leave at least 1m unsaturated zone between the base of the soakaways and the highest recorded groundwater level. For tanked attenuation systems, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity should be provided.
4. The detailed design should include information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely.
5. A maintenance and management plan for the entire drainage system shall clearly state who will be responsible for owning and managing all aspects of the shared surface water drainage system and confirm how these responsibility arrangements will remain in place through the lifetime of the development.
6. Measures to manage flood risk, both on and off the site, during the construction phase shall be provided as part of the temporary works design. This may take the form of a

standalone document or be incorporated into the Construction Management Plan for the development.

Prior to Occupation of the Development

7. Prior to occupation of the development, evidence (including photographs and topographic survey) should be submitted showing that the key suds components of the drainage system; attenuation storage, flow control and outfall, have been constructed as per the final agreed detailed drainage designs.

Appendix A

Claire Turner
Planning and Environmental Services
Wealden District Council
Council Offices
Vicarage Lane, Hailsham
BN27 2AX

Date: 1 August 2023

Our ref: SUD/WD/21/023/R6
Your ref: WD/2021/2198/MAO

Dear Claire Turner

**SUD/WD/21/023/R6 - Amendment to Appeal
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 Farm, South of Bird in Eye Hill,
Framfield, TN22 5HA**

Received Date: 19 July 2023

Position of the Lead Local Flood Authority:-

No objection	The information provided is satisfactory and enables the LLFA to determine that the proposed development is capable of managing flood risk effectively.	
No objection	The information provided is satisfactory and enables the LLFA to determine that the proposed development is capable of managing flood risk effectively. Although there will be a need for standard conditions which are outlined in this response.	X
No objection in principle subject to the imposition of conditions	Whilst the application documentation has not met all the County Council's requirements, it is possible that the risk is capable of being mitigated to acceptable levels by the application of planning conditions which are outlined in this response.	
Objection due to Insufficient Information	The applicant has failed to meet the requirements to assess its acceptability in flood risk terms. The LLFA will respond in 21 days of receipt of the requested information	
Objection	The application presents an unacceptable on site/off site flood risk.	

Cont./...

Detailed comments:

The LLFA previously provided a 'no objection' consultation reply on 11 March 2022 which provided proposed condition wording to allow Outline Planning Consent and control the particulars of the detailed design, subject to confirmation of the plan layout at reserve matters stage. Since that time the Applicant has lodged an appeal against non-determination and we were re-consulted by the Planning Authority at that time and confirmed the same position.

The Applicant has now changed the basis of the drainage strategy for surface water from infiltration to ground to discharge to a watercourse. This is supported by additional ground investigation which shows, contrary to the previous ground investigation, that the infiltration characteristics and ground water levels in the location of the proposed attenuation basin do not allow for an infiltration solution.

Having reviewed the more recent ground investigation we would agree that it calls into question the ability of the previous scheme to achieve the infiltration rates and therefore the storage size previously proposed.

The design now proposed is similar to the original version of the drainage strategy, which we did not object to, with an alternate outfall position slightly further upstream to avoid the ancient woodland designation and buffer zone. It is accepted the watercourse is suitable receiving body for the flow.

The proposed outfall is shown outside of the development boundary and we believe that as an engineering operation in planning terms and to ensure ownership and/or control of the land to ensure the works can be constructed and maintained in perpetuity without reliance on a third party consent, all drainage works should be within the site boundary and legal ownership of the applicant. Alternately a legal agreement with a third party landowner would need to be established.

We understand the land is within the ownership of the applicant, who is the riparian owner of the watercourse bank. Therefore, in our view, and given the proximity of the works to the site boundary, either a unilateral undertaking can be provided to confirm the outfall can be constructed and maintained in perpetuity for the lifetime of the development by the freeholder of the development and any subsequent management company or adopting body, or alternatively the design and/or planning red line could be clarified to contain all drainage works within the site. This is essential to ensure the outfall, being the only viable option to drain the site, remains under the control of the owner of the development land, whether sold or retained by the current owner.

If the Planning Authority, or Inspector, is minded to grant planning consent, we request that the legal ability to construct and access the outfall in perpetuity for the lifetime of the development is legally established through the planning process. The following condition can then be applied to the Outline Planning Consent.

Prior to Commencement of Development

No works onsite shall take place until details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority including the following elements:

1. Detailed drainage drawings and calculations shall be submitted based upon an agreed drainage strategy which shall confirm that surface water runoff from the proposed development shall be limited to greenfield runoff rates (if not discharged to ground) and surface water

attenuation up to and including storms with a 1% (plus climate change allowance) annual exceedance probability [AEP] shall be stored without flooding onsite or downstream. Evidence of this (in the form hydraulic calculations) shall be submitted with the detailed drainage drawings.

2. The details of the outfall of the proposed attenuation basin and how it connects into any watercourse or other outfall shall be provided as part of the detailed design. This shall include cross sections and invert levels with specific reference to the landownership boundary.

3. The detailed design of any shallow soakage and attenuation systems should be informed by findings of groundwater monitoring between autumn and spring together with infiltration testing at the design depth and location of the proposed soakway. The design should leave at least 1m unsaturated zone between the base of the soakaways and the highest recorded groundwater level. For tanked attenuation systems, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity should be provided.

4. The detailed design should include information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely.

5. A maintenance and management plan for the entire drainage system shall clearly state who will be responsible for owning and managing all aspects of the shared surface water drainage system and confirm how these responsibility arrangements will remain in place through the lifetime of the development.

6. Measures to manage flood risk, both on and off the site, during the construction phase shall be provided as part of the temporary works design. This may take the form of a standalone document or be incorporated into the Construction Management Plan for the development.

Prior to Occupation of the Development

7. Prior to occupation of the development, evidence (including photographs and topographic survey) should be submitted showing that the key suds components of the drainage system; attenuation storage, flow control and outfall, have been constructed as per the final agreed detailed drainage designs.

If you wish to discuss any of the points raised in this letter, please contact the case officer on SUDS@eastsussex.gov.uk

Yours sincerely

Nick Claxton
Team Manager - Flood Risk Management

Case Officer: Andy French
E: SUDS@eastsussex.gov.uk