

**Town and County Planning Act 1990
Section 78 (As Amended)**

STATEMENT OF COMMON GROUND

Prepared by:

**Woolf Bond Planning LLP
for Croudace Homes Ltd**

and

Wealden District Council



Land at Bird in Eye Farm, South of Bird in Eye Hill, Uckfield

PINS Ref: APP/C1435/W/22/3307820

LPA Ref: WD/2021/2198/MAO

WBP Ref: 7336

23rd August 2023

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1.0. INTRODUCTION

- 1.1. This Statement of Common Ground relates to a Town and Country Planning Act 1990 Section 78 Planning Appeal lodged by Woolf Bond Planning LLP on behalf of Croudace Homes Ltd against Wealden District Council's non-determination of an outline planning application for up to 290 dwellings, associated landscaping, informal open space and strategic SANG, with access from the B2102 (LPA Ref: WD/2021/2198/MAO).
- 1.2. The Statement records the matters upon which the parties have agreed with the intention of leading to the preparation of more focused proofs of evidence.
- 1.3. Topic-based Statements of Common Ground ("SoCGs") have been prepared between the Appellant, Wealden District Council and East Sussex County Council (**CDX** only). They comprise as follows:
 - (i) Planning (**CDX**),
 - (ii) Ancient Woodland (**CX**); and
 - (iii) Highways (**CDX**).
- 1.4. The above Statements of Common Ground reflect the matters identified at paragraph 17 of the Inspector's Summary Notes from the Case Management Call.
- 1.5. As putative reason for refusal no. 3 relating to surface water drainage is no longer being pursued by the Council, it has been agreed with the Inspector that a Drainage SoCG is no longer required.

2.0. DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

Context

- 2.1. The Appeal Site is located on the edge of Uckfield.
- 2.2. Within the town centre at Uckfield, there are a variety of shops (including several supermarkets), restaurants and employment areas. As well as the cinema, Uckfield has community facilities including a children's nursery, community hospital, health centre and a library.
- 2.3. Uckfield is one of the three designated District Centres listed in the Adopted Core Strategy. This is the highest settlement tier located within Wealden District. It is described as *"an accessible settlement by road and public transport containing a range of shops, employment opportunities and facilities including secondary school. Not reliant upon other centres within the District to meet day to day needs, but requires support from other secondary or primary centres to meet the needs of residents"*.

The Appeal Site

- 2.4. The Appeal Site extends to approximately 41ha and is located to the south of Bird in Eye Hill. The site actually falls within Framfield Parish and the Ward is Framfield and Cross in hand. It is on the south-eastern side of the edge of Uckfield.
- 2.5. The Appeal Site comprises a series of paddocks in the northern western part, with further paddocks and some plantation woodland to the east and south. Nightingale Wood, designated as Ancient and Semi-Natural Woodland lies along parts of the western, southern and south eastern boundaries as well as bisecting the site known as Bird in Eye Shaw.
- 2.6. The southern parcel of land is separated from rest of the site by a strip of Ancient Woodland known as Bird in Eye Shaw, which has a stream running through it and a pond.

- 2.7. Ancient Woodland also extends along part of the western boundary and the south-eastern boundary in the form of another block of woodland known as Lidd's Shaw.
- 2.8. The Site surrounds Bird in Eye Farm, which lies to the south of the current access into the farm, approximately 90m from the B2102, Bird in Eye Hill.
- 2.9. The farmyard contains a number of barns currently occupied by several small business units, areas of hard standing, a number of stable blocks, a manège and a dwelling.
- 2.10. There is a public right of way that protrudes along the southern edge of the Site, footpath Framfield 65b.
- 2.11. The Site is bound by Bird in Eye Hill to the north, to the east lie open agricultural fields with the village of Framfield beyond. To the south of the main section proposed for development lies a band of ancient woodland with open land proposed for the strategic SANG beyond. To the west lies the River Uck tributary with the Uckfield community hospital and residential development on the other side of the valley.
- 2.12. The Site is split into two distinct parts with the flatter area to the north of the ancient woodland comprising the area where the proposed built form elements of the scheme would be located with an area of SANG proposed to the east. The area to the south of the ancient woodland belt forms the larger area of SANG land.
- 2.13. No part of the site forms part of a Conservation Area and nor is it subject to any landscape designation.
- 2.14. The Multi Agency Geographic Information for the Countryside Map ('MAGIC') and the Proposals Map (February 2013) indicates that the site is not covered by any statutory or non-statutory designations for landscape character or quality.
- 2.15. The Oast (Grade II listed building) at Bird in Eye Farm is located on the western side of the farmyard, around which the Site is wrapped. It occupies an elevated aspect that affords a visual link between the building and the eastern edge of Uckfield. There is no heritage objection to the Appeal Scheme.

- 2.16. As detailed in the Flood Risk Assessment (“FRA”) that accompanied the application, the area where the development is proposed is classified as falling within Flood Zone 1.

3.0 DESCRIPTION OF THE APPEAL SCHEME

Scheme Description

3.1. The Appeal Scheme description is as follows:

“Outline application for up to 290 residential dwellings, associated landscaping, informal open space and strategic SANG, with access from B2102 (all matters reserved except for access)”

3.2. Only the principle of developing the Site for up to 290 dwellings, the proposed informal and strategic open space and the means of access is to be determined as part of this outline application.

3.3. Appearance, landscaping, layout and scale are reserved for subsequent determination.

Plans and Particulars

3.4. The planning application submitted to the LPA included the following documents:

Document Submitted	Date Submitted	Version/Issued/Report No
Appendices D-G - Landscape & Visual Impact	19 August 2021	
Heritage	19 August 2021	Issued March 2021
Agricultural Land Circumstances & Quality	19 August 2021	Issued April 2021 CSA/2646/14
Opportunities & Constraints Plan	19 August 2021	PRB/BIE/PA4C
Flood Risk Assessment Including Drainage Strategy & SUDS	19 August 2021	Rev: C Issued April 2021
Air Quality Assessment & Emissions Mitigation	19 August 2021	Version 2 June 2021
Site Location Plan	19 August 2021	PRB/BIE/PA1L
Appendix B Part 1 - Statement of Community Involvement	19 August 2021	
Illustrative Site Layout	19 August 2021	PRB/BIE/PA2N
Indicative Parameter/Land Use Plan	19 August 2021	PRB/BIE/PA4C

Draft Heads of Terms for Section 106 Obligation	19 August 2021	
Appendix B Part 2 - Statement of Community Involvement	19 August 2021	
Design SAP Summary	19 August 2021	
Ecological Impact Assessment Checklist	19 August 2021	June 2021 CSA/2646/11
Statement of Community Involvement	19 August 2021	
Ecological Impact	19 August 2021	CSA/2646/11 June 2021
Arboricultural Impact	19 August 2021	C.3574 April 2021
Landscape & Visual Impact	19 August 2021	CSA/2646/07 June 2021
Supporting Planning & Affordable Housing Statement	19 August 2021	
Energy	19 August 2021	Revision A 21/05/2023
Archaeological Desk Based	19 August 2021	
Stage 1 Road Safety Audit	19 August 2021	Issue no 2 – Report Carried out August 2020
Land Contamination Assessment - Phase 1 Desk Study	18 August 2021	V1.1 (minor amendments) 30/04/2021
Framework Travel Plan	18 August 2021	ITR/MT/5330/FTP.3 April 2021
Report & Appendices 1-10 - Part 1 Transport	18 August 2021	ITR/MT/5330/TA.3 April 2021
Appendices 11-26 - Part 2 Transport	18 August 2021	ITR/MT/5330/TA.3 April 2021
Landscape Strategy & SANG Design	18 August 2021	
Utilities Appraisal	18 August 2021	Version 1 April 2021
Ecological Impact	18 August 2021	CSA/2646/11 June 2021
SANG Design & Framework Management Plan	18 August 2021	
Appendix F - Ecological Impact	18 August 2021	CSA/2646/11 June 2021
Design and Access Statement	18 August 2021	Ref: PRB/BIE/PA20C June 2021
Statement of Information to Inform Habitats Regulations	17 August 2021	

- 3.5. Additional plans and particulars were submitted to the LPA during the application process as follows:

Additional documents requested for validation purposes and submitted by email (17 Sept 2022):

- Ecological Impact Appraisal Rev C (CSA Environmental)
- Biodiversity Net Gain Report Rev B (CSA Environmental)
- Statement of Information to Inform Habitats Regulation Assessment Rev A (CSA Environmental Ltd)

Submitted on 4th November 2021

- Flooding and Drainage Response (Stantec) (4 Nov 2021)

Submitted on 2nd December 2021

- Covering letter from WBP to LPA, enclosing the following:
- Arboricultural Response Note – Barton Hyett Associates (29 Nov 2021)
- Outfall Concept Design Plan No. 48494/2002/SK01A – Stantec (Nov 2021)
- Surface Water Drainage Outfall Photo Plan No. 48494/2002/SK02 – Stantec (Nov 2021)

Submitted on 5th January 2022

- Geophysical Survey Report (Sumo) (Dec 2021)

Submitted on 1st February 2022

- Covering email from WBP to LPA attaching:
- Updated Surface Water Drainage Strategy Technical Note (Stantec) (Jan 2022)

Submitted on 16th March 2022

- Covering letter from WBP to LPA enclosing:
- Illustrative Site Layout (Masterplan) No. PRB/BIE/PA2R
- Parameter Plan No. PRB/BIE/PA4D
- Indicative Streetscenes Plan No. PRB/BIE/PA7B
- Addendum Design Statement (Paul Brown Architect) (March 2022)
- Landscape Technical Note (CSA Environmental) (March 2022)
- Updated Heritage Statement (RPS Group) (March 2022)

Submitted on 21st March 2022

- Corrected Heritage Assessment (RPS)

Submitted on 29th March 2022

- Covering email from WBP to LPA attaching the following;
- Transport Assessment Addendum (Bellamy Roberts Ref: ITR/5330/TAA.4)

Submitted on 9th September 2022

- Covering email from WBP to LPA attaching the following;
- Transport Assessment Second Addendum (Sept 2022); and
- Access Plan No. 5330-021 Rev H.

Submitted on 14th September 2022

- Covering email from WBP to LPA attaching the following;
- Parameter Land Use Plan No. PA4E
- Illustrative Site Layout Plan No. PA2S
- Landscape Strategy & SANG Design Plan No. CSA/2646/114M

3.6. On the 15th September 2022, the Appellant notified the Council it was intending to appeal. The appeal was lodged on 28th September 2022.

3.7. The appeal scheme comprises the following plans::

The Scheme

- i. Site Location Plan No. PRB/BIE/PA1L May 2020
- ii. Proposed Access Plan No. 5330/021 Rev K

Supporting Plans

- iii. Illustrative Site Layout PRB/BIE/PA2S
- iv. Indicative Parameter/ Land Use Plan PRB/BIE/PA4E
- v. Landscape Strategy and SANG Design Plan No. CSA/2646/114M

3.8. As the Planning Inspectorate initially intended for the appeal to proceed by means of a Hearing, the Appellant submitted a Hearing Statement dated January 2023. That included a minor amendment to the access under Plan Ref: 5330/021 Rev K. That Plan has been consulted upon by the LPA as part of the appeal process.

- 3.9. Plans (iii) to (v) are submitted for illustrative purposes only, with permission sought for the principle of up to 290 dwellings along with the proposed land uses listed in the application description and the means of access.

4.0 PLANNING POLICY

The Development Plan

4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

4.2. The approved Development Plan comprises the following:

- The Wealden District Council (incorporating part of the South Downs National Park) Core Strategy Local Plan (adopted 19th February 2013).
- The Wealden Local Plan (adopted December 1998) (Saved Policies).
- The East Sussex and Brighton & Hove Waste Local Plan (adopted February 2006) (Saved Policies).
- East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan (adopted February 2013).
- The Affordable Housing Delivery Local Plan (May 2016)

There also three Neighbourhood Plans:

- Hailsham Neighbourhood Plan (Referendum Version – March 2020)
- Hellingly Neighbourhood Plan July 2021
- Herstmonceux Parish Neighbourhood Plan July 2019

but the appeal scheme does not affect these areas.

4.3. The settlement boundaries as set out within the Proposals Map for the Wealden District were identified to meet the housing needs from Policy WCS1 of the Core Strategy.

4.4. The boundaries were drawn at that time to meet a need for at least 9,440 dwellings over the period 2006 to 2027. This equates to 450dpa within that part of the District outside of the SDNP. This was the level of growth set for the district in policy H1 of the former South East Plan (2009).

4.5. In so far as the Core Strategy is more than five years old, and in accordance with the requirements in paragraph 74 and footnote 39 of the NPPF, the housing requirement falls to be determined by the local housing need derived from the application of the standard method.

4.6. Applicable Core Strategy policies comprise as follows:

- WCS1 – Provision of Homes and Jobs
- **WCS2 – Distribution of Housing Growth**
- WCS4 – Strategic Development Areas
- WCS5 – Managing the Release of Housing Land
- WCS6 - Rural Areas Strategy
- **WCS7 – Provision of Infrastructure**
- **WCS12 – Biodiversity**
- WCS13 – Green Infrastructure
- **WCS14 – Presumption in Favour of Sustainable Development**

4.7. The policies in bold are agreed to be the most important for determining the Appeal Scheme.

4.8. Applicable Saved Local Plan policies comprise as follows:

- **GD2 – Development Proposals Outside Settlement Boundaries**
- **EN1 – Sustainable Development**
- **EN2 – Sustainable Locations**
- **EN7 – Ashdown Forest**
- EN8 – Low Weald
- **EN12 – Trees and Woodlands**
- **EN13 – Ancient Woodland**
- **EN15 – Nature Conservation**
- EN27 – Design
- DC17 – Housing in the Countryside
- HG5 – Dwelling Mix
- HG6 – Crime Prevention
- **TR3 – Traffic Impact of New Development**
- **TR13 – Footpaths and Bridleways**
- UC1 – Uckfield

4.9. The policies in bold are agreed to be the most important for determining the Appeal Scheme.

Five Year Housing Land Supply

- 4.10. The Council's Five-Year Housing Land Supply Statement for April 2022 (**CDE.16**) identifies that the District's local housing need figure is 1,454 dwellings per annum (including a 20% buffer derived from the latest Housing Delivery Test Results¹). This represents a significant uplift on the 450dpa figure in the adopted Core Strategy.
- 4.12. The Council's Five Year Housing Land Supply Statement covers the five year period 1st April 2022 to 31st March 2027 (**CDE.16**). It shows a 3.92 year supply of deliverable housing land supply, representing a shortfall of 1,579 dwellings.
- 4.13. The Appellant identifies a 3.35 year supply of deliverable housing land, representing a shortfall of 2,407 dwellings.
- 4.14. The respective positions are summarised as follows:.

The Respective Five Year Housing Land Supply Positions at 1st April 2022 to 31st March 2027

	Council	Appellant
Requirement 2022 to 2027	7,272	7,272
Deliverable supply	5,693	4,865
Shortfall	-1,579	-2,407
No. of years supply	3.92yrs	3.35yrs

- 4.15. It is agreed that the Council is unable to demonstrate a five year supply of deliverable housing land.

¹ Published 14th January 2022

5.0 MATTERS NOT IN DISPUTE

- 5.1. It is agreed that the settlement boundaries are out of date.
- 5.2. It is accepted that the Council is not currently able to demonstrate a five year supply of deliverable housing land against the Standard Method.
- 5.3. The development policies for the supply of housing are out of date.
- 5.4. It is accepted that the provision of up to 290 dwellings from the Appeal Scheme is a significant social benefit and that should be afforded substantial weight.
- 5.5. It is accepted that the previous appeal decision pertaining to the site (dismissed 2009 (PINS Ref: PP/C135/A/07/2053422) (LPA Ref: WD/2006/3564/MAO).is a material consideration.
- 5.6. It is accepted that the Appeal Scheme will not adversely affect the designated heritage asset at The Oast (Grade II listed building) at Bird in Eye Farm.
- 5.7. It is agreed there is no good reason to reject the Appeal Scheme on landscape grounds.
- 5.8. As confirmed in an email From the Council to PINS dated 8th August 2023, the Council is no longer pursuing their third putative reason for refusal relating to surface water drainage. This follows the Council's receipt of the Lead Local Flood Authority's consultation response dated 2nd August 2023, which confirmed no objection to the surface water drainage strategy.
- 5.9. The degree of impact on Uckfield Town Centre is agreed and can be mitigated through a financial contribution which could be secured through the legal agreement.

- 5.10. It is accepted that Wealden District is a CIL Charging Authority and financial contributions will be secured at the reserved matters stage once the amount of chargeable floorspace is fixed.

6.0 MATTERS IN DISPUTE

General

6.1. The matters that remain in dispute are derived from the 6 putative reasons, and relate to the following matters:

- (1) Principle: location of the site in the countryside, beyond the settlement policy boundary.
- (2) Ancient woodland and veteran tree.
- (3) Surface water drainage. However, this reason is no longer being pursued and is no longer in dispute.
- (4) Highways: suitability of location.
- (5) Highways: safe access and effect on the town centre.
- (6) Lack of a legal agreement

Principle

6.2. Whether the appeal scheme is in a suitable location for development having regard to local and national planning policies.

Ancient Woodland

6.2. Whether the scheme the subject of the planning application when viewed in totality would adversely affect the Ancient Woodland and Veteran Tree. That being so, whether the Framework directs refusal and disengages the tilted balance.

Highway Matters

6.3. Whether the scheme can provide safe and suitable access for both existing and proposed users.

- 6.4. Whether the scheme is in an accessible location so as to offer a genuine choice of active travel and sustainable transport modes.
- 6.5. Whether the scheme will cause severe operational impact on the local road network, including the acceptability of proposed mitigation of impact on Uckfield town centre highway network in isolation of other necessary associated measures.
- 6.6. Whether the proposal would lead to an unacceptable safety impact on the local highway network'

Planning balance and whether the issues left from the earlier appeal decision have been addressed.

- 6.89. Whether the planning balance justifies the grant of planning permission.

7.0 HEADS OF TERMS FOR LEGAL AGREEMENT

- 7.1. It is agreed between the parties that the Appellant will provide planning obligations, in the form of an undertaking under Section 106 of the Town and Country Planning Act (1990) in favour of Wealden District Council and East Sussex County Council.
- 7.2. The legal agreement will ensure the financial contributions and other compliant obligations to enable the proposed development to go ahead are provided in accordance Regulation 122(2) of the Community Infrastructure Levy Regulations and the content at paragraphs 55, 56 and 57 of the NPPF.
- 7.3. Subject to meeting the necessary tests at paragraph 57 of the NPPF, it is considered that the following may be provided for in a legal agreement:
- i. Affordable Housing (35%) (up to 101 dwellings)
 - ii. Providing 5% self-build homes (up to 15 dwellings)
 - iii. Provision and management of strategic SANG land
 - iv. A financial contribution towards the Ashdown Forest SAMM
 - v. On-site public open space provision
 - vi. Sustainable Transport/Travel Plan
- 7.4. If the Inspector agrees it is required and suitably worked up, then the Legal Agreement will also secure off-site highway improvement works.
- 7.5. The legal agreement will be completed during the Inquiry.

8.0 CONDITIONS

- 8.1. It is agreed that there should be a schedule of conditions agreed between the parties, for discussion with the Inspector during the Inquiry.
- 8.2. The schedule will be compiled and submitted to the Inspector prior to the Inquiry.

9.0 CORE DOCUMENT LIST

- 9.1. It is agreed that there should be a common list of reference documents and these are to be referenced as Core Documents to the Inquiry. The list will be compiled and a full set of the documents will be provided for the Inspector.

10.0 AGREEMENT: SCHEDULE OF COMMON GROUND

- 10.1. This document is accepted as the agreed Statement of Common Ground for the Appeal being considered under PINS Ref: APP/C1435/W/22/3307820.
- 10.2. It has been duly signed by representatives of the Appellant (Croudace Homes Ltd.) and Wealden District Council.

Signed [REDACTED] on behalf of Croudace Homes Ltd.

Steven Brown BSc Hons DipTP MRTPI 23rd August 2023

NAME DATE

Signed on behalf of Wealden District Council

Claire Turner BSc Hons, DipTP, MSc, MRTPI 23rd August 2023

NAME _____ DATE _____
