

APPEAL REF: APP/C1435/W/24/3356658

LPA: Wealden District Council LPA Ref: WD/2024/1799/MAO

**Land at Bird In Eye Farm, South of Bird In Eye Hill, Framfield,
Uckfield TN22 5HA**

Appeal by: Croudace Homes Ltd (against failure to determine)

Outline application with all matters reserved, except means of access to site, for up to 190 dwellings, with associated works, parking, landscaping, publicly accessible open space and SANG, with access from the B2102.

Case Management Conference (CMC) Summary

1. The (CMC) was conducted on 11 February 2025, between 11am and approximately 12.40pm. The appellant's spokesperson was *Andrew Tabachnik KC* and the LPA's was *Victoria Hutton* (both of 39 Essex Chambers). Also present and taking part was *Kassie Smith*, a local resident, who is representing other residents as well as herself.
2. It was agreed that the main issues – at present – are as follows:
 - Effect of the access design on highway safety
 - Effect of the development on the setting of the Grade II listed Oast House
3. The LPA addresses these two main issues in Section 5 of its Statement of Case (SoC) as follows:
 - Putative Refusal Reasons 1(a), (b) & (c) in respect of highway safety (SoC para 5.2)
 - Putative Refusal Reason 2 in respect of less than substantial harm to the Grade II listed Oast House, which would not be outweighed by public benefits of the development scheme (SoC prior to para 5.16)These reasons address the main issues in greater detail.
4. However, in terms of the highway safety issue, it is at present unclear what the final proposal for the new roundabout access will be. That is because a Road Safety Audit has only recently been undertaken by the appellant and the Local Highway Authority (LHA) has several concerns/objections about the current plans that will need to be addressed by the appellant before the Inquiry can take place. The two sides are to meet shortly to discuss matters, in order that they can narrow down the highway safety concerns prior to the start of the Inquiry.
5. A discussion took place regarding 3 possible scenarios to address this issue as follows:
 - First, my suggestion that the appellant could withdraw the appeal, which it was not in favour of and made clear was not going to happen.
 - Second, that the timetable for submitting Proofs could be moved back in order that the parties could narrow down the disputed highway issues.

-Third, given that the Council did not consider there would be sufficient time to do that (which I agree with), the Inquiry be adjourned until later in the year, no earlier than July.

6. It was decided, given the history of what has occurred including the Council's non-validation of the application to date, its consideration of a decline to determine it under s70 of the Act (and admission that this is what it would have done had the applicant not appealed on non-determination grounds), and the timeframe for the currently programmed Inquiry to start on 25 March, that it would be best (given the advocates' availabilities) to defer the date of the Inquiry to **no earlier than the week commencing 14 July**. This will enable a period for the appellant and LHA to discuss the highway safety implications of the scheme either to agree a safe access scheme such that highway safety will no longer be a disputed issue in the appeal or, failing that, narrow down the highway safety issues and produce a Highway Safety Statement of Common Ground (SoCG) and Proofs with a clearer (and hopefully less) set of highway safety issues, rather than the appellant trying to negotiate a scheme through evidence at the Inquiry itself.
7. This means that the currently amended scheme for the new highway access submitted recently (in January) by the appellant to the LPA/LHA (which I understand comprises 25 or so amended drawings & other documents) will need to be discussed at a meeting between the main parties, and specifically between the appellant's highways agent and the LHA **asap**, in regard to establishing whether it could be further amended to address the LHA's concerns. It is only then that the appellant can firm up the access scheme and in effect make a Wheatcroft application to amend the detailed drawings/highway access scheme.
8. It was also agreed that the current version of the amended access scheme, which the LHA has already raised concerns/objections over, may also prompt the LPA to raise concerns over arboriculture or ecology matters, the latter particularly because of the appellant's proposals to now light the roundabout (as the LHA apparently require). In order that the appellant can consider any such issues in a further amendment to the access proposals, it was agreed that the LPA would send the appellant any objections on arboriculture or ecology matters **by Friday 28 February**.
9. The above timetable for the commencement of the Inquiry would allow, if I decided to allow a Wheatcroft application for amended highway access drawings and details, further public consultation on such by the Council in advance of an Inquiry commencing on Tuesday 15 July. In order to ensure this happens, it was agreed that the appellant would need to make such a Wheatcroft application to me **by Friday 25 April**.
10. If for whatever reason the parties cannot commit to the Inquiry commencing on Tuesday 15 July, I pointed out that – currently – I am available to conduct it no earlier than the start of July and the following dates: the weeks commencing (w/c) 21 & 28 July, 4 August, or anytime from 6 October onwards.
11. The main parties anticipate the submission of a S106 agreement/unilateral undertaking (the S106) in advance of the start of the Inquiry, and the LPA

will provide a CIL Compliance Statement. A schedule of (hopefully agreed) Conditions will be agreed and provided.

12. It will be necessary to hold a second CMC in advance of the Inquiry, in order to clarify exactly what the main issues will then be. It was agreed that this would best take place on the w/c 26 May, when I am currently available. In the absence of an agreed date, I suggest at **11am on Wednesday 28 May**.
13. In view of the above, it was agreed that the main parties agree between them a date for the start of the Inquiry and a date & time for the CMC and communicate this to the PINS case officer **by Monday 24 February**.

Dealing with the Evidence

14. The Inquiry will focus on areas where there is disagreement. On the basis of the current main issues set out above, the appellant stated that he would have 3 witnesses as follows:
- Christopher Miele* of Montagu Evans – Heritage
 - Matt Stevens* of Milestone Transport Planning – Highway Safety
 - Steven Brown* of Woolf Bond Planning – Planning
- And the LPA will have 4 witnesses as follows:
- Joanna Tucker* of Wealden District Council (WDC) – Heritage
 - Roger New* – Highway Safety: Design & Layout of the new access junction
 - Nick Flood* – Highway Safety: Road Safety Audit and Policy wrt the 30mph zone
 - Declan Redman* of WDC – Planning
15. It was agreed that (any remaining) highway safety issues would be best dealt with via a Round Table Discussion (RTD), but that the heritage issues would be best addressed by EiC/X-X/Re-X.
16. The evidence of the appellant will also need to address how the various benefits of the proposal will be delivered via conditions and/or the S106 planning obligations. This will be dealt with by RTD.
17. I note that the Plans and relevant Documents/Reports submitted with the application are listed in para 3.4 of the SoCG. *Please can I have the following crucial documents in hard copy (in colour) along with hard copies of the Proofs (& any Appendices to them) 4 weeks prior to the start of the Inquiry:*
- the D&AS bound in one A3 doc*
 - all relevant drawings (all these at A3 size please), i.e. 201C, 202K, 203C, 204F, 205D & 206 and the original and updated (in respect of the Road Safety Audit) detailed highway access plans bound in one A3 doc*
 - the TA (non-technical) summary*
 - the bound LVIA in A3 size*
 - the final Conditions list*
 - the final draft S106*
 - the CIL Compliance Statement*
 - the topic specific SoCGs (one week before the Proofs)*
- and could they all be sent to me via the Case Officer*

I will also need a *final draft Timetable agreed between the main parties, taking account of their advocates' time estimates for EiC/X-X/Re-X.-, say 2 weeks before the start of the Inquiry.*

18. You are requested to comply with the dates listed above in terms of submission of information, so that this Inquiry is run smoothly, effectively and efficiently. Thank you.

Nick Fagan

INSPECTOR

12 February 2025