

**TOWN AND COUNTRY PLANNING ACT 1900
SECTION 78 (AS AMENDED)**

**LAND AT BIRD IN EYE FARM, SOUTH OF BIRD
IN EYE HILL (FRAMFIELD PARISH), UCKFIELD**

**Appeal against failure of Wealden District
Council to determine an outline planning
application within the statutory period for up
to 290 dwellings, associated landscaping,
informal open space and strategic SANG, with
access from the B2102.**

**REBUTTAL PROOF OF EVIDENCE RELATING
TO TOWN PLANNING MATTERS**

Prepared by:

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On behalf of:

Croudace Homes Ltd

croudacehomes

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Woolf Bond Planning
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- RP2** Ridgewood Farm Masterplan, Uckfield
- RP3** Horsted Green Park SANG Plan, Uckfield
- RP4** Extracts from the Officer Report to Planning Committee on the Ridgewood Farm Planning Application
- RP5** Croudace Homes Delivery Note

1.0 Introduction

- 1.1. I have prepared this rebuttal proof of evidence (“rebuttal”) to address points raised by Claire Turner in the planning proof of evidence submitted on behalf of Wealden District Council.
- 1.2. My rebuttal should be read alongside the content of my main proof of evidence (August 2023).

2.0 PLANNING CONSIDERATIONS

General

2.1. I respond to three specific points raised in Claire Turner’s planning proof of evidence as follows:

- (1) Impact on Ancient Woodland and Veteran Trees; and
- (2) Deliverability of the Appeal Scheme
- (3) Appeal Scheme Benefits

2.2. In preparing my rebuttal, I have not responded to every point made in Mrs Turner’s evidence. That does not mean that I accept any of the points being advanced. My analysis and judgement are already set out in my main planning proof of evidence on which I continue to rely.

2.3. The opinions expressed in my rebuttal are my true and professional opinions given in accordance with the guidance of my professional institution.

(1) Impact on Ancient Woodland and Veteran Trees

2.4. Mrs Turner addresses this issue on page 16 onwards of her planning proof of evidence, relying upon the consultation responses received from the Woodland Trust (**CBD.31**) and Forestry Commission (**CDB.20** and **CDB.21**) to support the Council’s second reason for refusal.

2.5. Paragraphs 4.29 and 4.30 of Mrs Turner’s evidence rightly records that Natural England has not objected to the Scheme¹. This is of particular importance given the collaborative approach the Apepllant took with Natural England to agree a SANG strategy, including in the context of the Natural England/Forestry Commission Standing Advice (**CDG.3**).

¹ Natural England’s consultation responses are at **CDB.12** and **CDB.26**.

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- 2.6. In the context of paragraph 180(c) and footnote 63 of the NPPF, Mrs Turner’s proof summarises the loss and deterioration which the Appeal Scheme is purported to give rise to, having regard to three sub-headings:
- (i) The proposed sustainable drainage systems
 - (ii) Adequacy of the buffer zone; and
 - (iii) Introduction of footpath to provide a circular route for the SANG
- 2.7. Mrs Hensler and Mr Rose for the Appellant addresses (i). I do not need to expand upon that any further.
- 2.8. In relation to (ii), the buffer to built form generally exceeds 15m, with the proposed residential edge some 35+ metres from the Ancient Woodland (“AW”) as shown in **CDA.52** and **CDA.53**.
- 2.9. Contrary to Mrs Turner’s assertion at paragraph 4.38 of her proof of evidence, no swales are proposed within the 15m buffer to the AW.
- 2.10. No loss of AW or veteran trees is proposed under the Appeal Scheme, with built form significantly exceeding the 15m minimum buffer advocated by Natural England and the Forestry Commission.

Introduction of footpath to provide a circular route for the SANG

- 2.11. I now address the points raised by Mrs Turner in relation to the purported impact of the proposed footpath through the AW, connecting the northern part of the Appeal Site, through Bird in Eye Shaw to the proposed SANG to the south.
- 2.12. In responding to Mrs Turner’s assessment, I am cognisant of the consultation responses submitted by the Woodland Trust (**CBD.31**) and Forestry Commission (**CDB.20** and **CDB.21**). However, for the reasons explained by Mr Rose and Mr Hyett, the Appeal Scheme will not cause deterioration of veteran trees or the AW.

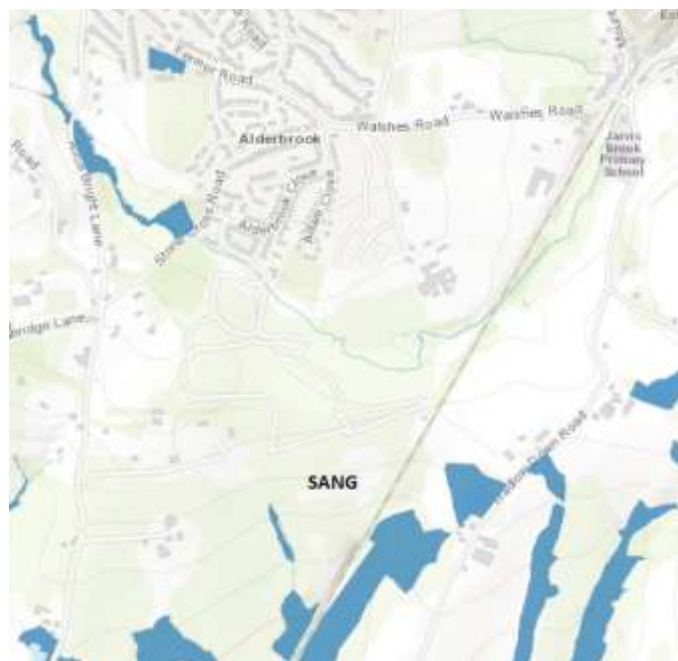
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- 2.13. As Paragraph 4.17 of Mr Rose’s evidence records, the existing informal footpath/track through Bird in Eye Shaw will be formalised and upgraded. This will provide resilience against the projected increase in recreational use. The formalised route will follow the existing informal footpath, which is already characterised by bare, compacted earth. Use of this route will minimise direct impacts to woodland ground flora and will not result in soil compaction. The path will be of no-dig construction, with hoggin/self-binding gravel surfacing. Mr Hyett’s evidence confirms this will have no material effect on the viability of surrounding trees. The paths will be permeable, with no effect on hydrological conditions. It is not likely to wash away in the event of a flooding event. Importantly, the proposed route and use of the proposed surface material have been agreed with Natural England.
- 2.14. Appropriate fencing is also proposed along the length of the footpath (responding to the specific requests from Natural England at the Forestry Commission). This will prevent access to the AW, whilst being of no consequence to the movement of existing wildlife present within the woodland.
- 2.15. The management provisions will secure the maintenance and repair of the fencing and footpath.
- 2.16. I have visited the Appeal Site and walked the existing track/informal footpath route on numerous occasions. In my judgment, the proposals to formalise the footpath will not lead to a loss or deterioration of AW or veteran trees.
- 2.17. In responding to Mrs Turner’s evidence, I wish to draw the Inspector’s attention to the contrasting position adopted by the Council, Forestry Commission and the Woodland Trust at the following locations:
- Walshes Park SANG, to the south of Crowborough
 - Views Wood Ancient Woodland, to the north of Uckfield
 - Park Wood, Uckfield
 - Ridgewood Farm, west of Uckfield
 - Horsted Green Park SANG, south west Uckfield

- 2.18. I have visited all of these locations with Mr Rose and Mr Hyett. They all contain or are located adjacent to AW. I summarise the locations in turn below.

Walshes Park SANG, Crowborough

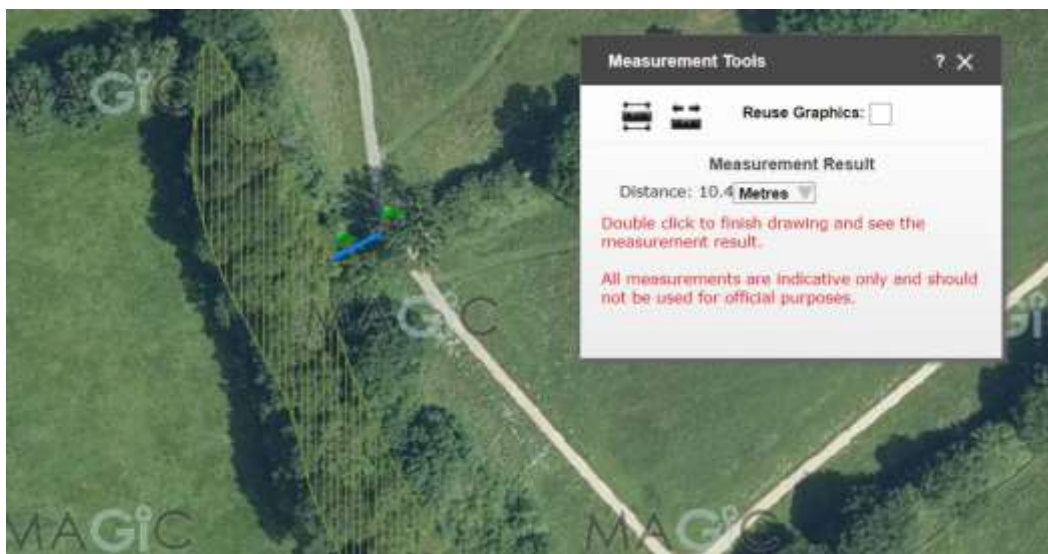
- 2.19. Walshes Park is a large SANG located to the south of Crowborough. It was approved as part of the permission granted by Wealden District Council (“WDC”) in December 2015 (WD/2014/1565/MEA) for 160 dwellings and SANG off Walshes Road, Crowborough, TN6 3RB.
- 2.20. The SANG was acquired by WDC in late 2015. A SANG plan is included at **RP1**.
- 2.21. The SANG includes a made up path, of excavated construction within 15m of offsite AW (Lothmans Farm Shaw).
- 2.22. Figure 1 below is an extract from Natural England’s Ancient Woodland Inventory online map, showing areas of ancient woodland in blue, on which I have marked the SANG. Lothmans Farm Shaw is the lozenge-shaped area of blue to the west of ‘SANG’ as marked on extract.

Figure 1: Walshes Park SANG and Lothmans Farm Shaw AW



- 2.23. Figure 2 shows the location of the footpath within 10m from the mapped AW. The path is directly adjacent to the canopy edge.
- 2.24. As highlighted in the evidence of Mr Rose, it is noteworthy that for the purposes of the Appeal Scheme a precautionary approach has been used, whereby AW buffers have been measured not from the mapped AW boundary but from the canopy edge of associated trees.

Figure 2. Proximity of the footpath to Lothams Farm Shaw AW.



- 2.25. Figure 3 shows the footpath and a gate well within the 15 buffer to the AW, whilst Figure 4 shows an interpretation board, access gate, boardwalks and bins within close proximity to mature trees outside the AW, with no apparent detriment to their physiological condition.

Figure 3. Footpath within 15m to the AW



Figure 4. Interpretation board, access gate, boardwalk and bins within the RPA of mature oak trees



- 2.26. There was no objection to this proposal from the Woodland Trust, Forestry Commission or Natural England.

Views Wood Ancient Woodland, to the north of Uckfield

- 2.27. Views Wood is an area of AW located to the north of Uckfield is owned and managed by the Woodland Trust, and actively promoted on their website for public access. It features extensive made up publicly accessible footpaths. I accessed Views Wood from Nevill Road.

- 2.28. The Woodland Trust's website describes the 'facilities and access' to the woodland as follows:

“Approximately 600 metres (650 yards) of path from the main entrance and from the public footpath entrance at Manor Park are surfaced. There is an extensive network of rides and smaller paths throughout the wood, with narrow footbridges crossing streams.

Visitors with prams or wheelchairs can enjoy the wood by following the surfaced paths. Special gates at the entrances make it easy to start your walk, and once you are inside the wood there are no gates or stiles. When you're ready to leave the wood you can return along the same path.”

- 2.29. The section I walked was not a PROW. There was no fencing to prevent roaming dogs, desire lines or those walking on the footpath from recreating in the woodland generally (see Claire Turner paragraph 4.55iv). The paths were beneath the canopy of mature trees without this seeming to have generated a management pressure/conflict of interest (see Claire Turner paragraph 4.55iii).
- 2.30. This contrasts with the approach adopted by Claire Turner and the Woodland Trust in relation to the Appeal Scheme.
- 2.31. Figure 5 below is an extract from Natural England's Ancient Woodland Inventory online map, showing the extent of Views Wood AW in blue. Nevill Road is to the south.

Figure 5. Views Wood



2.32. Figure 6 below shows a bridge and gravelled footpath through the AW.

Figure 6. Photograph within Views Wood



Park Wood, Uckfield

- 2.33. Park Wood is an area of AW to the north west of Uckfield, owned by the Forestry Commission. It has open access via a PRow and network of paths and made up tracks. Again, the tracks and paths are not fenced.

Ridgewood Farm, Uckfield

- 2.34. Planning permission for the redevelopment of land at Ridgewood Farm to provide an urban extension to the west of Uckfield for up to 1,000 dwellings, education, retail, community health and leisure uses was issued by WDC in March 2016 (LPA Ref: WD/2015/0209/MEA).
- 2.35. The Masterplan approved at the outline stage is attached at **RP2** (Plan No. 0044_MP01_D11).
- 2.36. The approved SANG Plan is at **RP3** (Plan No. S1.10). This SANG is known as the Horsted Green Park SANG, which matter I address at paragraph 2.50 onwards.
- 2.37. The residential part of the site is under construction, with a number of dwellings completed and occupied.
- 2.38. Figure 7 below shows the ‘blue’ areas of ancient woodland within the site. They correspond with the areas marked as number ‘3’ on the Masterplan at **RP2**.

Figure 7: Areas of AW within the approved Ridgewood Farm Development



- 2.39. During my site visit I noted a residential interface to the AW with no fencing, a lit road, with housing frontages facing the AW and featuring drainage infrastructure all in closer proximity to AW than proposed at the Appeal Site. Figures 8 and 9 refer.

Figure 8. Development Fronting the AW



Figure 9. Development Fronting the AW, with footpath within the 15m buffer. No fencing to AW.



- 2.40. I also walked through the Boothland Wood AW, the large area of blue AW in Figure 7 above. The woodland is also shown as the large wooded area marked with number '3' in the centre of the Masterplan at **RP2**.
- 2.41. There is an existing PROW through the woodland, marked as number '5' on the Masterplan at **RP2**, which is proposed to be improved as part of the permission. There are also a number of other, unfenced paths in addition to the PROW.
- 2.42. The PROW is similar in character to the existing track through the AW at the Appeal Site, in that some limited cutting back of vegetation is likely to be required to facilitate this.
- 2.43. Signage confirming that the woodland is positively managed was present on site, advising that *"the traditional management practise of coppicing is carried out in the wood. This involves cutting down selected trees just above ground level. Numerous shoots then sprout from the base, providing a continuous, sustainable supply of timber. This process allows light to reach the woodland floor, creating habitat diversity and encouraging A wider range of flora and fauna to thrive."*

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- 2.44. The significance of this is that if selected shrubs can be removed as part of management/enhancement, it would be illogical and inconsistent to suggest that cutting back a few overhanging hazel branches to facilitate the footpath improvements at the Appeal Site through the AW is tantamount to deterioration (let alone loss) of AW.
- 2.45. The Woodland Trust objected to the scheme, although Natural England were supportive (subject to the imposition of conditions).
- 2.46. Extracts from the Officer Report to Committee on the application are included at **RP4**.
- 2.47. It includes the following Planning Officer analysis on the impact of the scheme in relation to AW:

“There are a number of areas of ancient woodland both within and adjacent to the site. The largest of these being Boothland Wood. The parameters plans and indicative layout detail the provision of a 15m buffer zone in order to provide adequate protection to this important woodland.

The 15m standard accords with Natural England standing advice established following a test case on this issue in West Sussex some years back. It is now the commonly accepted standard in almost all cases.

The Woodland Trust have made representations to this application to suggest that this provision is insufficient, instead suggesting that a buffer of 50m be provided, however no detailed justification is provided as to why such an increased standard should be necessary. Consequently it is considered that a 15m buffer is entirely appropriate, with the detail of planting and final locations to be provided as part of the reserved matters.”

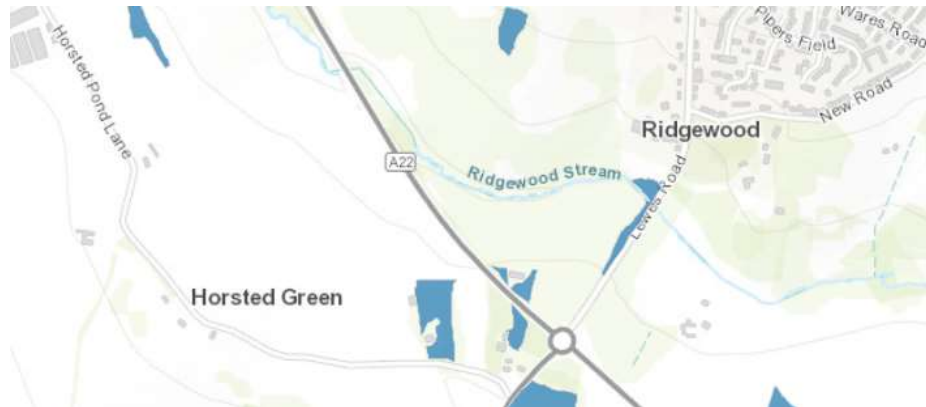
- 2.48. As confirmed in the Report, Claire Turner was the Team Leader.
- 2.49. The view now taken by WDC (and advanced by Mrs Turner) in relation to the Appeal Scheme is wholly at odds with the conclusion set out above.

Horsted Green Park SANG, south west Uckfield

- 2.50. The SANG approved as part of the Ridgewood Farm scheme is known as Horsted Green Park SANG. The Plan at **RP2** refers. It is located to the south of the A22.

- 2.51. Figure 10 below is an extract from Natural England's Ancient Woodland Inventory online map, showing areas of ancient woodland in blue. Hoathfield Wood is the area of land in blue to east of 'Horsted Green'.

Figure 10. Ancient Woodland and SANG Location



- 2.52. The SANG includes walking routes of excavated construction within the 15m buffer to the AW, and on occasions within 5m from the mapped AW. The paths also strayed well into the canopy of the AW trees. Figure 11 refers.

Figure 11. SANG Walking Routes within 15m Buffer to AW



- 2.53. Again, there was no indication of a material detrimental effect on the AW. Fencing is used to prevent trespass by SANG users. Deer proof fencing

was used, which would have a greater impact on wild mammal movements than that proposed with the Appeal Scheme.

Summary

- 2.54. In my opinion, the above demonstrates the inconsistent approach taken by WDC in pursuing its AW objection to the Appeal Scheme.
- 2.55. As the evidence for the Appellant explains, the proposals will not result in the deterioration or loss of AW or veteran trees. Moreover, the features proposed as part of the SANG and publicly accessible footpaths are characteristic of the existing SANGs and AW in Wealden that have not been considered to result in deleterious impacts upon the AW.

(2) Deliverability of the Appeal Scheme

- 2.56. Mrs Turner's paragraph 5.9.8 to 5.9.15 considers housing delivery and questions whether the Appeal Site is deliverable. Notwithstanding, Mrs Turner's paragraphs 5.9.14 gives substantial weight to the delivery of housing from the Appeal Scheme, with paragraph 5.9.15 attaching very substantial benefit to the delivery of affordable housing.
- 2.57. As confirmed by the Appellant in **RP5**, the Appeal Scheme is deliverable and viable.

(3) Appeal Scheme Benefits

- 2.58. I set out the weight I give to the benefits in Table 7 on page 101 of my main proof of evidence.
- 2.59. Mrs Turner sets out her assessment of weight to be attached to the benefits at paragraphs 5.7 to 5.9.45 and at paragraph 5.26.
- 2.60. For the Inspector's benefit, I have summarised the respective positions upon the weight to be attached to the Appeal Scheme benefits in Table 1 below.

Table 1. Weight Attached to the Benefits

Benefit	Appellant's Position on Weight	WDC's Position on Weight
Provision of up to 189 market homes	substantial	Significant/substantial
Provision of up to 101 affordable homes	substantial	Significant/substantial
Provision of 5% self-build homes (up to 15 dwellings)	Moderate	N/A
Provision of c.40% BNG	substantial	No weight
Creation of jobs during the construction phase and increased spend during the operational phase	substantial	Limited
Provision of SANG beyond the capacity of the site, unlocking future development	substantial	Limited
Provision of recreational open space	moderate	No weight
Proximity to services and facilities	Moderate weight	Negative
Highway/sustainability improvements to buses and the highway network contained in the s106	Moderate weight	Negative

3.0. SUMMARY AND CONCLUSION

- 3.1. As explained in my main proof, the many benefits secured by the Appeal Scheme justify the grant of planning permission for the development of much needed housing, in a sustainable location.
