

**TOWN AND COUNTRY PLANNING ACT 1990 –
SECTION 78**

**TOWN AND COUNTRY PLANNING (INQUIRIES
PROCEDURE) ENGLAND RULES 2000**

Appeal by Gladman Developments Ltd relating to an outline planning application for the erection of up to 210 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation, vehicular access point and associated ancillary works. All matters to be reserved with the exception of the main site access.

Land at Fryatts Way, Bexhill, TN39 4LW.

Planning Application No: RR/2021/1656/P

Planning Inspectorate Reference: APP/U1430/W/22/3304805

PUBLIC LOCAL INQUIRY COMMENCEMENT: 2 September 2022

**STATEMENT OF CASE BY EAST SUSSEX COUNTY
COUNCIL (THE HIGHWAY AUTHORITY)**

5th October 2022

1 Introduction

- 1.1 East Sussex County Council, in its capacity as highway authority submits this Statement of Case in respect of the forthcoming Public Inquiry into the appeal by G Gladman Developments Ltd against the Council's non-determination of the proposed development of up to 210 dwellings (including up to 30% affordable housing), together with informal public open space and children's play area, surface water flood mitigation, vehicular access point and associated ancillary works on land at Fryatts Way, Bexhill, TN39 4LW.
- 1.2 This Statement sets out the basis of the case to be presented at the Public Inquiry by the Highway Authority and complements the Statement provided by Rother District Council (the Local Planning Authority) that focuses on the reasons for refusal relating to the planning, environmental and ecological considerations of the case.
- 1.3 ESCC Highways will be specifically addressing issues regarding highways, transport and sustainability considerations.
- 1.4 A full Proof of Evidence will be made available no later than four weeks before the opening of the Inquiry.

2 The Application

- 2.1 The proposals comprise up to 210 residential units including 30% affordable housing (up to 63 houses), planting landscaping, public open space and sustainable drainage system (SuDS). All matters are reserved except for access and therefore the housing mix, internal layout and parking provision are yet to be finalised.

Access to the site is via Fryatts Way which is a cul se sac running from a priority junction on Eilerslie Lane, with another, shorter cul de sac, Concorde Close, running off Fryatts Way at a priority junction. serving a number of detached houses each with private off-street parking for two or more cars.

- 2.2 In addition to the application form, plans and certificates, the application was accompanied by specific transport and highways reports including a Transport Assessment and Travel Plan Framework.
- 2.3 On 26th October 2021 the Highway Authority made its initial formal refusal response to the consultation from the Local Planning Authority (Rother District Council), on the outline planning application RR/2021/1656/P received on 1st September 2009. Prior to this an interim response was sent to RDC whilst further consideration was given to the accessibility of the site; however, following discussions with the ESCC Passenger Transport team it was decided that a refusal recommendation was appropriate as there was no guarantee that the concerns could be addressed sufficiently to facilitate this development. Gladman submitted Technical Note 2 on 25th February 2022 which responded to the ESCC Highways comments.
- 2.4 Following a further highway response on 8th April 2022 Gladman offered via email on 30th May 2022 a financial contribution towards expanding the Demand Responsive Transport (DRT) system, an on-site based car club using electric vehicles that could be used by new residents as well as existing occupiers in the area and a financial contribution towards footpath and cycleway improvements along the ESCC LCWIP routes 296.2 and 296.3.
- 2.5 A highway response via email was sent to RDC on 14th September 2022 raising concerns that on further consideration it was considered that the mitigation measures proposed would not provide a useful alternative mode of travel and residents of the development site would therefore still be forced to rely on travel by private car. With this in mind ESCC confirmed that the highway objection was to be maintained.
- 2.6 The concerns raised by RDC, National Highways and ESCC has resulted in a delay in the determination of this planning application. The original statutory 13-week period for determining the Appellant's application proposals expired on 30th September 2021, after which point the Appellant and the Council agreed several extensions of time

(‘EoT’) for the determination of the application. The most recent EoT agreed by both parties expired on 30th May 2022. Due to the delay in determining the application, this appeal is made against non-determination.

2.7 The outstanding highway objection is due to the following reason:

SUSTAINABLE TRANSPORT - *The proposed development is poorly placed in terms of sustainable transport modes due to the lack of non-car travel choices for residents and would therefore be contrary to para 104 and 106 of the National Planning Policy Framework.*

2.8 A full schedule of plans and documents salient to case will be published as part of the Rother District Council Rule 6 Statement, but we would draw the Inspector’s attention to the specific transportation and highways plans and reports although the expert witness will refer to other core documents.

Documents

The principal documents to be discussed at Inquiry are the following

Documents

- Transport Assessment and Appendices - 10th June 2021
- Travel Plan Framework - 10th June 2021
- Technical Note 2 - 28th February 2022
- Technical Note - 28th June 2022

3.0 Site & Surrounding Context

3.1 At the Public Inquiry, the site will be described in detail including its relationship to the adopted highway network and its contextual relationship to vehicular, pedestrian/cyclist and public transport networks. Reference will also be made to an appeal plan, indicating the location and extent of the appeal site and the relationship of the site to the existing amenities.

- 3.2 Photographs and plans will be used as appropriate including an appraisal of the pedestrian connectivity in the local area.

4.0 Planning Policy Context

- 4.1 The development plan context is covered in the Rother District council Statement of Case, but for complete clarity we identify below the key transport, highways and sustainability policies relating to the highways case.

- 4.2 The Development Plan comprises the Southeast Plan 2009 and the Rother Local Plan. The Council will refer to relevant development plan policies including:

- Policies CC7, T1 and T2 of the Southeast Plan 2009.

- 4.3 Reference will be made to the policies of the Non-Statutory Plan which was approved for the purposes of development control in December 2005. Relevant policies are GD2, DC15, CR4, TR1, TR2 and HG8(6)

- 4.4 The National Planning Policy Framework (NPPF) came into force on Tuesday 27 March 2012. Paragraph 196 clearly sets out that the NPPF is a material consideration in assessing and determining planning applications. Paragraphs 32, 112 and 119 of the NPPF are of relevance to the appeal proposals.

- 4.7 Key transport objectives within the Core Strategy will be referred to including Policy SP07 covering Sustainable development and transport modes.

- 4.8 Relevant infrastructure policies within the Core Strategy will also be drawn upon including Policy WCS7 covering Effective Provision of Infrastructure.

5 Case for the Highway Authority

- 5.1 **In summary**, the highway authority contests the appropriateness of this development proposal on the following grounds:

- That the development site is poorly placed in terms of supporting the use of sustainable transport modes and access to local services.
- 5.2 In terms of site sustainability the walk distances to local shops and services, including bus stops that provide a regular service, far exceed best practice technical guidelines, but also the quality and safety environment of some of these routes would also fail in terms of viability and usability, again reducing the ability for active travel modes to be properly utilised to and from the site.
- 5.3 Pedestrian connectivity to the site is also less than ideal and whilst there is scope for pedestrians travelling south of the development site to avoid the narrow stretches of carriageway which lack footways; the route north to Turkey Road is absent of any pedestrian facilities.
- 5.4 The pedestrian connectivity of the site and particularly the excessive walking distance to bus stops providing a frequent service will therefore lead to a higher propensity to use the car, including use of motor vehicles for shorter trips within the urban area that would normally be made by sustainable modes. With this increase in trip generation comes further pressure on local roads over and beyond those traffic levels that would be generated had the site been better located from an accessibility perspective.
- 5.5 Reference will be made to the walking distance isochrones for the local area, and routes to local services such as shops, schools, leisure and public transport will be identified.
- 5.15 At the time of considering the application, appropriate mitigation measures had not been agreed to address the above concerns and requirements. This relates to the inability to put forward an appropriate package in terms of the promotion of sustainable travel modes.
- 5.16 ESCC will be presenting evidence at the Inquiry covering the insufficiency of the proposed connection routes and walking distance and the implications of this on the levels of car use anticipated. ESCC will also be demonstrating that these problems cannot be sufficiently

overcome through Section 278/106 scheme works and that there is still an inherent issue for the Inspector to consider affecting sustainable transport usage for this development.

6 Conditions and Legal Agreements

- 6.1 Prior to the Public Inquiry, the Local Planning Authority and the Appellants will agree a list of conditions to be attached in the event of the appeal being allowed. These will include measures relating to issues upon which there is common ground that there is no objection subject to appropriate conditions.
- 6.2 The main parties will also identify any difference between them on conditions to be attached.
- 6.3 In the event that the Inspector is minded to allow the appeal, the Council would expect the appellant to submit a legal agreement that addresses the County's highways infrastructure requirements.

7 Conclusion

- 7.1 In summary, East Sussex County Council contest that the current proposal is unable to ensure that sustainable transport modes are available to residents. The highway authority also considers that the tabled mitigation measures are insufficient, on their own merits, to deal with the associated sustainable transport concerns for the site and the surrounding area.

8 Key Documents

- 8.1 The documents listed within this statement are publicly available through the Rother District Council planning portal website or they may be inspected during normal office hours at the Planning Department reception area of Rother District Council

Please quote the references on the title page of this statement.

- 8.2 ESCC will also draw on further key technical documents and material in evidence

1. National Planning Policy Framework (March 2012)
2. Planning Policy Statement 3 – Housing Planning Policy Guidance 13-Transport
3. Manual for Streets, DfT (March 2007) and Manual for Streets 2, DfT (2010)
4. DfT Guidelines on Transport Assessments and Travel Plans (2007)
5. DfT Best Practice Guidelines on Travel Plans and the Planning Process (2009)
6. CIHT Providing for Journeys on Foot (2000)
7. Equality Act 2010
8. DfT/DCLG Building Sustainable Transport Infrastructure into New Developments (2008)
9. Rother Local Plan Core Strategy (2014)
10. Rother Development and Site Allocations (2019; DaSA Local Plan).
11. ESCC Local Transport Plan
12. ESCC Guidelines on Travel Plans for New Development (2008)
13. The Highway Authority's formal responses to the Planning Authority with regard to planning application RR/2021/1656/P.
14. Correspondence between the Highway Authority, RDC and the Appellant during the live application process
15. Walk distance isochrones plan
16. Local facilities and attractors plan
17. DMRB - GG 142 - Walking, cycling and horse-riding assessment and review
18. East Sussex Local Cycling and Walking Infrastructure Plan (LCWIP)

ESCC Highway Authority – 05.10.2022