

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

**TOWN AND COUNTRY PLANNING APPEALS (DETERMINATION BY INSPECTORS)  
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**

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**APPEAL** by Gladman Developments Ltd. against the non-determination by Rother District Council of an outline planning application for 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 mitigation, vehicular access point and associated ancillary works at Land off Fryatts Way, Bexhill. All matters to be reserved with the exception of the main site access.

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

Rother District Council Reference : RR/2021/1656/P

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**PROOF OF EVIDENCE OF PETER DIJKHUIS ON BEHALF OF ROTHER  
DISTRICT COUNCIL**

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## QUALIFICATIONS

My name is Peter Dijkhuis. I hold the following qualifications BL Arch MCPUD TRP(SA) MRTPI. I have over 28-years' experience in the fields of Landscape Architecture, Urban Design and Town Planning.

I am employed as a Principal Planning Officer at Rother District Council in the Major Projects Team. My duties include taking major planning applications forward from discussions with the applicant, consultation with statutory consultees and others, preparing the case officer's report, presentation at Planning Committee, to discharging s.106 obligations and conditions.

The evidence that I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I can confirm that the opinions expressed are my true and professional opinions

## 1.0 INTRODUCTION

1.1 In the Council's statement of case the first of the Council's putative reasons for refusal is articulated as follows:-

*Reason 1 - The site is located beyond the defined settlement boundary for Bexhill and so falls within the countryside for planning purposes, where new development is carefully controlled to protect its intrinsic character and beauty. The site comprises a natural environment of wildlife, open fields and mature trees and hedgerows that are highly visible from public viewpoints. The intrusion of the quantum and location of built form in this location as proposed would adversely impact on the landscape setting and character, being one of countryside and open landscape, forming a green network created by the site along with Broad Oak Park and Highwood Golf Course. The development would result in a built-up area that would restrict the 'gaps of countryside' [OSS2(i)] between the settlements of Little Common and Sidley/Bexhill. This adverse impact on the landscape of this location would therefore be contrary to policies OSS2, OSS3, OSS4, RA3, EN1, EN3 and EN5 of the Core Strategy, policies DEN1 and DEN4 of the DaSA, and paragraphs 130 and 170 of the National Planning Policy Framework.*

1.2 Furthermore, the appointed Planning Inspector (the Inspector) framed the above in his third of the likely main issues in the case in the pre-hearing note provided to the parties as:-

*3. The effect of the proposed development on the character and appearance of the area*

1.3 My evidence addresses the impact of the proposed application on the character and qualities of the landscape of the area identified within the red line boundary (the Appeal Site) of the planning application with reference number RR/2021/1656/P (the Planning Application) and surrounding 'gaps of countryside' landscape.

1.4 My evidence is presented as follows:

- a) First, I will address the various landscape terms used by both the Appellant, Statutory Consultees, and Rother District Council in order to ensure common agreement as to how the landscape character and setting is defined in planning policy (Part 1).
- b) Second, I will address the impacts (assessment of harm) of the application on the landscape character and setting of the Appeal Site and the broader landscape context (Part 2).

## 2.0 **PART 1: LANDSCAPE AS DEFINED IN PLANNING POLICY**

2.1 The Appellant acknowledges that the site is located outside a designated Development Boundary (Policy OSS2). The consequence of this acknowledgement is that the Appeal Site must therefore be defined, and is designated in planning policy, as Countryside. This is therefore contrary to the Appellant's statement that the '*site itself is not covered by any landscape designation*<sup>1</sup>'.

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<sup>1</sup> Section 4.3 of the Appellant's Design & Access Statement (CD 1.07)

- 2.2 Further, we note that the Appellant and East Sussex County Council's Landscape Architect have used various terms (agricultural land, greenfield site<sup>2</sup> and rural/ key gap<sup>3</sup>) to define the planning designation for the site. The use and interplay of such terms, not defined in policy, does not aid discussion or determination against planning policy.
- 2.3 In reviewing both supporting evidence informing the Local Plan, the following descriptions are used in defining the 'gaps of countryside' [OSS2(i)] landscape regarding the Appeal Site and surrounding undeveloped landscape, namely:
- a) LDF Green Infrastructure Background Paper (2011): "Allotments" (Map 4), "Outdoor Sport Facilities" (Map 5), "Natural and Semi-Natural Greenspace" (Map 7), and, "Natural and Semi-Natural Open Space" (Map 10);
  - b) LDF Green Infrastructure Background Paper (2011), Table 10: "*The area around Little Common and West Bexhill exhibits ... The urban **fringe landscape** is characteristic of the south slopes of the High Weald*";
  - c) SHLAA, Part 2 (2013): Site BX8– site rejected for development (pg. 2); "*rolling open **countryside***" and "*any development at [BX8] would constitute as a **significant incursion into existing open countryside***" (pg 8); and Site BX36 "*Development of this site would **compromise an important urban greenspace in Bexhill***"; and,
  - d) Local Plan Core Strategy (2014): "*High Woods Strategic Open Spaces corridor*" and read as a green wash in Map 2 (Map 2; pg. 216);
- 2.4 Overall, the numerous descriptions used in the above demonstrates a valued (social and ecological) landscape by identifying the Appeal Site and surrounding undeveloped landscape as part of a landscape corridor or network between the urban settlements of Little Common and Sidley/ Bexhill as having per se, **Countryside** value and designation.

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<sup>2</sup> Paragraph 6.3.2 of the Appellant's Planning Statement (CD 1.04)

<sup>3</sup> Point 11 of ESCC Landscape response (CD 3.07)

- 2.5 For clarity, we define the above Countryside landscape corridor as the non-developed area stretching from Little Common District Centre, including Little Common Recreation Grounds, Broad Oak Park, Broad Oak Park Allotments, Highwoods Golf Course, the Appeal Site, Ibstock quarry, and Highwoods SSSI .
- 2.6 Both the SHLAA (2013) - the supporting evidence to the Local Plan - and the DaSA (2019) – adopted planning policy - justify the detailed location of the Development Boundary and its use in restricting ‘*development beyond the existing built-up area which would detrimentally and unnecessarily erode the countryside setting*’. The Appellant does not dispute this statement in policy.
- 2.7 In their response the ESCC Landscape Officer’s notes “*This means that the site is prominent in the landscape and from the surrounding countryside. ... The character of the site is contiguous with that of the parkland of Broad Oak Park. The structure of the site’s rural landscape is intact with historic fieldscapes and well treed field boundaries. This increases the quality, value and sensitivity of the site in the local context*”. It should therefore be read that the Appeal Site is defined as Countryside within the Bexhill Urban Area (30) .
- 2.8 All parties would agree that the landscape corridor (as defined above) is not defined as a ‘Settlement Gap’ but should be referenced as Countryside.
- 2.9 Having reviewed the Appeal Site and surrounding context, it is my view that the intrinsic character and landscape setting of the site has not changed since the original SHLAA (2013) studies were undertaken in 2011/13 and consequently in planning policy it is considered that the SHLAA (2013) landscape assessment, weighed against the SHLAA reference to the CLG SHLAA Guidance (July 2007) (pg. 21 Paragraph 7.7), remains valid in terms of any current assessment against the site and remains a material consideration, i.e. the Site is countryside as defined in the Local Plan policy OSS2 (Use of Development Boundaries).
- 2.10 Consequently, for the purposes of this Inquiry, the Council is of the opinion that the Appeal Site should be addressed as Countryside, forming an important landscape corridor between the settlements of Little Common and Sidley/ Bexhill. This position we believe would not be disputed by the Appellant.

2.11 Policy that addresses development, protection and enhancement of the Countryside is consequently of material consideration.

## **PART 2: ASSESSMENT OF LANDSCAPE CHARACTER**

2.12 In terms of describing the historic landscape character of the Appeal Site, we reference the High Weald National Character Area (Profile 122) and the ESCC No.5 'South Slopes of the High Weald' which describe the landscape as:

*'an intricate small-scale landscape/ fields with a strong pattern of treed hedgerows' –*

2.13 We note that both the National Character Areas and East Sussex County Council's Landscape Character Areas are referenced in the Local Plan (2014) to describe countryside and landscape character. Reference to, and use of, either reports to define landscape character is made by both parties and is consequently not disputed.

2.14 In their response the ESCC Landscape Officer's notes "*The structure of the site's rural landscape is intact with historic fieldscapes and well treed field boundaries*".

2.15 It is against the ESCC Landscape Character Areas and response that I have assessed character and appearance and mitigation of development harm.

2.16 The High Weald landscape character as described, which underlies the Appeal Site and remains visible and evident today, is explicitly used in the Appellant's motivation when referencing the landscape screening to the proposed development and the "loss of green fields<sup>4</sup>".

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<sup>4</sup> Paragraph 5.8.2 of the Appellant's Planning Statement (CD 1.04)

- 2.17 The High Weald Landscape Character Area washes over the built-up areas including the urban areas surrounding the Appeal Site. This position is not contested by the Appellant in relation to the ESCC Landscape Assessment.
- 2.18 While in planning terms the Appeal Site falls within the Bexhill Urban Area, as an undeveloped area of land which extends into the built-up area, the Appeal Site is not particularly representative of the Bexhill Urban Area (30) Landscape Character Area as suggested by the Appellant. Rather, it is in fact contiguous with the treed hedgerow, countryside landscape network to the north of Turkey Road and is more evident of the High Weald Landscape Character Area.
- 2.19 The ESCC Landscape Architect's response (the ESCC Response) notes that the ESCC Landscape Character Areas (2016) should not view Landscape Character Areas as rigid boundaries as there is unlikely to be a clearly defined transition from one-character area to the next. In this context, the Areas are considered to have wavy line boundaries where there will be overlap; especially where there is a transition for urban to rural and where the built-up area masks the historic, underlying character.

### **Landscape Visual Assessment - development impact**

- 2.20 The Appellant has applied for the description of development set out below: *Proposal Outline: 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.*

*Location Fryatts Way - land at, Bexhill*

- 2.21 In preparing the Local Plan, the SHLAA (2013) assessment Part 1 and 2 identified the Appeal Site, following assessment the Appeal Site was rejected and not taken forward as a potential development site. The SHLAA identified that development on the site (BX8) would constitute, "a significant incursion into

*existing open countryside contrary to policy OSS5(iii) [Submitted Version]; replaced by "It respects and does not detract from the character and appearance of the locality (Policy OSS4(iii) [Adopted Version].*

2.22 The Local Plan ruled that development on the Appeal Site was "*rejected*" due to identified harm to the landscape character and appearance of the area. This remains the current planning position. This identified harm could be set out as:

- a) Irreversible loss to the intrinsic identity of the Countryside landscape setting. This would be incremental urban encroachment into the landscape corridor and would impact on the collective landscape character and appearance of the corridor.
- b) Irreversible harm: "loss of green fields" as stated by the Appellant, by infill development within the network of open fields that constitute the Appeal Site. The relationship between open fields bounded by treed hedgerows is the very essence of this landscape. This reading is integral to the ESCC High Weald Landscape Character Area study.
- c) Change of character: the development of the open fields would result in retaining a peripheral landscape of treed hedgerows which is more reflective of sub-urban development and not the character of the existing countryside landscape.
- d) Reduced habitat value: the remainder boundary landscape framed by development and habitation would have diminished habitat value in terms of ecological inter-relationship between the hedgerows and open fields; the Appeal Site would encroach within the landscape corridor to the point of potentially restricting habitat movement; and, raises concerns regarding protected species which form part of the landscape corridor.

2.23 In reviewing the Appellant's Landscape Visual Assessment, the study addresses the Appeal Site's landscape as two separate components, namely a) treed hedgerows, and b) open fields; and, views the Appeal Site in isolation, rather than as part of a landscape corridor.



- 2.24 The ESCC Response notes a similar concern, that the LVA “*fails to draw out the intrinsic characteristics of the site including the topography in relation to the surrounding area*”. Further, “*the structure of the site..fieldscape and well treed field boundaries*”.
- 2.25 In the Council’s PreApp advice (31 March 2020), the Council noted “*The character of the site is contiguous with the rural character of Broad Oak Park with a rolling Wealden landscape, distinct field patterns and well treed field boundaries. The site is open countryside, which separates Sidley and Little Common*”.
- 2.26 In terms of the High Weald Landscape Character Area assessment (adopting our position in 2.18 above), the landscape character is defined by the very relationship between boundary treed hedgerows and that of enclosed open fields forming a network of contiguous landscape spaces. This is currently the landscape character of the Appeal Site.
- 2.27 The Appellant’s approach in assessing the landscape character of the site leads to the Appellant’s broad statement (6.13) that it is ‘*considered that there will be a High/Medium magnitude of change, resulting in a Major/Moderate Adverse effect upon completion and potential to reach a Moderate landscape effect overall in the long term*’.
- 2.28 We are therefore not in agreement in how the Appellant has approached the very reading of the landscape character, how they have then used the Landscape Visual Assessment in terms of assessing harm and impact, and how they have then attribute mitigation to address changes to the landscape character and appearance.
- 2.29 The Appellant’s statement that “*the LVA demonstrates that the scheme could be delivered without unacceptable wider landscape and visual impac<sup>5</sup>t*” is an incorrect reading of the landscape character. Consequently, the Appellant’s conclusion that the development will be screened and hence presents limited

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<sup>5</sup> Paragraph 6.3.2 of the Planning Statement (CD 1.04)

harm to the landscape character of the site and broader landscape corridor should in my view be given limited weight. We suggest that this is based on an incorrect premise. Their assessment may be internally consistent but the principle underlying the study that addresses the landscape as two separate components, that is the starting point to their assessment, is inherently an incorrect understanding in reading this landscape as defined in policy.

- 2.30 I would strongly contest that the landscape setting is read as a singular landscape, rather it should be read as a landscape network of small-scaled fields framed by mature treed hedgerow and, south of Broad Oak Park, small rather dense woodlands to form this complex landscape corridor. The corridor is evident of High Weald Countryside, framed by Little Common and Sidley/Bexhill. The Appellant's statement that development is screened by this mature landscape framework by developing within the open fields is beside the point as the two landscape elements form part of the same landscape setting, character and understanding.
- 2.31 The application therefore represents irreversible harm to the landscape character and appearance of the site and the broader landscape corridor. In this regard, the application does not accord with Policy OSS3 (vi)(Location of development), RA2 (viii) (General strategy for the countryside), RA3(v) (Development in the countryside), EN1 (viii) (Landscape stewardship), NPPF (2021) Paragraph 174(b) and 175.
- 2.32 Consequently, in terms of my first and second points the Council's position is that the effect of the proposed application on the character and appearance of the Appeal Site causes significant and irreversible harm to the landscape setting and is as such is reason for refusal.