

APPEAL BY GLADMAN DEVELOPMENTS LIMITED IN RESPECT OF THE  
PROPOSED RESIDENTIAL DEVELOPMENT OF LAND OFF FRYATTS WAY,  
BEXHILL.

OPENING STATEMENT OF THE APPELLANT

1. The Appellant seeks outline planning permission for the erection of up to 210 dwellings with specified ancillary development. Only the means of access into the site from Fryatts Way is not reserved for future determination.
2. The appeal site lies adjoining the west side of the built up area and settlement boundary of Bexhill, the largest and main settlement in Rother District, at a part of the town which is free from the constraints which apply elsewhere in the district and which, in particular, affect its other principal settlements of Battle and Rye.
3. As Ms Gibbons points out, the settlement limits of Bexhill are tightly drawn. Land outside them is treated as countryside, with a restrictive approach to allowing development beyond those limits. The Appellant accepts that the Development Plan policies that relate to or rely upon that boundary are breached by the appeal scheme, and that those breaches can be equated with a breach of the Development Plan as a whole.

4. However, there are many weighty material considerations that indicate taking a decision otherwise than in accordance with the Development Plan. Chief among them is the Council's dire record of housing delivery and of securing a sufficient forward supply. The Council has failed the Housing Delivery Test to the extent that paragraph 11(d) of the NPPF is triggered. On Friday 25<sup>th</sup> November, the Appellant was told by the Council of a new housing land supply statement which claims a deliverable supply of 2.79 years at an April 2022 base date. The Council has a poor record of providing sufficient forward supply. The Council also has pressing affordable housing needs which are going unmet and getting worse. On housing delivery and supply, the Development Plan has failed, is failing and will fail for the foreseeable future. Its Action Plan holds out no great hope. The Development Plan does not have the flexibility to deliver more housing at Bexhill whilst adhering to the settlement boundary and the development management test that applies beyond it. To afford this aspect of the Development Plan any more than very limited weight will do nothing but perpetuate the problem, particularly given the constraints to delivery elsewhere in the district. Ms Gibbons gives inadequate attention to these, and many other relevant factors, in her evidence.
  
5. As the main settlement in the District, Bexhill has a very good range of services and facilities. The appeal scheme would provide suitable opportunities for the use of alternatives to vehicles relying upon an internal combustion engine:
  - a. Using reasonable walk distances, a good range of services and facilities are accessible on foot, along safe and secure routes;

- b. Whilst bus usage appears to be low across the whole district, the appeal site would allow for access to present bus services and, importantly, the Appellant proposes a substantial contribution to East Sussex County Council's proposed Digital Demand Responsive Transport ("DDRT") system, a scheme which has received substantial Government funding;
  - c. The Appellant also proposes a contribution to an electric vehicle car club which would be sufficient to provide 7 electric vehicles for a three year period, after which there is a good prospect of the scheme remaining viable;
  - d. A substantial number of services and facilities are located within a 5km cycling distance of the site and the local conditions are favourable to cycling with, for example, no significant gradients; and
  - e. The site is 2km from a railway station with good access to locations like London Victoria, Eastbourne, Brighton, Hastings and Ashford International.
6. The appeal scheme would not cause unacceptable landscape and visual harm. Mr Jackson's evidence demonstrates that the appeal site and its surroundings forms part of a landscape with a medium value and lacks any designation for its landscape value. It lies in the least constrained part of the district, in landscape terms. The site relates to the Bexhill Urban Area and is treated as such by the East Sussex Landscape Character Assessment. It forms part of a landscape where component parts of it are relatively enclosed, minimising the effects of development on landscape character. It also lies next to existing residential development. The site is not "highly visible from public viewpoints", contrary to what

putative RfR2 claims, but is relatively visually enclosed, as a result of topography, vegetation and existing development. The extent of visibility of the proposed development would be limited and, where seen, it would be seen in the context of existing built form.

7. In landscape and visual terms, the appeal scheme would be perfectly acceptable.
8. The Council is no longer pursuing an objection based on alleged amenity impacts for the occupants of the properties adjoining the site access. Noise impact can be dealt with by condition.
9. Nor are National Highways pursuing with their objection about effects on the strategic road network. That matter can also be addressed by conditioning off-site highway works.
10. Adverse effects on the Pevensey Levels SAC can be avoided by adopting tried and tested techniques to ensure that the surface water leaving the site will be free from contaminants, as set out in an updated shadow Habitats Regulations Assessment. Those measures can also be secured by condition. That means that there is no NPPF footnote 7 policy that provides a clear reason to refuse permission and the tilted balance is therefore engaged.
11. The appeal scheme would bring significant benefits which Mr Lee addresses and which will be addressed in the evidence. They arise from the provision of much needed market and affordable housing, a significant proportion of the site being used for publicly accessible open space and Green Infrastructure, transport improvements, ecological benefit and economic benefits. The Council seems reluctant even to acknowledge some of those benefits, let alone ascribe reasonable amounts of weight to them.

12. The Appellant's position is that when the countryside development management policy breach and the modest landscape and visual impact are contrasted with the many weighty benefits of the scheme, then the adverse effects fall very far short of significantly and demonstrably outweighing the scheme benefits.

13. Put bluntly, if the Council is going to resist development like the appeal scheme, then its prospects for ever delivering enough housing will be bleak indeed.

14. The Appellant will be asking for the appeal to be allowed.

MARTIN CARTER

Counsel for the Appellant

1<sup>st</sup> December 2022

Kings Chambers

Manchester – Leeds – Birmingham.