

APP/R3650/W/25/3367393 and APP/R3650/W/25/3366387 – WAVERLEY BOROUGH COUNCIL STATEMENT RELATING TO APPELLANTS FLOOD RISK, LANDSCAPE AND ECOLOGY EVIDENCE – 13 FEBRUARY 2026

Dear Inspector,

1. Further to my e mail yesterday I indicated that the Local Planning Authority has serious concerns about the evidence that has been submitted by the appellants. This relates specifically to the evidence now provided in relation to pitch 1, although it is noted that Mr Rowe has suggested that he may also rely on flooding and ecology evidence.
2. Given the proximity of this evidence to the Inquiry date (10th March), I wish to press for a decision by the Inspector on the acceptability or otherwise of this evidence
3. The focus of this concern relates to the principles laid down in Wheatcroft and to the admissibility or otherwise of evidence which i) fundamentally changes the details of the applications and ii) the acceptance of which would be prejudicial to one party or to other interested parties.
4. In this regard, I will focus below on the flooding evidence which has been submitted, but then add references to the ecology and landscape evidence.
5. It appears to the Council that accepting these details would fundamentally change the application details, and be prejudicial if the Local Planning Authority are now expected to respond to details that are very different.
6. It should be noted at this stage that the Local Planning Authority has a long list of concerns about the modelling information referred to in the FRA, but these will only be raised if the information provided is accepted by the Inspector.
7. Reference is made to the Inspectorate's Procedural Guide to Planning Appeals and to section 16. I have copied this below and highlighted several sections.

Procedural Guide to Planning Appeals

Amending the proposed scheme once an appeal has been made

16.1 The appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage.

16.2 Where amendments are proposed during the appeals process despite the general principle outlined above, the Planning Inspectorate will consider whether, exceptionally, to accept them.

16.3 As per the judgement in Holborn Studios Ltd v The Council of the London Borough of Hackney (2018), which refined the "Wheatcroft principles" set out in Bernard Wheatcroft v Secretary of State for the Environment (1982), two tests will be considered:

- *Substantive - whether the proposed amendment(s) involves a "substantial difference" or a "fundamental change" to the application. If the Planning Inspectorate's judgement is that the amendment(s) would result in a "different application", then it is unlikely that*

the amendment could be considered as part of the appeal. It is also possible that a series of small incremental amendments to a scheme could result in a “substantial difference” or a “fundamental change”

- *Procedural – whether, if accepted, the proposed amendment(s) would cause unlawful procedural unfairness to anyone involved in the appeal (i.e. since consultation is a statutory requirement at the application stage, if the scheme is amended at appeal, it may be unfair on interested parties and consultees whose views and comments were about the original proposals, not the amended proposals). The change need not be ‘substantial’ or ‘fundamental’ to require re-consultation. Even potentially beneficial changes may need to be subject to re-consultation, so that interested parties can consider whether that would be the case. The decision on whether to accept the amendment without re-consultation will be taken in the context that consultation is an important part of the planning system, the nature and extent of the changes and the potential significance to those who might be consulted.*

16.4 In many instances accepting an amendment without it being subject to re-consultation would result in procedural unfairness. As a result, an amendment will not be accepted if fairness requires consultation, and that consultation has not taken place. To ensure the effective and efficient administration of appeals the appeal timetable will not be paused to permit further consultation.

16.5 Any proposed amendments should be submitted at the outset of the appeal, so as not to compromise the efficient running of the appeal. Exceptionally, Inspectors may accept amendments later in the process if it is responding to something that could not have been known about at the time of making the appeal, and accepting the amendment would adhere to the guidance on the substance of the change and procedural fairness outlined above.

The appeal for consideration

8. As a reminder the application proposes:-

“the change of use to a traveller caravan site comprising of 1 mobile home, 1 touring caravan, and associated development”

9. The details are shown on the site Block Plan (250ST RO.1 000.1) and on a plan identified as Proposed Refuse, Boundary and Surfacing (250ST RO.1 001)

10. The Block Plan shows the site layout with approximately 2/3 of the site in one shade (partly marked for parking so implying a hard surface), and 1/3 as a green area. There is a hedge around the site and a post and rail fence. The hardsurfaced area accommodates a static caravan, day room (separate plan provided) ,and space for a touring caravan and 2 cars. The green area and associated hedge extends up to the roadside (Crocus Lane).

11. The second Plan includes details of a bike and refuse store (not on the block plan) fencing details and a small section through a hardstanding showing this made up of 300mm of sub base plus 75mm of pea shingle or similar. This is laid over the ‘substrate’ implying some element of excavation before this material is laid.

12. The application is part retrospective, in relation to the existing area of hardstanding.

13. Details of what exists can be seen in the photographs provided in evidence.

Flood details now submitted

14. These are set out in 2 documents from Flume, one a FRA and the second a proof of evidence from Mr Quigg. Much of this simply criticises the approach taken by the Local Planning Authority, but it is necessary to consider the basis on which these comments are made.

15. Paragraph 2.3 advises that “pitch 1 occupies a raised platform relative to surrounding ground levels –”. This is not disagreed but there is no evidence before the Inquiry of levels.

14, However, para 2.5 advises

“2.5. For clarity, the appeal proposal comprises the site development plan including the formation of the raised platform and the associated surface water mitigation measures. The appropriate basis for assessment is therefore the development as proposed, not the current unmanaged condition. The Flood Risk Assessment tests both the existing unmanaged baseline and the proposed managed post-development scenario and demonstrates that, in the form proposed, the development would be safe for its lifetime and would not increase flood risk elsewhere

15. This text makes clear that the evidence being provided, and on which the Inspector is asked to make a decision, relates to a different proposal to that which exists. Paragraph 4.3 discusses this further.

4.3 - - “At this location there is no engineered or defined ordinary watercourse within the pitch footprint. The Flood Risk Assessment identifies a broad, undefined overland flow path under existing unmanaged conditions rather than a formal channel. The proposal introduces a raised platform set clear of that flow route, with surface water routed around and alongside the platform via defined open conveyance features.”

16. The introduction of a raised platform is repeated at paragraph 4.5. However, there is a potential conflict with the wording of para 6.2 which indicates:-

6.2 - - “The raised platform has since been constructed specifically to lift the proposed pitch above these flow paths,”

17. Given this ambiguity it is unclear whether the raised platform exists or is proposed. No details are provided in relation to existing or proposed levels.

18. Paragraph 4.7 identifies a second new feature:-

4.7 - - - “The proposed mitigation strategy includes the formation of a continuous open ditch to provide defined conveyance and storage, recognising that a coherent drainage feature is required to manage overland flow both within and beyond the appeal site. This is a forward-looking mitigation measure intended to improve surface water management overall,- - -“

19. The evidence for this as a new feature is much clearer in the details of the ‘proposed layout’ shown in Figure 2 of the FRA, which is a copy of the drawing provided with the landscape evidence by TDA. This shows a new ‘Proposed Ditch’ across the southern edge of the site, approximately 4m wide and 18m in length. This is a significant new feature not shown on the Block Plan submitted with the application.

20. Less clear are the details added as Appendix C to Mr Quiggs evidence, which show two photos of a typical ‘culverts at a crossings’, which it is assumed may be indicative of how water might be conveyed from the proposed new ditch under the site access. However, the installation of these is not mentioned within his evidence.

21. Finally, in relation to flooding, paragraph 5.2 of the FRA describes the proposed mitigation measures, and lists 3 items,

“5.2 Proposed mitigation measures

The proposed development incorporates a managed surface water strategy comprising:

- **Raised platforms for the residential pitch**, lifting occupied areas above modelled surface water levels for all assessed events.
- **Reinstatement of a defined surface water conveyance feature along the Site boundary**, reflecting the alignment of the historic ditch and providing controlled transfer of surface water across the Site.
- **A linear drainage feature running parallel to the developed area**, designed to intercept residual shallow overland flow and provide additional temporary storage. For assessment purposes this feature has been represented in the model as an open conveyance element, while allowing flexibility in final delivery as a shallow open channel and/or French drain with oversized carrier pipes.”

22. This introduces a third feature in the form of a number of additional drainage channels shown diagrammatically in Figure 7.

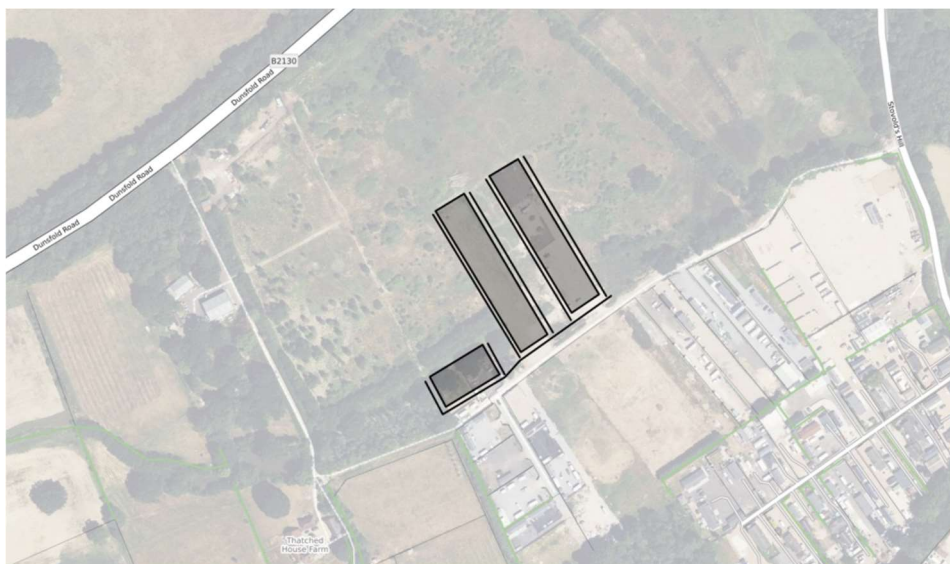


FIGURE 7 – PROPOSED SURFACE WATER MITIGATION STRATEGY (CONCEPT PLAN)

The FRA is based on these works having been undertaken.

23. Few details are provided but the modelling undertaken and illustrated in Figure 16 seems to be predicated on these works being carried out. Such works are outside the application site.

24. Both the proposed new ditch and culvert under the access track would be significant engineering operations which are not included in the description of development and have not been identified until now, 11 months after the application was submitted, and 8 months after the appeal. Equally, the proposed off-site ditches are new works that are not part of the application or included within the site area.

Assessment of these details in relation to Wheatcroft

24. It appears very clear to the Local Planning Authority that these details are not “the same scheme that was considered by the Local Planning Authority and interested parties at application stage.” (para 16.1 of the procedure guide).

25. In considering whether to accept these changes, the Local Planning Authority suggest that:-

- These are substantial changes that change the proposed layout of the site and introduce significant new engineering operations which themselves need planning permission and are not included in the description of development.
- accepting these changes now would be procedurally unfair as they represent fundamental changes to the application details, with no time for these to be placed in the public domain, or for consultation with the lead flood authority or other drainage interests. In this context very few details are provided about the works proposed (such as sections or capacity calculations), to provide a proper assessment.
- Regards should be had to para 16.5: these amendments were not submitted at the outset of the appeal, nor in response to something that could not have been known about when making the appeal.

Landscape details now submitted

26. These new details are provided in the evidence of Mr Crandon and on a proposed landscape drawing reference TD A.3145.01. This plan relates to both pitch 1 and pitch 2.
27. Details of the landscaping proposed and revised site layout are described in paragraphs 7.2 and 7.3. of Mr Crandon's evidence.
28. A separate note is attached from Mr Dudley (The Council's landscape witness) explaining the significant differences between the application proposal and the new landscape details.
29. It is noted that some of these details differ from the proposed flooding details (which have a much wider ditch on the southern boundary, so it would be difficult to know which new proposal should be assessed).

Assessment in relation to Wheatcroft

30. Of these changes the most significant is the introduction of the proposed ditch along the southern boundary of pitch one. The effect of this is to reduce the general area within the site so that it can no longer accommodate the dayroom which is included in the application. For the same reasons as explained in relation to flooding above, the introduction of this new feature is a fundamental change to the application details.
31. Having regard to the second principle, the details now proposed make a significant change to the landscaping details upon which there has been no consultation, and after the Council's evidence on these issues has been submitted. Introducing these changes now is procedurally unfair.
32. It is noted that these details are consistent with the proposed flooding details (for including the wider ditch on the southern boundary) but exclude the drainage channels included in the flooding assessment, that lie outside the site boundaries.

Ecology details now submitted

33. The application details remain as for above, but the appeal evidence is provided in a proof from Giles Coe together with a drawing CE 26001.2.3 (Plan 3) showing replacement habitats for 6 pitches but including pitch 1.
34. This plan includes:-
- a new ditch along the western side of the pitch and what is shown as a new hedge, but believed to be an intended ditch along the southern boundary

- a significant area of 'other woodland broadleaved' in the southern 1/3 of the site
- a strip of other neutral grassland along the western side (alongside the ditch) and new hedgerows to the east and north.

35. Details of the proposal are elaborated on in para 2.53.

Assessment in relation to Wheatcroft

36. Here the changes are less significant, but the mitigation now proposed would involve virtually all of the green area on the block plan submitted with the application being used for woodland planting, and the addition of the 'neutral grassland' would leave significantly less space for the siting of the mobile home and day room. The cycle and refuse stores have also been deleted. There may not be space to accommodate these. The two ditches (west and southern boundary) are new proposals.

37. Having regard to the two principles, setting aside the introduction of new ditches (discussed above) these ecology do not fundamentally change the application, but procedurally the introduction of the proposed ditches to the west and southern boundaries and new areas of proposed woodland, does make a significant change to the proposed habitats on site, after the Council's evidence on these issues has been submitted. Hence introducing these changes now is procedurally unfair.

38. When considering para 16.5 of the Inspectorate's guidance, these amendments were not submitted at the outset of the appeal, nor in response to something that could not have been known about when making the appeal.

39. It is noted that some of these details differ from the proposed flooding details (which have a much wider ditch on the southern boundary), so it would be difficult to know which new proposal should be assessed.

Overall

40. For the reasons set out above The Local Planning Authority submits that these new details breach both the principles set out under Wheatcroft:

- i) Substantive - by introducing new details that introduce new development and which overall are substantially different to the application as submitted;
- ii) Procedural - consideration of these details (in relation to all three sets of details) would be procedurally unfair, with no opportunity for further consultation with professional officers and interested parties so late in the appeal process and after all the Council's evidence on the original application details has been submitted.
- iii) Paragraph 16.5 – In any event any proposed amendments should have been submitted at the outset of the appeal, so as not to compromise the efficient running of the appeal. Paragraph 16.5 makes clear that exceptionally, Inspectors may accept amendments later in the process if it is responding to something that could not have been known about at the time of making the appeal and the amendment would adhere to the guidance on the substance of the change and procedural fairness outlined above. Neither limb of the exceptional test is met here as these amendments do not respond to something that could not have been known about at the time of making the appeal and the guidance on the substance and procedural fairness is not met.

WAVERLEY BOROUGH COUNCIL: LAND NORTH OF LYDIA PARK, STOVOLDS HILL, CRANLEIGH
SUPPLEMENTARY LANDSCAPE NOTE

1. This note has been requested by Waverley Borough Council in relation to two conjoined appeals (Refs. AP/R3650/W/25//3367393 and AP/R3650/W/25//3366387) against the non-determination of retrospective planning applications for two gypsy and traveller pitches on the above sites.
2. The government's procedural guide to planning appeals in England¹ is clear (Paragraph 16.1) that there are no provisions for amendments to schemes to be submitted, and that the Inspector must consider the scheme that was considered by the Local Planning Authority and interested parties at the application stage.
3. The Appellants in the above appeals have submitted a Landscape Statement of Evidence prepared by Rhodri Crandon of Tirlun Design Associates Ltd, which includes Drawing Number TDA.3145.01 titled 'Proposed Site Layouts & Outline Landscape Schemes' on page 32 of this document.
4. In my opinion, this drawing differs substantively from the Block Plans that were submitted for planning approval for the two appeal schemes. In particular, I note the following differences:
 - The proposed layout of Pitch 1 omits the day room, a permanent structure included within the planning description for the application and shown on the Block Plan. Plans have also been submitted showing the proposed floor plan and elevations of this structure.
 - The proposed layout of Pitch 1 omits the refuse and bike store, which is shown on the Block Plan and for which design information has been submitted.
 - A ditch is shown at the southern extent of Pitch 1, which does not appear on the submitted Block Plan.
 - The proposed hedgerows around the northern, western and southern boundaries of each pitch have been replaced with 'proposed native woodland buffer planting' of a different width to the hedgerows.
 - The grassed areas in each pitch are notably different in extent and location.

¹ <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>

- Trees are shown on the eastern boundaries of the pitches that do not appear on the submitted Block Plans.
 - The touring caravan spaces have been moved to adjacent to the eastern boundary of each pitch.
 - The vehicle parking spaces have been moved from the pitch entrances to alternative locations.
5. Taken collectively, these amendments amount to substantial amendments to the detail of the appeal schemes, and they should not be considered by the Inspector as per the government's published guidance.

Ian Dudley BSc(Hons) MICFor CEnv CMLI

12th February 2026