

## EAST HOATHLY with HALLAND PARISH COUNCIL

Minutes of the East Hoathly with Halland Parish Council Planning committee meeting held on **Monday 19<sup>th</sup> June, 2023 at 7.00pm.**

Present: Cllr. Jacqueline Bradley, Cllr. Tania Freezer (initial chair), Cllr. Chris Magness, Cllr. Richard Partridge, Cllr. Tony Pope, and Cllr. Danni Thatcher.

Also in attendance: District Cllr. Geoffrey Draper, Malcolm Ramsden (clerk) and twenty eight members of the public.

### AGENDA

#### 0. ELECTION OF CHAIRMAN

*Cllr. Freezer thanked everyone for attending and sought a chairman for the meeting. Following a proposal by Cllr. Partridge and seconding by Cllr. Magness **RESOLVED** to appoint Cllr. Pope as chair of the meeting.*

#### 1. PUBLIC PARTICIPATION

Members of the public are welcome and encouraged to attend. The first fifteen minutes of the meeting will be available for the public to express a view or ask a question on relevant matters on the agenda. The public and press are also welcome to stay and observe the rest of the meeting (subject to any items considered as confidential within the terms of the Public Bodies (Admission to meetings) Act 1960).

*Members were handed a summary of events and background to WD/2023/1358/LDE by a representative of Buttsfield Lane residents. The representative went on to highlight items from the summary and various members of the public present elaborated, highlighted and gave examples of the history, events and incidents including:-*

- *No vehicular access – by foot only (x5)*
- *Police involvement re. developer trespass (x3)*
- *Wealden District Council (WDC) references to being a ‘civil matter’ with a large amount of money having been spent by residents (x3)*
- *Parking in lane and employment of ‘bullying’ tactics resulting in an assault (x3)*
- *Refusal of developer to requests for meetings*
- *Planning permission now expired and should not be extended*
- *Availability of emails between WDC and developer/agent following Freedom of Information request*
- *Details of three non-material amendments to the planning permission*
- *Quality of work that has been carried out is ‘not fit for purpose’ (x2) with reference to The Whitely Principle*
- *LDA applied for on 15<sup>th</sup> May at which time no meaningful work had been carried out which needed to be done before the 9<sup>th</sup> of June*
- *Restrictions regarding access to water, electricity and sewage connections*
- *Representations to WDC Enforcement Officers (x2)*
- *Damage to vegetation at site boundary*
- *Deception and questionable tactics employed by developer*
- *Lack of help from WDC Planning Department (x3)*

*Particular attention regarding the frustration and dismay was expressed that WDC Planning Department didn't seem to be doing anything to help and protect the residents of the lane. Chairman stated that Council understood the depth of feeling and the sheer raw emotional*

*stress that was being inflicted on residents and that Wealden's request for information would be responded to.*

*Dist.Cllr. Draper added that he'd never seen a set of residents more dedicated or that had done more work to try and assert their feelings and that Council pass on the feelings to District Council highlighting the access issue and went on to state his belief that the developer had been exploring sale opportunities.*

## **2. DECLARATIONS OF INTEREST**

Members are invited to make any declaration of personal or prejudicial interests that they may have in relation to items on the agenda and are reminded to make any declarations at any stage during the meeting if it then becomes apparent that this may be required when a particular item or issue is to be considered.

*Cllr. Pope declared his interest in any matters concerning the Church Marks management group and Cllrs. Magness and Partridge both declared their interests by way of postcode association.*

## **3. APOLOGIES – to receive apologies for absence** *Apologies received from Cllr. Vaughan.*

## **4. PLANNING**

### **4.1 Current application under consideration**

Application No. WD/2023/1452/MAJ                      Application Type: Major Application - Full  
Location: Staverton Nursery, Eastbourne Road, Halland BN8 6PU  
Description: Re-building following fire damage – comprising 2 span north-western section of main building complex.

*Cllr. Partridge outlined the application details relating to the fire affected areas incorporating an increased square footage whilst retaining the original footprint.*

*Following a proposal by Cllr. Pope and seconding by Cllr. Freezer  
RESOLVED that Council's response be 'No Objection'.*

### **4.2 Response required to Wealden District Council request for information regarding WD/2023/1358/LDE (Land at Buttsfield Lane, East Hoathly), specifically:-**

*"(WDC) would be grateful to receive your Council's observations (within the normal 21 day consultation period (from 5<sup>th</sup> June, 2023)) as to whether you or your Councillors are in a position to assist this Council in respect of any evidence, local knowledge and/or witnesses who may have personal knowledge of the history of the application site and its uses. I would also be grateful to receive any names and addresses of any such potential witnesses who may be able to assist and who could be contacted direct by this office." (See below).*

*To assist with the response to a request for details of individuals that could help Wealden District Council in dealing with WD/2023/1358/LDE, the representative of Buttsfield Lane residents provided Council with contact details of willing parishioners.*

*Following a proposal by Cllr Pope and seconding by Cllr Freezer*

*RESOLVED that a formal response be agreed following further discussion incorporating residents' concerns, including by email if appropriate. LATER – Response agreed (Appendix A).*

**5. DATE OF NEXT MEETING**

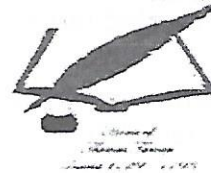
To note that the next meeting will be of the Full Council and will be held on Monday, 26<sup>th</sup> of June, 2023 at 7.00pm.

*Noted.*

Meeting closed at 8.35pm

IF YOU WOULD LIKE TO RECEIVE E-MAILED COPIES OF THIS AND FUTURE AGENDAS  
PLEASE CONTACT THE CLERK (07948 496760) and/or  
[clerk@easthoathlywithhalland.org.uk](mailto:clerk@easthoathlywithhalland.org.uk)

EAST HOATHLY WITH HALLAND  
PARISH COUNCIL



Clerk: Malcolm Ramsden, Chiltern, Stone Cross Road, Wadhurst, TN5 6LR  
Telephone: 07948 496760  
Email: [easthoathlywithhallandpc@gmail.com](mailto:easthoathlywithhallandpc@gmail.com)

S Robins  
Head of Planning and Environmental Services  
Wealden District Council  
Vicarage Lane  
HAILSHAM  
BN27 2AX

26<sup>th</sup> June, 2023

Dear Mr. Robins,

WD/2023/1358/LDE LAND AT BUTTSFIELD LANE, EAST HOATHLY , BN8  
6EE COMMENCEMENT OF WD/2016/1616/F - ERECTION OF TWO  
DWELLINGS, ACCESS, LANDSCAPING AND OTHER ASSOCIATED  
INFRASTRUCTURE

Further to the meeting of the East Hoathly with Halland Planning Committee on 19th June 2023, please find enclosed the list of witnesses as requested within your call for "as to whether you or your Councillors are in a position to assist this Council in respect of any evidence, local knowledge and/or witnesses who may have personal knowledge of the history of the application site and its uses. I would also be grateful to receive any names and addresses of any such potential witnesses who may be able to assist and who could be contacted direct by this office." All those listed have been contacted by me and have consented to their details being shared with yourselves.

In the meeting we were made aware of the depth of residents' feelings against this development and their concerns that the access condition has not been discharged. Events on 31st May 2023, where the developer allegedly forced access up Buttsfield Lane, resulted in a successful prosecution of assault on a resident. Naturally, this has made the situation even more sensitive, so we would be very appreciative if the Officers of Wealden District Council gave the evidence supplied below their full consideration, ensuring it meets all the thresholds required, in addition, ensuring all pre-commencement conditions have been fully discharged, if they are minded to accept the Developer's submission that works have commenced.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Malcolm Ramsden', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Malcolm Ramsden  
Clerk to East Hoathly with Halland Parish Council

**The work carried out on the plot cannot be considered as 'meaningful work' for these reasons:**

- 1) It is clear from our observations during the 'work' that the excavation was not 30cm deep as per Mark Best's Covering Letter (estimate 5cm average), therefore the work is not as described, and therefore **NOT 'fit for purpose'**.
- 2) Under the Whitley Principle, any works undertaken in breach of pre-commencement conditions cannot count as works to commence the development.
- 3) The Application should be rejected on the grounds that it was meant to deliberately mislead Planning, and the Application date (22/5/2023) predates the alleged 'meaningful work' which occurred on the 31/5/2023.

**Witnesses of 'non meaningful work':**

---

— DETAILS REDACTED FROM THIS COPY —

## Notes

### Note 1

The plot, formally part of The Hesmonds Estate, had always been accessed via the main entrance/exit to Hesmonds from the Waldron Road. This right of access was removed from the plot when it was sold, thus leaving the plot isolated, surrounded by private property and without any access rights with vehicles. (see also Note 5).  
Prior to the granting of planning permission, the plot was an uncultivated field/meadow/grassland.

### Note 2

The Wealdway is a long distance footpath.  
Public footpath definition (Source Government legislation Highways Act 1980) - "footpath" means a highway over which the public have a right of way on foot only.  
ESCC Rights of way map notes this route (Wealdway) is a footpath and there is a Gate/Vehicle Barrier/Timber (Gate).  
Barriers in one form or another have been in place for approximately 40 years.  
The vehicle barrier was removed by the developer.  
The barrier did not belong to the developer and neither was the barrier on his land. It was on the Public footpath.  
The developer drove a number of vehicles over the footpath on several occasions.

### Note 3

The police Commander got involved in the case after the developer, along with a large number of his work force, blocked the lane for an entire day with three vehicles which prevented 23 households from leaving the lane. One of the workforce physically assaulted one of the residents (resulting in the resident's hospitalisation and concussion), physically damaged the bodywork of the same resident's car with a shovel, took his car keys by force and moved the car without his consent. The Commander has assured the residents of the lane that if the developer attempts to access the site with vehicle(s) from Buttsfield Lane, his officers will attend and escort him, his work force and vehicle(s) from the lane.

### Note 4

Construction - Construction Traffic Access Plan AL - 903. Route from A22 to site via Buttsfield Lane.  
Source: Wealden District Council on access route WD/2022/1839/CD - NOTE : 'You are advised that this condition approval does not convey or confirm any new or existing access rights to the site for vehicles from Buttsfield Lane, nor does it convey any consent to gain access to Hesmonds Stud access lane to the east, over and above any existing rights that may exist.'

### Note 5

Source: extract from letter sent to WDC - Adam Turrell (Laurence Turrell & Co) Site access points/routes for Buttsfield Lane development: 'No parking will occur on Buttsfield Lane, all parking to be within the confines of the site.'

### Note 6

Source: Wealden District Council on access route WD/2022/0203/F Decision Notice - Condition 3: 'No work below ground level shall be carried out on site for the development hereby approved, until details of access points and routes for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. Construction vehicles shall visit and access the site only in accordance with the details so approved. C06 (M)'

**This is the response we have received from the Friends of Buttsfield Lane for your consideration:-**

- The plot at the top of Buttsfield Lane was granted Planning Permission in full knowledge and acceptance that there were no vehicle access rights to it. (see Notes 1,2, 4, 7 & 8)
- The plot can be accessed on foot only by virtue of the fact the plot's South Westerly boundary abuts the public footpath The Wealdway. (see Note 2)
- The police District Commander (Wealden), Detective Chief Inspector Medhi Fallahi visited some of the residents of Buttsfield Lane and after reviewing the relevant documents confirmed the development site had no rights of access by vehicle. The District Commander followed up the residents' meeting with a meeting with the developer. (see Note 3)
- The approved access for construction traffic to the plot is from the A22 via Buttsfield Lane. Again, this was granted in full knowledge and acceptance that there were no vehicle access rights to the plot via Buttsfield Lane. (see Notes 1, 2, 4, 7 & 8)
- The developer has had over a year to attain rights of way by vehicle to the plot, but to date has failed to engage with the residents to discuss the matter or submit a single piece of evidence to show that existing rights are in place. (see Note 9)
- Planning Permission was granted for one year expiring 9th June. A Certificate of Commencement has not been issued. (see Note 10)
- Certificate of Lawful Development for Existing does not apply. (see Note 10)

## **Conclusion**

The developer has no rights of access to the plot with vehicles. Therefore, any work on site to date which used vehicles driven to the site or machines delivered to the site using carrier vehicles, must have been done unlawfully. (see Note 6: Breached condition 3 by taking vehicles to the site via another route (over which no rights of access exist) and not the approved route (over which access rights have not been granted); (and see Note 2)

A number of attempts were made by the developer to wheelbarrow materials from construction vehicles parked on Buttsfield Lane to the site. In doing so the developer blocked the lane for an entire day. (see Note 5 & 9).

The work completed to date on the plot is not as described in the Certificate of Lawfulness for Existing Development, nor of a recognised standard (see Note 10). The plot can not be recognised as an Existing Development as work has commenced only in recent weeks and there has not been any historical development work on the site. Prior to the recent work by the developer the plot was uncultivated grassland, as it had always been (see Note 1).

The developer has accessed the site unlawfully, breached a Wealden District Council's planning conditions, as well as UK footpath law in the process, and has not completed any 'meaningful work'. Therefore, it would be inadmissible for Wealden District Council to issue a Certificate of Lawful Development. (see Note 10)

There has been no development work on the site prior to work started a few weeks ago, therefore it does not meet the requirements to be granted a Certificate of Lawful Development for Existing Use (see Note 11)

#### Note 7

Source: Wealden District Council WD/2022/0203/F Decision notice: 'You are advised that this consent does not convey or confirm any new or existing access rights to the site for vehicles from Buttsfield Lane, nor does it convey any consent to gain access to Hesmonds Stud access lane to the east, over and above any existing rights that may exist. It is noted that the approved plans do not include a physical tarmac link to that access road.'

#### Note 8

Source: Wealden District Council WD/2022/0203/F Decision information - Highways impact: 'Establishing rights of access (vehicular) to the site is a separate matter to planning. The planning permission would not alter any existing legal access rights that do or don't apply.'

#### Note 9

Source: Wealden District Council WD/2023/0938/NMA report dated 25th April 2023, it was stated: 'The applicant has not demonstrated access rights over the access.'  
'An alternative route for access must have been secured to allow this NMA presumably.' (None had been secured).  
'Were access rights not able to be demonstrated it is unlikely the houses would be built.'

On three separate occasions the residents invited the developer to meet with them to discuss access to the plot via Buttsfield Lane, connection to services and repair to the private section of the lane. On each occasion the developer refused to attend.

Whilst the residents of the lane are billed in the normal way by the utility companies, some of the infrastructure to some of the properties up Buttsfield Lane the developer would need to connect onto is neither owned nor maintained by the utility companies, but by the owners of the properties at their own expense. Without an agreement with the residents, the developer would not have access to some of the services.

#### Note 10

Source: WD/2023/1358/LDE - The description states under Photograph 2 'The site was dug out to 300mm'. In the accompanying photo provided to support this claim, it is clear to see this is not the case. Only a fraction of the stated depth of excavation has been achieved by simply removing the grass to a depth of approximately 70mm. Approximately two or three bulk bags of MOT Type 1 were wheelbarrowed to the site from vehicles parked on Buttsfield Lane and tracked in. The area described, if excavated to the depth claimed, would have required approximately 8 to 10 times the quantity.

The work is not of an accepted standard for its intended use.

The Whitley Principle - 'works that contravene true conditions precedent cannot be taken as lawfully commencing development.'

The work is inadmissible to apply for a Certificate of Commencement under The Whitley Principle as it was carried out in breach of planning condition 3 (see Note 6 - some construction traffic was parked on Buttsfield Lane whilst other construction traffic accessed the site via another route not approved by Wealden District Council), so therefore has been carried out unlawfully.



**Note 11**

A Certificate of Lawful Development for Existing Use cannot be applied for as prior to the recent (a few weeks ago) there was nor prior development on the site.

Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991 - some form of (unauthorised) building work would need to have been in place on the site for a minimum period of 4 years with out Planning Permission and be uncontested. The submitted planning application dated 27th January 2022 WD/2022/0203/F states:

Section 5. Description of the Proposal - Has the work or change of use already started? Response on form 'No'.

Section 6. Existing Use - Please describe the current use of the site. Response on form 'Field'