LAND AT DOWNLANDS FARM, UCKFIELD

Planning Proof of Evidence
Volume 1: Main Text

Joshua Mellor BSc (Hons) MSc MRTPI

WDC REFERENCE: WD/2022/1637/MEA
APPEAL REF: APP/C1435/W/23/3321978

October 2023

On behalf of **Gleeson Land and John Alison Land and Research Limited**

LAND AT DOWNLANDS FARM, UCKFIELD

APPEAL AGAINST THE REFUSAL OF A PLANNING PERMISSION FOR:

HYBRID PLANNING APPLICATION COMPRISING: OUTLINE APPLICATION (WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS) FOR THE ERECTION OF UP TO 424 NO. RESIDENTIAL DWELLINGS INCLUDING AFFORDABLE HOUSING, THE PROVISION OF VEHICULAR, PEDESTRIAN AND CYCLE ACCESS AND SEPARATE EMERGENCY ACCESS FROM THE UCKFIELD BYPASS (A22), PEDESTRIAN AND CYCLE ACCESS FROM SNATTS ROAD, OPEN SPACES INCLUDING CHILDREN'S PLAY SPACE, SUSTAINABLE URBAN DRAINAGE SYSTEMS, ASSOCIATED LANDSCAPING, INFRASTRUCTURE AND EARTHWORKS; AND
FULL APPLICATION COMPRISING CREATION OF A STRATEGIC SANG, ASSOCIATED LANDSCAPING AND CAR PARKING, AND DEMOLITION OF EXISTING RESIDENTIAL PROPERTY AND OTHER BUILDINGS AND PROVISION OF PEDESTRIAN AND CYCLE ACCESS FROM ROCKS ROAD, ASSOCIATED LANDSCAPING, INFRASTRUCTURE AND EARTHWORKS

Proof of Evidence of Joshua Mellor BSc (Hons) MSc MRTPI

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1.0 INTRODUCTION

i) Professional Qualifications and Experience

1.1. My name is Joshua Mellor. I hold a Bachelor of Science degree (with Honours) in Human and Physical Geography from the University of Reading and a Masters Degree in Development Planning from the University of Reading.

1.2. I am a Chartered member of the Royal Town Planning Institute and have been since November 2016.

1.3. I am Planning Associate Director at Stantec[1], working in the Kings Hill Office in Kent. Stantec is one of the largest design and engineering consultancies globally and has a strong Town Planning presence across the United Kingdom. I am based in our practice's Kings Hill office in Kent and work on sites across the South East.

1.4. I have over 11 years' experience as a professional town planner, of which for the last 7 years I have been with Stantec / Barton Willmore. I undertake a wide range of planning consultancy work advising land promoters, house builders and landowners on a broad range of planning issues, and in particular the residential sector.

1.5. I am familiar with the District, having worked on schemes in Wealden across my professional career including major residential development sites in Hailsham, Uckfield and elsewhere.

1.6. I am familiar with the Appeal Site, the surrounding area and the Appeal proposals having provided advice to the Appellants on the Appeal Site since 2019, including through Local Plan promotion and coordination of the application subject to this Appeal.

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

ii) Proof of Evidence - Scope and Content

1.8. My Proof of Evidence has been prepared following the submission of this Appeal by Gleeson Land and John Allison Land and Research Ltd (the "Appellants") against the refusal by

[1] Previously Barton Willmore, prior to its acquisition by Stantec in April 2022.

Wealden District Council (the "Council") to the application for development at Land at Downlands Farm, Uckfield (the "Appeal Proposals").

1.9. My evidence assesses the compliance of the proposed development with the Development Plan and considers whether there are any other material considerations relevant to these Appeals. I then undertake a planning balance assessment.

1.10. My evidence references, where relevant, that of other witnesses on topic-specific considerations, including:

- Mr Veasey on matters of Housing Land Supply and Affordable Housing;
- Mr Bell on matters of Highway and Transport;
- Mr Stratford on matters of Heritage;
- Mr Mylchreest on matters of Landscape;
- Mr Jenkin on matters of Flood Risk and Drainage;
- Mr Forbes-Laird on matters of Arboriculture; and
- Mr Baxter on matters of Ecology.

1.11. It should also be read in conjunction with the Planning Statement of Common Ground agreed with the Council (**CD1/10**), as well as other agreed Statements of Common Ground where relevant.

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2.0 THE APPEAL PROPOSALS & SUSTAINABILITY BENEFITS

2.1. This Section of my Evidence sets out the benefits of the Appeal Proposals and their associated sustainability benefits. These provide the benchmark against which any adverse impacts need to be tested and whether planning permission should be granted.

The Appeal Proposals

2.2. The Appeal Proposals are formed of 2no. distinct elements:

1) An Outline element with the matters of appearance, scale, layout and landscaping reserved (the 'Reserved Matters') and details of access provided in full for a development comprising the erection of up to 424 dwellings, including affordable housing, alongside open spaces, sustainable urban drainage, landscaping, infrastructure and earthworks; and
2) a Detailed element including demolition of the existing residential property of Chicory Cottage and provision of new pedestrian and cycle access from Rocks Road together with associated landscaping, infrastructure and earthworks, and the creation of new Strategic SANG and landscaping and car parking.

2.3. The Outline element is applied for with all matters reserved except for access which is to be determined. Matters relating to layout, scale, appearance and landscaping would be the subject of future Reserved Matters.

2.4. The primary vehicular access to the Appeal Site would be achieved via a new roundabout junction with the A22. Vehicular access is also to be provided into the SANG car park on Snatts Road, and an emergency access is provided to the A22. Pedestrian and cycle access would be provided to the Appeal Site from the A22, Rocks Road (via a new boardwalk through Fir Tree Grove forming part of the detailed element) and Snatts Road.

2.5. 3no. Parameter Plans were submitted for approval to enable an assessment of the Outline element of the proposal and to control and limit the form and design of development that could be progressed at the Reserved Matters stage.

2.6. The Detailed element relates to areas of the Appeal Site for SANG (Suitable Alternative Natural Greenspace), and the areas of Ancient Woodland proposed for management including the land at and surrounding Chicory Cottage (including the woodland of Fir Tree Grove) where a new pedestrian and cycle access is proposed.

2.7. The proposed SANG area is located to the north / north east of the Appeal Site. The key objectives of the SANG are to provide an attractive area for recreational use in its own right and to offset visitor pressure on the Ashdown Forest SPA arising from the development of the Appeal Proposals.

2.8. Detail of the proposed pedestrian and cycle route through Fir Tree Grove, connecting the residential development to Rocks Road, is also submitted as part of the Detailed element. This is submitted in detail to demonstrate both how a direct and attractive route for pedestrians and cyclists would be installed as well as how it would operate without loss of or deterioration to Ancient Woodland. The proposed pedestrian and cycle route through Fir Tree Grove would utilise an elevated boardwalk, alongside a stepped / ramp arrangement outside of the Ancient Woodland.

2.9. Further details of the Appeal Proposals are set out within the Appellants' Statement of Case (**CD1/5**).

2.10. Following submission of the Appeal and the continuation of discussions with the Council, East Sussex County Council (as highway authority) and Natural England, the Appellants prepared amended and additional plans for consideration as part of the Appeal. These plans and additional information comprise (1) amended plans **CD1/16 – CD1/20**; and (2) an Environmental Statement Addendum (**CD1/14**).

2.11. Following discussions at the Case Management Conference, the Appellants proceeded with a consultation on this amended information as follows.

- Notices in the 14 September 2023 edition of the Sussex Express (see **Appendix JM1** and **JM2**);
- Site Notices erected on 12 September 2023 at the corner of Rocks Road / Snatts Road (in the same location as the Council's planning notice) and opposite the proposed SANG access (see **Appendix JM3**); and
- Consultation information (inc. plans and accompanying material) hosted by the Council [on the Council's website].

2.12. The consultations identified that any comments should be made on the amended plans or Environmental Statement Addendum to the Council by 15 October 2023.

2.13. To date (as of 06 October 2023) a single response has been received from a local resident which provides thoughts on one way in which the Appeal Site could be developed and does not provide any comments on either the amended plans or Environmental Statement Addendum.

2.14. The Council subsequently confirmed that it had not provided copies of the Environmental Statement submitted at application stage to any consultees, and that as such the Appellants were under no obligation to provide copies of the Environmental Statement Addendum to any consultees. Nevertheless, I emailed all consultees who were consulted on the original application (list provided by the Council) on 15 September 2023 providing them with details of the re-consultation and requesting any comments be provided to the Council by 15 October 2023. A copy of the email is included in **Appendix JM4**.

2.15. To date (as of 06 October 2023) only Natural England has responded (directly to the Appellants) to say:

> **Thank you for your email regarding the above application with further information, which was received by our Consultations Team.**
>
> **As the planning application has now gone to appeal, I am writing to let you know that should the Planning Inspectorate wish to ask any questions of Natural England regarding this case we will respond to them directly in line with our statutory duty.**

2.16. As set out in the Appellants' Submissions (**CD1/13**) made when the amended plans were submitted to the Planning Inspectorate, the Appellants consider that the "Wheatcroft" tests are met and, therefore, the amended / additional plans should be considered as part of this Appeal.

2.17. **CD1/15** sets out the list of plans for approval including the amended plans subject to the recent consultation.

Sustainability Benefits

A. Achieving Sustainable Development

2.18. Paragraph 8 of the NPPF advises that there are three dimensions to sustainable development, these being an economic objective, a social objective and an environmental objective.

2.19. I demonstrate below how the Appeal Proposals perform against these three objectives.

2.20. The Council accepts at para 5.70 of its Statement of Case (**CD1/6**) that the "positive aspects" of the Appeal Proposals when taken together should be afforded "significant weight".

i) Economic Role

2.21. Para 81 of the NPPF identifies:

> **Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.**

2.22. The development of the Appeal Proposals will bring both direct construction jobs to the area alongside other indirect jobs during the construction phase, contributing to the local economy and introducing new opportunities for the labour force that are not currently being created due to housing need not being met.

2.23. Post-completion the development would accommodate an increase in population which will deliver economic output through retail expenditure on convenience goods.

2.24. The application was supported by an Economic Benefits Statement (**CD2/26**) which quantifies the economic benefits arising from the Appeal Proposals.

2.25. As detailed in the Statement, the development is expected to deliver the following economic benefits:

Table 2.1: Construction Phase Economic Benefits

Construction Phase	
Total Direct Construction Jobs	162
- Of which are primarily site-based	90
Total Indirect Jobs supported over the Construction Phase	157
Total Jobs Supported over the Construction Phase	319
GVA from Direct Construction Jobs	£27.1m
GVA from Indirect Construction Jobs	£35.4m
Total GVA from Construction Phase	£62.5m

Numbers subject to rounding

Table 2.2: Completed Development Economic Benefits

Resident population	851
Of which are economically active	425
Of which are assumed to be in employment	419
Economic output (GVA) generated per annum by resident population in employment	£16.9m
Commercial Expenditure Per Annum:	
Convenience Goods	£3.0m
Comparison Goods	£4.7m
Leisure Goods	£3.7m
Total commercial Expenditure	£11.4m
Council Tax payments per annum	£1.2m
New Homes Bonus (over 1 year)	£856,700

Numbers subject to rounding

2.26. Whilst not limited to Uckfield alone, a proportion of the economic benefits will clearly flow to the local populace through construction jobs and activities, and local businesses through household expenditure.

2.27. As the Council does not have a demonstrable 5-year housing land supply there is a suppression of housing construction activity. Accordingly, I consider that the way in which the Appeal Proposals would support 319 direct and indirect jobs over the estimated 4-year construction phase period is a temporary benefit that should be afforded **moderate weight** in favour of the Appeal Proposals.

2.28. In respect of the economic benefits of the Appeal Proposals once the development is completed and with regard to local household expenditure, I note that Uckfield has a strong hospitality commercial offering in the town centre including:

- Picture House Cinema;
- Waitrose and Tesco Supermarkets;
- Fortune Fish Bar;
- Lucky House Chinese Takeaway;
- Thai Terre Restaurant;
- Pizza Express;
- Domino's Pizza;
- Amira's Kitchen Indian Restaurant;
- Subway;
- Caprinos Pizza Kitchen;

- KFC;
- McDonald's;
- Relish Turkish;
- Mojava Café;
- Coffee Barn Kitchen & Deli; and
- Craft Coffee & Roastery.

2.29. The introduction of further residents will be beneficial to these businesses through a source of additional trade and footfall (where relevant).

2.30. I therefore consider the ongoing commercial expenditure economic benefits as summarised above in Table 2.2 should be afforded **significant weight** in favour of the Appeal Proposals in the context of Para 81 of the NPPF and these benefits currently being lost due to the supressed housing market locally.

ii) Social Role

A. Delivery of Housing

2.31. The Appeal Proposals will result in the creation of up to 424 new homes in a sustainable location, and will provide an opportunity for people to live in an area that they want to, supporting the creation of strong, vibrant and healthy communities.

2.32. Moreover, the Appeal Proposals will contribute towards addressing the Council's current inability to demonstrate a 5-year supply of deliverable housing land.

2.33. The Council's latest Five Year Housing Land Supply Statement (**CD7/2**) published in December 2022 covers the period April 2022 to March 2027 and identifies a supply (at best) of 3.92-years.

2.34. As set out in Mr Veasey's Housing Land Supply and Affordable Housing Evidence, following a review of the deliverable supply of housing land, the Appellants' assessment of the Council's housing land supply position is that it is no more than 3.29-years.

2.35. The shortfall, whether on the Council's or Mr Veasey's assessment at 2,484 homes, is clearly significant.

2.36. Moreover, as noted in Section 4, the Council is significantly behind schedule in the preparation and adoption of its new Local Plan and will therefore be unable to address its housing needs in the short to medium term - on the basis of the current delay, the Council's new Local Plan is unlikely to be adopted until 2026 at the earliest. Moreover, this is only an estimate and could potentially be delayed further.

2.37. In the absence of this, the housing shortfall remains significant and the contribution the Appeal Proposals will therefore make towards resolving this shortfall is a benefit to which I attach **significant weight.**

2.38. This is consistent with the weight given to the delivery of housing in recent appeals in the District including:

- Land at Old Orchard House, Horam (ref. 3297371, **CD4/28**) allowed in August 2022 where the contribution of 38 homes was given "very significant weight";
- Danecroft Nurseries, Hellingly (ref. 3297388, **CD4/26**) allowed in December 2022 where the contribution of 80 homes was given "substantial weight"; and
- Land at old Nursery House, Framfield (ref. 3301104, **CD4/29**) allowed in January 2023 where the contribution of 58 homes was given "substantial weight".

B. Delivery of Affordable Housing

2.39. The provision of 35% Affordable Housing (amounting to up to 148 affordable homes) will increase the District's supply of Affordable Homes and help reduce inequalities.

2.40. As set out within Mr Veasey's Proof of Evidence, the Council's latest local housing needs evidence (2021) concludes that there is an annual need for at least 854 affordable homes per annum. The previous SHMA 2016 identified an annual need for at least 331 affordable homes.

2.41. Over the past 9 monitoring years, the Council has averaged delivery of only 173 affordable homes. This falls substantially below the annual needs identified within either the 2016 or 2021 assessments.

2.42. The current affordable housing delivery shortfall against the Council's identified need over the 2013 to 2022 period is very substantial at -2,993 affordable homes.

2.43. If this is to be addressed over the next five years, the affordable need would be 7,263 homes in the 5-year period. Mr Veasy considers that the Council will only deliver between 1,234 – 1,480 affordable homes in that period based on its identified supply. This will clearly not address the affordable housing need, even if the backlog could be disregarded (which it should not be).

2.44. The only way in which the Affordable Housing need can realistically be reduced is through the introduction of new sites, such as the Appeal Proposals, to deliver Affordable Housing.

2.45. The way in which this Appeal Proposal will deliver a significant amount of affordable housing is a benefit to which I attach **significant weight**.

2.46. This is consistent with the weight given to the delivery of affordable housing in recent appeals in the District including:

- Land at Old Orchard House, Horam (ref. 3297371, **CD4/28**) allowed in August 2022 where the contribution of 35% affordable housing (13.3 affordable homes) was given "very significant weight"; and
- Land at old Nursery House, Framfield (ref. 3301104, **CD4/29**) allowed in January 2023 were the contribution of 35% affordable housing (20.3 affordable homes) was given "substantial weight".

C. Addressing Local Deprivation

2.47. As detailed in the Uckfield Socioeconomic Review of Mr Veasey (**Appendix JM5**) the Appeal Proposals would have a 'minor beneficial' impact on deprivation, life expectancy and general health factors in light of the positive contributions new homes would have on the current barriers to housing and services experienced in the 'Lower Service Output Area' (LSOA) which covers the Appeal Site.

2.48. Specifically, the key barriers for the LSOA being homelessness, owner-occupation affordability, housing affordability (all #1 most deprived LSOA out of the 94 LSOA's in Wealden District), private rental affordability (#2 most deprived) and household overcrowding (#10 most deprived).

2.49. Figure USR7 and USR8 of the Socioeconomic Review demonstrate that median affordability and lower quartile affordability has worsened over time in Wealden District. In 2022, the median affordability ratio for Wealden is 13.25, compared to 10.75 for the South East and 8.28 for England. The lower quartile affordability ratio for Wealden is 12.75, compared to 10.69 for the South East and 7.37 for England.

2.50. I consider that the minor beneficial impact on deprivation arising from the Appeal Proposals should be afforded **limited weight** as a benefit in the context of the above, in addition to the benefit afforded to the delivery of general market and affordable housing.

D. Delivery of Self / Custom Build Housing

2.51. The Council expects major development sites to provide not less than 5% of dwellings as self / custom build housing plots. This not a policy requirement, but one the Council nevertheless

seeks to apply to meet its statutory obligations under the Self-build and Custom Housebuilding Act 2015.

2.52. The Appeal Proposals seek to meet this expectation, with not less than 5% of dwellings to be marketed as self / custom build housing plots through the legal agreement. On the basis the Appeal Proposals could deliver up to 424 new homes, this would equate to up to 22 (5.2% provision) self /custom build homes being delivered.

2.53. The Council maintains a Self-build and Custom Housebuilding Register which it uses to identify and assess the level of demand for self / custom build housing across the District. As of 02 October 2023 (latest website update) there are 229 individuals enrolled on the register (i.e. individuals that have indicated a demand in self or custom build housing but not found a suitable plot):

31 March 2016 – 30 October 2016 – 2 applicants
31 October 2016 – 30 October 2017 - 24 applicants
31 October 2017 – 30 October 2018 - 24 applicants
31 October 2018 – 30 October 2019 - 21 applicants
31 October 2019 – 30 October 2020 - 33 applicants
31 October 2020 – 30 October 2021 - 44 applicants
31 October 2021 – 30 October 2022 - 37 applicants
31 October 2022 – 02 October 2023 - 44 applicants

2.54. The Council identify that there is a need for 205 serviced plots of land to satisfy existing demand (with 24 applicants already having land). Further, it identifies the most popular settlement choices are (in order) Crowborough, Heathfield, Uckfield, Hailsham and Forest Row.

2.55. There is no indication of how many plots are available or expected to be made available, however there is a clear demand which has not been met.

2.56. The provision of self / custom build housing plots accords with Para 62 of the NPPF which states housing needs for different groups, including those who wish to commission or build their own homes, should be assessed and reflected in planning policies.

2.57. The contribution the Appeal Proposals make towards self / custom build housing, in the context of the Council's current demand for such plots, is a benefit that I consider should be afforded **significant weight in favour** of the Appeal Proposals.

2.58. This is consistent with the weight given to the delivery of self / custom build housing in recent appeals in the District including:

- Land at Old Orchard House, Horam (ref. 3297371, **CD4/28**) allowed in August 2022 where the provision of 2no. self / custom build plots was given "quite significant weight";
- Land at old Nursery House, Framfield (ref. 3301104, **CD4/29**) allowed in January 2023 were the provision of 5% self / custom build plots (2.9 plots) was given "substantial weight"; and
- Land east of Sandy Cross Lane, Heathfield (ref. 3306792, **CD4/30**) allowed in September 2023 where the provision of 8no. self / custom build plots was given "significant weight".

E. Provision of Open Spaces

2.59. The Appeal Proposals include the provision of open spaces, with a range of typologies achievable on the Appeal Site as demonstrated in the Green Infrastructure Parameter Plan (**CD2/9**) and the Illustrative Landscape and Ecology Plan (**CD2/54**).

2.60. Table 4.3 provides a comparison of the open space provision against the Council's latest assessment of open space requirements set out in the WDC's Draft Outdoor Playing Space Supplementary Planning Guidance (**CD6/11**).

Table 2.3 – Open Space Standards and indicative provision

Open Space Type	SPG (2003) Standard (ha/1000 population)	Requirement for 424 homes[2] (Hectares)	Illustrative Provision
Youth / Adult Play Space	1.6-1.8ha	1.59-1.79ha	Multi-functional spaces provided across Appeal Proposals including: • 1.6ha in 'Central Park' incorporating LEAP and junior sports pitch; • 0.9ha in 'Amenity Park' incorporating amenity space and community orchard; • 13.2ha provision of SANG; and • Incidental open spaces within development areas and along woodland edge [not included in calculation below].
Casual / Informal Children's Play Space	0.4-0.5ha	0.4-0.5ha	
Equipped Children's Play Space	0.2-0.3ha	0.2-0.3ha	
Total Open Space	**2.4ha**	**2.4ha**	**15.7ha + incidental open spaces**

2.61. Proposed open spaces will be within easy walking distances of the new homes and will encourage the development of healthy communities. These spaces will provide attractive spaces that will promote social well-being.

2.62. In all cases, space standards for each open space typology are achievable on the Appeal Site and the overall quantum of open space provision is in excess of the standards. This overall Green Infrastructure provision is to be secured through the Green Infrastructure Parameter Plan (**CD2/9**).

2.63. The provision of on-site public open spaces, in excess of policy requirements, is considered to be a benefit of the Appeal Proposals that is of **moderate weight in its favour**.

F. Delivery of SANG

2.64. The Appeal Proposals include the provision of a bespoke SANG, which will offer a high-quality recreational environment providing new habitats, woodland, scrub and orchard

[2] Average Household Size of 2.35, 2021 Census

planting alongside supporting infrastructure such as signage, interpretation boards and dog waste and litter bin provision.

2.65. The purpose of the SANG is to provide mitigation to manage recreational disturbance on the Ashdown Forest SPA (alongside contributions to Strategic Access Management and Monitoring (SAMM)). As a mitigation measure, I afford the provision of SANG **neutral weight**.

2.66. However, as identified above, I have afforded moderate weight to the benefit of providing the SANG on-site due to the way in doing so ensures that it will complements and contribute to the range of other on-site recreational opportunities, of benefit to both the future residents of the Appeal Proposal as well as existing residents visiting the SANG.

2.67. Moreover, as set out in the Report to Inform a Habitats Regulations Assessment, Update August 2023 (**Enclosure 3 of CD1/14**) the SANG, which totals 13.2ha, would provide sufficient capacity for 1,125 residents i.e. for up to 468 dwellings based on Natural England guidance, which reflects a precautionary approach discounting the SANG capacity for existing use and omitting Ancient Woodland.

2.68. In light of the identified need for additional housing sites across the District it is reasonable to assume there will be a need for additional SANG in the future to enable these. In the absence of this, other suitable sites could be frustrated by the lack of available SANG and/or the need to reduce housing numbers to accommodate on-site SANG.

2.69. The way in which the SANG provision would therefore not only facilitate the Appeal Proposals but provide capacity to support the delivery of up to 44 additional new homes elsewhere in Uckfield is a benefit that I consider is of **significant weight in favour** of the Appeal Proposals – given the Council's housing land supply position and persistent affordable housing shortfall.

G. Commitment to Creating a Well-Designed Place

2.70. The Appellants have a strong track record of enabling the delivery of high-quality schemes, as demonstrated in **Appendix JM6** which shows a variety of schemes where Outline consents have been secured by the Appellants and then built out by a range of housebuilders.

2.71. The Appeal Site sits within a framework of woodland which would provide an attractive landscape for future residents to live within. The Design Access Statement (**CD2/25**) considers this and provides initial suggestions for the palette of materials and the design of

the new homes, demonstrating how a well-designed scheme could be delivered creating a high quality and beautiful place.

2.72. The Appellants are committed to the delivery of a well-designed scheme in this location, understanding the NPPF advocates for good design as a key aspect of sustainable development. As such, a 'Design Code' is proposed to be secured through condition, with this to be agreed with the Council ahead of submission of the first Reserved Matters application.

2.73. The Design Code would reflect the design work that supports the Outline application and will provide further detail on matters such as character areas, street hierarchy, building typologies and the treatment of public realm. Subsequent Reserved Matters will have to demonstrate how they accord with the approved Design Code.

2.74. Therefore, whilst details of appearance, layout, scale and landscape are Reserved Matters for determination at a later date, there is a commitment to delivering a well-designed place through the Appeal Proposals, maximising the opportunities afforded by the landscape of the Appeal Site.

2.75. The potential for the Appeal Proposals to deliver the NPPF's aspirations for achieving well-designed places is a benefit that I consider should be afforded **limited weight in support** of the Appeal Proposals.

iii) Environmental Role

A. Ecological Enhancements

2.76. Chapter 7 of the Environmental Statement (**CD 2/40**) considered the likely significant effects of the Appeal Proposals on biodiversity, including ecology and nature conservation with regard to Ancient Woodland and Veteran Trees, supported by a Baseline Ecological Appraisal. In addition, the Site has been subject to numerous habitat and species-specific surveys including: Bats (roosting); Bats (foraging and commuting); Badger; Dormouse; Other mammals (including hedgehog); Birds; Great Crested Newt; Reptiles; and Invertebrates.

2.77. The Appeal Proposals include a range of potential ecological enhancements including new native tree and shrub planting, a new orchard, establishing wildflower grassland, a variety of wetland habitats.

2.78. The Appeal Proposals could result in a significant and quantified net gain in biodiversity across the Appeal Site, as confirmed in the Biodiversity Net Gain assessment submitted with the application (**CD2/86**), which based on the Defra Metric 3.1, confirmed the illustrative

proposals would result in a quantified net gain of 27.12% and 86.41% in respect of area habitat and hedgerow habitat units respectively.

2.79. Updated Biodiversity Net Gain assessment work, using Defra Metric 4.0, accompanies Mr Baxter's Proof of Evidence and identifies a net gain of 23.8% in habitat units and 146.4% in hedgerow units would be achieved.

2.80. The Council's current policy requirement is to achieve 'a gain' and the emerging Environmental Act requirement legislates a minimum of 10% gain, albeit that would not be required for this Appeal as the application was submitted prior to the January 2024 date whereby the Biodiversity Net Gain requirements are to come into force.

2.81. Although the gains are likely to be much greater, a condition is proposed to secure a minimum 10% net gain. As such, I consider that the potential ecological benefits are clearly of **significant weight.**

2.82. This is consistent with other Appeal decisions including the allowed decision of 24 August 2023 at Land off Pendragon Road, Exeter Appeal decision (ref. 3298452, **CD4/32**) where the Inspector concluded:

> **A 10% BNG is above and beyond the policy requirement for 'a' net gain, as set out in Paragraph 174 of the Framework. I therefore place significant positive weight on the proposed BNG.**

2.83. Similarly, at recovered Appeal for Land East of Windsor Grove, West Norwood, London, allowed on 26 August 2022 (ref. 3285463, **CD4/33**) both the Inspector and SoS concluded the extent of biodiversity net gain was a "clear benefit of the scheme" which should attract "significant weight in support of the proposal".

B. Woodland Management

2.84. The Appeal Proposals present the opportunity to bring all retained woodland within the Appeal Site (Ancient and non-Ancient) into favourable management, so as to improve condition where possible.

2.85. As detailed in the evidence of Mr Baxter and Mr Forbes-Laird, the woodland at present receives no positive conservation management, which as a result has led to a deterioration of biodiversity value that will continue without intervention.

2.86. The Government's Keepers of Time guidance (**CD9/6**) reflects the importance of intervention in this regard, noting:

> **Restoring ancient woodlands that are ecologically degraded is a high priority for the Government**

2.87. The conservation management of the retained woodland would be secured through the "Downlands Woodland Park – SANG and Woodland management Plan", which includes measures such:

- Introduction of coppicing regimes to areas which are suited to this technique, which will provide structure, and habitat enhancement for wildlife and in particular Dormouse;
- Thinning and restocking of woodland areas lacking age structure and diversity;
- Removal and control of non-native invasive plant species where they occur;
- Creation of deadwood habitats from cut material arising from woodland management;
- Provision of boundary fencing, management of paths and other measures to manage visitor access as necessary;
- Improvement of the existing woodland path network, which is very muddy in places and if left unchecked may lead to damage to the woodland, by the provision of boardwalks.

2.88. The management regime would be funded through legal agreement to ensure long-term conservation, including management of the SANG and other areas of Ancient Woodland within the Appeal Site by the Land Trust.

2.89. The introduction of the woodland management package, which would otherwise not occur outside of the Appeal Proposals, would help improve the long-term resilience of woodlands, including Ancient Woodland. I consider this should be given **significant weight** as a benefit of the Appeal Proposals.

C. Commitment to Low Carbon Energy, Resource Efficiency and Waste Management

2.90. Through the submission of an Energy, Waste and Sustainability Statement (**CD2/76**) the Appellants have demonstrated how low carbon energy, resource efficiency and waste management could be achieved as part of the Appeal Proposals. These demonstrate that the Appeal Proposals will address local and national requirements, whilst also looking ahead to emerging standards, and will ensure that:

- Homes will be highly energy efficient, adopting a fabric first approach and with specifications above current Building Regulations for insulation detailing. They will be orientated to maximise solar gain where possible;
- There will be no burning of fossil fuels on Site, with no natural gas supplied and heating provided by low carbon air source heat pumps;
- Fixtures and fittings which reduce energy and water use will be specified throughout;
- EV charging will be provided to homes in line with policy;
- Construction and operation waste will be managed according to the principles of the Waste Hierarchy with a focus on waste prevention, re-use and recycling;
- Buildings will be designed and specified to adapt to a changed climate; overheating will be managed through good design and solar grazing; the additional tree planting will provide more comfortable microclimates in warmer weather; the landscape design will provide multi-functional benefits supporting increased biodiversity, promoting opportunities for improved health / wellbeing and enhancing the overall aesthetic.

2.91. The Council declared a climate emergency in July 2019, noting a commitment to work towards achieving net-zero emissions by 2050 for both the Council's own operations and the wider Wealden area, and to pursue efforts to bring this date forward if possible. The Council published a Climate Emergency Plan (**CD6/17**) in December 2019.

2.92. The commitments of the Energy, Waste and Sustainability Statement support the Council's objectives in this regard, including ensuring new housing achieves high standard of energy efficiency and switching from gas / fossil fuels to low and zero carbon heat sources such as heat pumps.

2.93. In this context, I consider these commitments to energy, waste and sustainability are a benefit of the Appeal Proposal that should be given **moderate weight** in the planning balance.

Delivery of the Appeal Proposals

2.94. It is estimated that the Appeal Proposals, if permitted, could deliver approximately 150 dwellings in the current 5-year period (2023/24 – 2027/28), as shown in Table 4.3.

Table 2.4: Estimated Delivery of the Appeal Proposals

Appeal Decision	January 2024
Site acquired by Developer	July 2024
Design Code Submitted	December 2024
Design Code Approved	March 2025
Reserved Matters Submitted	April 2025
Reserved Matters Approved	September 2025
Start on Site	December 2025
1st Completions	October 2026
2026/27 Completions ("Year 4")	50 dwellings (half year)
2027/28 Completions ("Year 5")	100 dwellings
2028/29 Completions ("Year 6")	100 dwellings
2029/30 Completions ("Year 7")	100 dwellings
2030/31 Completions ("Year 8")	74 dwellings

2.95. This is entirely consistent with the Appellants' experience on other sites as detailed in **Appendix JM7** (Site Delivery Research completed by Gleeson Land) which demonstrates an average time of 20 months between Outline approval to start on site (plus allowing an additional 3 months for Design Code approval) and 30 months between Outline approval to first occupation (again allowing an additional 3 months for Design Code approval).

2.96. This research was presented by the Appellant at the Land at Beauchamps Drive appeal (**CD4/31**) which led the Inspector to conclude (at para 45):

> **"The proposal would make provision for up to 75 dwellings. This is a significant benefit that would contribute towards meeting local housing need and would assist in addressing the shortfall illustrated by the 3.5 year housing land supply which is notably short of the minimum 5 year requirement. The Council has questioned whether the site would be deliverable within the next 5 years, primarily because it is being brought forward by a site promoter. However, there is little to indicate that this would substantially delay delivery. The evidence presented to the Inquiry by the appellant indicates that the site is being taken forward by an established site promoter that has a strong track record of delivery."** [Emphasis added]

2.97. The estimated delivery rates are consistent with the median delivery rates as % of total dwellings site as detailed in Table 3 of Lichfield's 'Start to Finish' Second Edition (**CD7/3**) of 24% of total site capacity per year for sites between 100 and 500 dwellings.

3.0 PLANNING HISTORY CONTEXT

3.1. The Appeal Site was subject to a previous planning application submitted October 2006 (ref. 2006/2855) for:

> **Residential development for 750 dwellings; employment development for 9,600sqm of B1 and B8 uses; neighbourhood centres with primary school, community hall, land for community facilities; creation of new vehicular access from Black Down Roundabout (A22) and emergency and bus only accesses from Snatts Road; construction of estate roads and new cycle footway connections; provision of managed country park with warden's lodge/information point and education/interpretative facility, public and amenity open space, playing fields and associated development and changes of use**

3.2. The planning application was refused by the Council on 22 February 2007 for reasons (6no.) relating to the principle of development outside of defined development boundaries, impact on Ancient Woodland and ecology, archaeology, sustainability of the site / lack of suitable walking and cycling provision, impact on the surrounding highway network and lack of mechanism to secure infrastructure improvements.

3.3. The decision was subsequently appealed, with the decision ultimately made by the Secretary of State (SoS) on 24 February 2009 following a conjoined inquiry with 2no. other development sites at Bird in Eye North and Bird in Eye South. All 3no. appeals were dismissed. The Appeal decision and Inspector's report to the Secretary of State are at **CD4/1**, **CD4/2** and **CD4/3** respectively.

3.4. Whilst the Appeal Site itself remains broadly unchanged since 2009, I am of the view the Appeal Proposals are materially different from those previously considered. This is partly a result of the Appellants' team reflecting on and considering the previous proposals through the design evolution of the Appeal Proposals.

3.5. Alongside the updated technical work which supports this Appeal, I consider the main material differences include:

- The national and local planning context has changed significantly since 2009;
- The Council can no longer demonstrate a 5-year housing land supply;
- The difference in the total development area proposed:
    - 2009 proposals - circa 24ha comprising residential development (circa 19.3 ha) + primary school (circa 2.0ha) + commercial areas (circa

1.5ha) – including residential development within the eastern-most parcel;

- Appeal Proposals - circa 13ha of development focused on the area to the west of the Appeal Site;

- The difference in density proposed:
  - 2009 proposals (750 dwellings) – average density 39dph (250 dwellings at high density, 42 – 50dph, 225 dwellings at medium density, 38 – 42 dph, and 275 dwellings at low density, 30 – 37dph).
  - Appeal Proposals (424 dwellings) – average density 33dph.
- The difference in heights proposed:
  - 2009 proposals - Up to 4 storeys in height;
  - Appeal Proposals – Up to 2.5 storeys in height (with the majority at 2 storeys);
- Provision of minimum 15m buffers to Ancient Woodland which were not provided for with the 2009 proposals;
- Creation of a new pedestrian / cycle link between the Appeal Site and Rocks Road / Snatts Road, through Fir Tree Grove, which was not provided for within the 2009 proposals.
- Conversely, the 2009 proposals included the delivery of a "Snatts Road link" which was dependent on land not within the previous Appellants' control and was therefore found to be not deliverable. However, all land required to deliver the newly proposed Fir Tree Grove link is now under the Appellants' control.

3.6. The 2009 appeal was considered in the context of the SoS and Inspector agreeing that based on the SE Plan requirements there was more than 5 year supply of housing in Wealden and therefore "*no good case to allow… on the basis of housing need at this time*" (SoS para 18) and "*given the existence of a 5 year housing land supply… the damage to the plan-led system… weighs against all the schemes*" (SoS para 19).

3.7. This is now clearly not the case. As confirmed and agreed in the Housing Land Supply Statement of Common Ground, the Council cannot demonstrate a 5-year housing land supply and the need for housing and affordable housing provision is significant. Further, as I conclude in Section 4 of my Proof, any conflict with the Development Plan (and therefore the plan-led system) is limited.

3.8. Whilst the previous Appeal decision is acknowledged (and importantly fully considered during the preparation and submission of the application subject to this Appeal), for the reasons I have explained above the current Appeal Proposals are materially different from the 2009

scheme. Further, the Appeal Proposals are to be considered against the current planning framework, which again is materially different from that in place in 2009.

3.9. In recommending the dismissal of the previous Appeal, the Inspector considered that (para 52) the proposals for Downlands would have been unacceptable in terms of landscape impact and traffic impact.

3.10. However, I consider the evolution of the Appel Proposals from those in 2009 have fully addressed the landscape and traffic impact concerns. As I demonstrate in Section 6 of my Proof below with reference to the Proofs of Mr Bell with regard to traffic impact and Mr Mylchreest in terms of landscape effects, both of these matters raised in the previous Appeal have been successfully overcome in this Appeal. Moreover, the Council has not identified landscape and visual matters as a reason for refusal and there is agreement with ESCC (and by extension the Council) that, subject to mitigation, there are no severe traffic impacts arising from the Appeal Proposals.

3.11. With regard to ecology, the Inspector only found the "*balance of ecological considerations does not weigh in it is favour*", i.e. that ecology alone would not have been sufficient to refuse the scheme. Furthermore, as I demonstrate throughout my Proof, with reference to the Proofs of Mr Baxter (ecology) and Mr Forbes-Laird (arboriculture), I consider there is no credible basis to refuse this Appeal on ecology grounds and identify benefits of the Appeal Proposals in this regard.

3.12. I therefore consider that the technical matters found to be "unacceptable" by the SoS have now been addressed.

3.13. Further, it is clearly shown the Appeal Proposals are materially different from those previously considered which should be given limited weight in the determination of the Appeal.

4.0 THE DEVELOPMENT PLAN

4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires Local Planning Authorities to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.

4.2. Section 4 of the agreed Planning Statement of Common Ground (**CD1/10**) sets out the Development Plan policies relevant to the Appeal.

A. Compliance with the Vision and Spatial Objectives of the Development Plan

4.3. Section 4 of the Wealden District Local Plan Core Strategy 2013 ("Core Strategy") (**CD6/4**) sets out an overarching strategic vision for the District underpinned by several 'spatial planning objectives'.

4.4. The Vision reads:

> **By 2027 Wealden will have successfully accommodated growth to meet future needs whilst protecting and enhancing its essential rural character and high quality environment and promoting the countryside as a resource for recreation and tourism. Its market towns will have been regenerated providing opportunities for residents to access suitable housing, local jobs, services, facilities and recreational opportunities and a number of its villages and rural settlements will have enhanced their sustainability through successful growth including provision of affordable housing.**

4.5. I consider that the Appeal Proposals align wholly with this vision, by delivering much needed new homes to meet known housing and affordable housing need and by delivering new resources for recreation whilst protecting the environment within which the proposals would sit.

4.6. Whilst the Decision Notice (**CD5/1**) does not identify any specific conflict with the overarching Core Strategy Vision, it identifies that the Appeal Proposals are in conflict with 7no. of the 15 spatial planning objectives. These are not policies, but nevertheless remain material considerations.

4.7. **Appendix JM8** of this Proof of Evidence reviews each spatial planning objective and the compliance or conflict of the Appeal Proposals with these objectives.

4.8. I consider the Appeal Proposals clearly comply / do not conflict with all the spatial planning objectives.

B. Compliance with the Spatial Strategy

4.9. Local Plan 1998 policies GD2, C17 and Core Strategy 2013 policies WCS1, WCS2 and WCS4 collectively set the spatial strategy for development, and in summary, provide as follows:

- Policy GD2 states that outside of development boundaries, as defined on the Proposals Map, development will be resisted unless it is in accordance with specific policies in the Plan.

- Policy DC17 states that housing development will not be allowed outside development boundaries, unless it conforms with other policies in the Plan.

- Supporting text to policy DC17 Para 5.91 of the Local Plan 1998 states that the defined "development boundaries" provide for the housing needs of the District over the Plan period (1994 – 2004).

- Policy WCS1 states that land will be identified through subsequent Development Plan Documents (DPD) to provide for 9440 dwellings over the period 2006 – 2027;

- Policy WCS2 identifies where new allocations will be identified through DPDs to meet the requirement of Policy WCS1, with the majority of homes focused to the settlements of Hailsham and Hellingly, Uckfield and Polegate and Willingdon; and

- Policy WCS4 identifies 'broad locations' for where the larger housing allocations to be identified within subsequent DPDs are to be located, including around 1,000 dwellings on a broad location to the west of Uckfield.

4.10. The Appeal Site is located outside of the adopted Development Boundary for Uckfield as shown on the Wealden Local Plan 1998 Proposals Map (CDx/x) and is not a form of development permissible in the countryside as provided for at para. 5.91 of the Local Plan.

4.11. However, the Local Plan 1998 was adopted in December 1998 and had a Plan period of 1994 to 2004. While these policies were "saved" by the Secretary of State in September 2007 the Secretary of State's Direction made clear that it did not indicate that these policies were endorsed, but instead "saved" to ensure continuity in the plan-led system and a continual supply of land for development.

4.12. In this context, it is relevant to note that, as acknowledged by the Council at Page 21 of the Officer's Report (**CD5/2**, **CD5/3**) "*it is correct that the 1998 LP development boundaries have to be breached in order to deliver growth*". As such, it is clear that these policies no longer provide for a continual supply of land for development. They are therefore inconsistent with and are clearly out-of-date in the context of paragraph 11 d) of the NPPF and the requirement to boost significantly the supply of housing.

4.13. Further, the policies of the Core Strategy were adopted in 2013. These do not reflect up-to-date housing needs (as calculated by the standard method) and, in any event, the requirement to identify and allocate sites to meet housing needs (through a DPD or other plan-making exercise) has not been achieved.

4.14. Further, para 5.8 of the Core Strategy states that "*it is inevitable that there will have to be a substantial use of greenfield land to meet existing and future housing needs*".

4.15. Whilst I therefore consider the policies above to be out-of-date, they nevertheless support growth in the most sustainable settlements of which Uckfield is at the top of the hierarchy as evidenced by the spatial distribution of WCS2.

4.16. In the context of the spatial policies for housing not meeting current housing needs and failing to address the plan-making requirements that were set out in the policies, I consider the Appeal Proposal would not be at odds with the overarching spatial strategy of the Development Plan.

4.17. Whilst I consider these policies are out-of-date (see below sub-section), the proposals are however in conflict with Local Plan policies GD2 and DC17.

C. Compliance with Development Plan Policies

4.18. **Appendix JM9** of this Proof of Evidence considers the relevant Development Plan policies, as agreed with the Council in the Planning Statement of Common Ground (**CD1/10**) and the compliance or conflict of the Appeal Proposals with these.

4.19. I consider the Appeal Proposals clearly comply with most of the relevant policies identified.

4.20. The reasons for refusal (RFR1 – RFR9) quote the following policies:

- Wealden Local plan 1998
  - GD2
  - DC17
  - CS2
  - EN1
  - EN2

  - EN12
  - EN13
  - EN15
  - EN27
  - TR3
  - TR13
  - TR16
- Wealden District Core Strategy Local Plan 2013
  - WCS7
  - WCS12
  - WCS14
- Affordable Housing Delivery Local Plan 2016
  - AFH1

4.21. These are discussed in turn below. The full policy text is not replicated here, but reference made to the appropriate extracts of policy where helpful.

Policy GD2 – Development Boundaries & Policy DC17 – Residential Development

4.22. Policy GD2 states that outside of development boundaries, as defined on the proposals map, development will be resisted unless it is in accordance with specific policies in the Plan.

4.23. Policy DC17 states that housing development will not be allowed outside development boundaries, unless it conforms with other policies in the Plan.

4.24. For the Appeal Proposals these policies effectively read as the same.

4.25. The Appeal Site is located outside of the adopted Development Boundary for Uckfield as shown on the Wealden Local Plan 1998 Proposals Map (**CD6/23**), which despite its age remains the latest adopted proposals map for Uckfield.

4.26. Para 5.91 of the Local Plan 1998 (**CD6/3**) states that the defined "development boundaries" provide for the housing needs of the District over the Plan period.

4.27. The Local Plan 1998 was adopted in December 1998 and had a Plan period of 1994 to 2004.

4.28. Whilst certain policies of the Plan have been "saved" by the Secretary of State in September 2007, these specific policies (GD2 and DC17) are clearly out-of-date and the application of these policies would constrain supply.

4.29. The Council acknowledge this at Page 21 of the Officer's Report (**CD5/2**) which states "*it is correct that the 1998 LP development boundaries have to be breached in order to deliver growth*".

4.30. Further, within the Statement of Common Ground (**CD1/10**) it is agreed that these policies are out-of-date and "*limited weight should be attributed to any conflict*" taking account of:

a) The settlement boundaries were based on an assessment of settlements carried out in 1998;
b) The boundaries are restrictive to the supply of housing and prevent local housing needs being met;
c) There are few 'within' development boundary locations available for development.

4.31. I therefore consider any potential conflict with policies GD2 and DC17 should be afforded reduced (limited) weight.

Policy CS2 – Drainage

4.32. Policy CS2 states that permission will only be granted where adequate provision is made for surface and foul water drainage.

4.33. RFR4 identifies that whist a drainage strategy has been proposed, it is the Council's view this would leads to a "loss of irreplaceable habitat" (Ancient Woodland) and as such, in the absence of a scheme which avoids Ancient Woodland, the Appellants have failed to demonstrate adequate provision for surface water drainage can be achieved within the Appeal Proposals.

4.34. Nevertheless, as set out in the Planning Statement of Common Ground (**CD1/10**) subject to the Inspector concluding the Appeal Proposals do not conflict with the irreplaceable habitat requirements of Para 180 c) of the NPPF, the Council agree the drainage strategy is fit for purpose and could serve the scheme.

4.35. As summarised in response to other policies, and as detailed in the evidence of Mr Baxter and Mr Forbes-Laird in respect of Ecology and Arboriculture, I consider the Appeal Proposals would not lead to loss or deterioration of Ancient Woodland, as is the test of Para 180 c) of the NPPF. As such, the Appeal Proposals would secure provision of an appropriate surface water drainage strategy.

4.36. There is no dispute between the parties that an adequate foul drainage connection can be achieved. Southern Water's consultee response (**CD1/1**) dated 01 November 2022 confirmed Uckfield Wastewater Treatment Works has sufficient capacity to accommodate flows arising from the Appeal Proposals.

4.37. There may be local improvements needed to the foul drainage network (as set out in Southern Water's earlier response dated 03 August 2022) however any need for reinforcements will be considered post-determination by Southern Water and funded through the standard new connection charging regime.

4.38. I therefore consider the Appeal Proposals comply with the requirements of Policy CS2 from both a surface water and foul drainage perspective.

Policy EN1 – Sustainable Development

4.39. Policy EN1 states in summary that the Council will pursue sustainable development in considering the location, layout and design of development and in assessing the effects of proposals on the environment.

4.40. Para 4.10 of the Local Plan (**CD6/3**) states that the various aspects of sustainabltiy are considered separately through other policies / chapters of the Plan. However, Policy EN1 provides an "*overall policy which reflects the desire for sustainable development*".

4.41. Policy EN1 is referenced in RFR2 (relating to irreplaceable habitats), RFR3 (relating to heritage assets), RFR4 (relating to surface water drainage), RFR6 (relating to access arrangements for all users) and RFR9 (relating to Ashdown Forest impacts).

4.42. These matters are addressed through my responses to other Development Plan policies and within the wider considerations in my evidence and the evidence prepared by others representing the Appellants. The conclusions of these clearly demonstrate the Appeal Proposals would represent sustainable development and would not lead to unacceptable impacts on the environment.

4.43. In light of this, I consider the Appeal Proposals comply with the requirements of Policy EN1.

Policy EN2 – Development Patterns and Transportation

4.44. Policy EN2 states that the Council will seek to maintain the existing settlement pattern and ensure that major new developments generating significant travel movements are located efficiently in relation to existing development and to public transport.

4.45. Para 4.13 of the Local Plan notes that the "*established development strategy*" seeks to concentrate new development in the towns, with some growth in certain villages and more restrictive policies elsewhere in the countryside. Para 4.14 then states that larger

developments should be located so as to reduce the need to travel and encourage the use of public transport, with a recognition that urban areas are generally more accessible.

4.46. As detailed in my assessment of policies GD2 and DC17, the adopted settlement boundaries are out of date. Read plainly, I consider policy EN2 does not restrict development to within adopted settlement boundaries only, despite the supporting text at para 4.13 referencing "*concentrating new development in towns…*".

4.47. Instead, I read policy EN2 as requiring development to be located sustainably, such that residents would have access to services and facilities by means other than private vehicle usage, including through public transport provision.

4.48. The Appeal Site is located adjoining Uckfield, a 'Main Town' (alongside Hailsham and Crowborough) and acknowledged within the Development Plan as being one of the most sustainable locations in the District. The Appeal Proposals are well located in respect of existing services and facilities of the town as detailed in the Evidence of Mr Bell, relating to Highways and Transport.

4.49. Future residents would have a choice in how they access the numerous services and facilities offered, including pedestrian/cycle connections to Rocks Road and Snatts Road, a new strategic active travel link along the A22 and Bellfarm Road and access to the bus service 31 to be diverted into the Appeal Site (with accompanying financial contributions and on site infrastructure).

4.50. A residential Framework Travel Plan (**CD2/29**) has been prepared and forms part of the planning application, with a Full Travel Plan to be secured by condition and subject to regular monitoring and review.

4.51. I therefore consider the Appeal Proposals wholly "*maintain the existing settlement pattern*" in this regard and would be well located in relation to existing development and to public transport.

4.52. The Appeal Proposals do therefore comply with the requirements of Policy EN2.

<u>Policy EN12 – Trees, Woodland and Landscaping</u>

4.53. Policy EN12 states the Council will seek to retain and enhance the contribution of trees and woodland make to the landscape character of the District.

4.54. Whilst referenced within RFR2, policy EN12 relates to the impact that the loss of trees would have on the character of the landscape, whilst also encouraging woodland management, including as part of development proposals.

4.55. Neither RFR2, nor any other RFR, references an unacceptable adverse impact on landscape character as an area of concern for the Council. Page 28 of the Officer's Report (**CD5/2**) accepts the conclusions of the Appellants' assessment in this regard.

4.56. The Appeal Proposals have been sensitively designed to avoid impacts on trees where practicable and would result in beneficial effects to retained woodland (inc. Ancient Woodland), alongside new planting throughout the Appeal Site, as detailed in Section 4.

4.57. I therefore consider the Appeal Proposals not only comply with the requirements of Policy EN12 but receive support from the policy "encouragement" for woodland management and planting.

Policy EN13 – Ancient Woodlands

4.58. Policy EN13 states the Council will resist development proposals that involve clear felling or otherwise prejudice the ecology of Ancient Woodland.

4.59. Para 4.79 states:

> **"A common feature of many such woods is a substantial natural element in their ground flora, underwood and canopy species. In order to maintain these areas, selective or group felling as part of normal woodland management may be appropriate, but clear or complete felling of a designated woodland would not be readily acceptable."**

4.60. The Appeal Proposals do not include clear or complete felling of any areas designated as Ancient Woodland. Whilst some limited tree removal within areas of Ancient Woodland is proposed within Fir Tree Grove to support the proposed pedestrian / cycle connection, this would not be contrary to Policy EN13 as recognised above.

4.61. In any event, I do not consider the policy is consistent with the NPPF in that Para 180 c) makes no reference to felling or prejudicing Ancient Woodland, instead the test is whether 'loss or deterioration' would occur. The policy should therefore be given reduced weight.

4.62. Further, as set out in the following sections and the evidence of Mr Baxter and Mr Forbes-Laird, I consider the Appeal Proposals would not lead to loss or deterioration of Ancient Woodland as required by NPPF Para 180 c).

Policy EN15 – Nature Conservation

4.63. Policy EN15 states that the Council will safeguard designated nature conservation sites including resisting development which would lead to an adverse effect on designated sites.

4.64. As set out in the Statement of Common Ground (**CD1/10**) the Council and Appellant that without mitigation there would be an adverse effect on the integrity of the Ashdown Forest SPA.

4.65. To address this, the Appeal Proposals include provision of a strategic SANG which would provide the necessary mitigation for the new homes proposed, alongside capacity for an additional 44 homes elsewhere.

4.66. The Statement of Common Ground further sets out that subject to the SANG being found 'suitable' in respect of its location within and partly adjoining Ancient Woodland, and its access being secured in perpetuity, the Council and Appellants agree that detrimental effects on the Ashdown Forest SPA would be avoided.

4.67. As detailed later in my Proof of Evidence and within the evidence of Mr Baxter and Mr Forbes-Laird the provision of the SANG is wholly suitable. As such, the Appeal Proposals comply with the requirements of Policy EN15.

Policy EN27 - Design

4.68. Policy EN27 provides criteria against which the layout and design of proposals are to be considered.

4.69. I consider many of the criteria as set out by the policy to be considerations for Reserved Matters rather than relating to the principle of the development proposed or the parameters applied for.

4.70. Nevertheless, the policy is referenced within RFR3, specifically with reference to the "*national policy intent*" when considering the harm development has on designated heritage assets.

4.71. Whilst there is no reference to heritage within Policy EN27, I understand the Council's concerns to relate to whether the "*scale, form, site coverage… respect the character of adjoining development*" (bullet (1) of EN27) specifically relating to nearby designated heritage assets.

4.72. As detailed in the Proof of Evidence prepared by Mr Stratford relating to Heritage matters, the Appeal Proposals would not result in any loss of significance, nor dimmish the contribution that their settings presently make to their significance, of the Grade II listed Oast Cottage and Barn at Downlands Farm and Barn at Downlands Farm to the east of the Appeal Site.

4.73. Further, the Appeal Proposals would not diminish the contribution that Buckswood Grange's (Grade II listed) setting presently makes to its significance.

4.74. As such, none of the designated heritage assets identified would be harmed by the Appeal Proposals.

4.75. Further, given the Outline nature of the residential proposals, there will be future opportunities for heritage concerns to be considered at the Reserved Matters stage.

4.76. As such, the Appeal Proposals comply with the requirement of Policy EN27 that are relevant to be considered at this time.

Policy TR3 – Traffic Impact of New Development

4.77. Policy TR3 states that development will be permitted where it does not create or perpetuate unacceptable traffic conditions, a satisfactory means of access (for all users) is provided and, where appropriate, public transport facilities are provided.

4.78. As detailed within the Transport Statement of Common Ground (**CD1/9**) it is agreed the Appeal Proposals would not lead to an unacceptable impact on the A22 corridor, nor would they lead to an unacceptable traffic impact on town centre junctions subject to securing a financial contribution (within the S106). The Appeal Proposals would not therefore create or perpetuate unacceptable traffic conditions.

4.79. Further, there is agreement the Appeal Proposals would be accessible from a public transport perspective, subject to a public transport service contribution and provision of on-site public transport infrastructure facilitating the diversion of the 31 bus service through the Appeal Site. The Appeal Proposals would therefore provide appropriate public transport facilities.

4.80. Whilst the Council dispute there would be a satisfactory means of access for all users, the evidence of Mr Bell (**CD1/25**) provides a thorough consideration of the routes proposed including for vehicles, cycles and pedestrians.

4.81. I summarise the provision in Section 6 of my Proof in response to RFR6, concluding that the Appeal Proposals offer a genuine choice of transport modes in accordance with Para 105 of the NPPF.

4.82. I therefore consider the requirements of Policy TR3 are complied with.

Policy TR13 – Footpaths and Bridleway

4.83. Policy TR13 states the Council will seek to secure the provision of safe and convenient pedestrian routes in new developments, which should link to the existing footpath network where appropriate.

4.84. As addressed above in response to Policy TR3, the Appeal Proposals provide access to a genuine choice of transport modes including routes for pedestrians through the Appeal Site and towards the existing facilities and services of Uckfield.

4.85. Mr Bell's evidence (**CD1/25**) demonstrates how these routes will link with the existing footway and footpath network surrounding the Appeal Site and within Uckfield, including upgrades to the existing network where appropriate.

4.86. I consider the Appeal Proposals would provide for safe and convenient pedestrian routes and link to the existing network, in accordance with the requirements of Policy TR13.

Policy TR16 – Car Parking Standards in New Development

4.87. Policy TR16 stats that on-site provision of vehicle parking should be provided in accordance with standards set out in Appendix 6 of the Local Plan.

4.88. The policy is quoted within RFR7 which relates to impact on the highway network and access to the Appeal Proposals, therefore it is unclear what element of the policy the Council consider the Appeal Proposals to be in conflict with.

4.89. The Illustrative Masterplan (**CD2/6**) demonstrates one way in which the Appeal Proposals could come forward within the submitted parameters. The Illustrative Masterplan has had regard to the local parking standards, to the degree as should be required for the Outline element of the application.

4.90. East Sussex County Council's initial consultee response (dated 18 October 2022) clarifies that "*parking and servicing for the housing element of the application is not necessary but would be part of a future reserved matters application, should outline consent succeed*".

4.91. Further consideration of parking standards in respect of the residential element of the scheme would therefore be undertaken at the appropriate Reserved Matters stage.

4.92. As such, the Appeal Proposals comply with Policy TR16.

Policy WCS7 – Effective Provision of Infrastructure

4.93. Policy WCS7 states release of land will be conditional upon there being sufficient capacity in the existing local infrastructure to meet the requirements generated by the proposed development and where development creates the need for additional or improved infrastructure to mitigate its impacts these must be provided at the time they are needed.

4.94. The policy is quoted within the reasoning of RFR6 which states the proposal would not demonstrate a safe and suitable access arrangement for all users which reduces dependence on the private car.

4.95. The Council's Statement of Case (**CD1/6**) states at para 5.64 that the Council will rely on the evidence of the County Council for this reason for refusal. No other specific reference (beyond repeating the RFR) is made to the policy within the Council's Statement of Case. Similarly, ESCC's Statement of Case (**CD1/7**) makes no specific reference to the policy.

4.96. In my view, Policy WCS7 primarily relates to the provision of off-site infrastructure to accommodate growth generated by proposals. Whilst there is a stand-alone RFR relating to impacts on the surrounding highway network (RFR7), which does not reference Policy WCS7, there are no other off-site infrastructure concerns raised or improvements identified by the Council or statutory consultees. The Appeal Proposal will contribute towards the provision of physical and social infrastructure through CIL payments at the relevant time.

4.97. I do not consider the access proposals are necessarily a matter to be considered under Policy WCS7. However, in any event, as detailed in response to Policy TR3 I consider that safe and suitable access arrangements (including addressing the concerns of ESCC in this respect) can be achieved for all users which would assist in reducing dependence on the private car.

4.98. Regarding the impacts on the surrounding highway network (i.e. whether effective provision of infrastructure is achieved), as set out in the Transport SoCG (**CD1/9**) it is acknowledged by ESCC that the only area of concern in relation to off-site highways impacts relates to Town Centre junctions and these could be mitigated through a financial contribution towards an 'enhanced control system' at those junctions.

4.99. As such, the Appeal Proposals comply with Policy WCS7.

Policy WCS12 – Biodiversity

4.100. Policy WCS12 broadly has 2no. elements. The first is for development to avoid losses to biodiversity and maximise opportunities for enhancements and, where possible, achieve a net gain in biodiversity. The second is for development to avoid adverse effects on the integrity of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

4.101. In respect of the latter requirement, the Planning Statement of Common Ground (**CD1/10**) confirms that securing mitigation in the form of providing Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) contributions would ensure no adverse effect on the integrity of the Ashdown Forest.

4.102. As detailed in the evidence of Mr Baxter, the SANG has been designed in accordance with Natural England's guidance and bespoke input such that it is wholly suitable. This includes accommodating the request from Natural England to include a boardwalk along the entirety of the circular route where it runs through Ancient Woodland (as shown on **CD1/16** and **CD1/17**).

4.103. Consistent with the conclusions of Mr Baxter, I consider the SANG would provide an attractive location delivering highly effective mitigation for offsetting visits to the Ashdown Forest SPA.

4.104. As such, subject to mitigation, there would be no adverse effects on the Ashdown Forest SAC and Policy WCS12 would be complied with.

4.105. In respect of the wider requirements of Policy WCS12, as set out in the evidence of Mr Baxter the Appeal Proposals have been informed by a comprehensive suite of ecological surveys, all of which are up-to-date. Where species are present, habitats will be retained or any potential impacts mitigated through licensing, planting and / or design.

4.106. The Appeal Proposals would include a range of ecological enhancements which would, overall, lead to a net positive gain for habitats as calculated through Biodiversity Net Gain work completed as part of the application (**CD2/86**).

4.107. The Appeal Proposals therefore fully comply with the requirements of Policy WCS12.

Policy WCS14 – Presumption in Favour of Sustainable Development

4.108. Policy WCS14 broadly repeats the presumption contained within the Framework indicating the Council will take a "positive approach" and will work with applicants to find solutions which mean proposals can be approved where possible to secure development that "*improves the economic, social and environmental conditions in the area*". Further it states:

> **"Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:**
>
> - **Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or**
> - **Specific policies in that Framework indicate that development should be restricted"**

4.109. My evidence goes through this process, concluding:

- The policies are 'out of date' in light of the Council's housing land supply position;
- There are no specific policies in the Framework which indicate development should be restricted; and
- There are no adverse impacts which would significantly and demonstrably outweigh the benefits.

4.110. As such, and for the reasons I explain throughout this evidence, I consider that planning permission should be granted in accordance with Policy WCS14.

Policy AFH1 – Affordable Housing

4.111. Policy AFH1 is the sole policy of the Affordable Housing Delivery Local Plan (**CD6/7**) and sets out that major housing developments will deliver 35% of all dwellings as affordable housing in accordance with identified tenures.

4.112. The Council identifies at RFR8 a "lack of mechanism" for securing affordable housing as the rational for the Appeal Proposals being contrary to Policy AFH1.

4.113. This is now resolved through the provision of a legal agreement which secures 35% affordable housing.

4.114. As such, a policy compliant level of affordable housing is secured and Policy AFH1 is complied with.

Emerging Local Plan

4.115. The Council is currently reviewing its Local Plan, although it has only conducted an early consultation (Direction of Travel Consultation) between November 2020 and January 2021. This follows the withdrawal of a new Local Plan (2019) from Examination, following the Inspector's conclusions in December 2019 that the submitted Plan was "unsound" (**CD6/24**).

4.116. The Local Development Scheme (July 2020) anticipated a draft Reg 18 consultation in Spring 2022, followed by Reg 19 consultation in Winter 2022 / 2023. Adoption was anticipated by Winter 2023. None of these milestones have been achieved.

4.117. The latest update from the Council on 16 March 2023 indicates a potential consultation (likely Regulation 18) on a Plan which includes draft allocations and policies in early Autumn 2023.

4.118. The Council has failed to and continues to fail to adequately address its housing and other needs.

4.119. The emerging Local Plan should therefore not be afforded any weight as a material consideration in this Appeal.

Summary

4.120. Whilst I conclude the proposals are, in the main, in accordance with the Development Plan, including the Vision and Spatial Objectives, Spatial Strategy, and most policies I nevertheless conclude that the Appeal Proposals do not fully accord with the Development Plan as a whole due to the conflict I have identified with policies GD2 and DC17. However, I have identified that this conflict with policies GD2 and DC17 attracts only limited weight for the reasons set out above.

4.121. Nevertheless, I find the Appeal Proposals do not fully accord with the Development Plan as a whole.

5.0 THE APPROACH TO THE DETERMINATION OF THE APPEAL

5.1 Pursuant to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the Appeal is the Development Plan unless material considerations indicate otherwise.

5.2 The NPPF is a key material planning consideration in the determination of the Appeal for the purposes of Section 38(6) as confirmed in Paragraph 2 and 218 of the NPPF.

5.3 As set out in Section 4, I am of the view that the Appeal Proposals are not in accordance with the Development Plan due to the conflict that I have identified with Policies GD2 and DC17. I am of the view the conflict Policies GD2 and DC17 should be given limited weight as these policies are out-of-date.

5.4 As such, there will be a need to consider whether "material considerations" exist to justify the departure from the Development Plan.

5.5 I am of the view material considerations do exist.

5.6 As agreed with the Council in the updated Planning Statement of Common Ground (**CD1/10**), the Council cannot demonstrate a 5-year supply of deliverable housing sites.

5.7 The Council's latest position is there is a 3.92-year supply. However, as set out in the Housing Land Supply and Affordable Housing Evidence of Mr Veasey, the Appellants' position is that the supply is no more than 3.29-years.In either case the shortfall is agreed to be significant.

5.8 Therefore, the determination of the Appeal is subject to paragraph 11d) of the Framework which indicates that for 'decision taking' this means granting permission unless paras. i or ii applies.

5.9 If none of the "Footnote 7" exceptions apply, the tilted balance would not be disapplied by para. 11d)i and the issue is whether any adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits.

5.10 In this instance, the Council has identified the Appeal Proposals have the potential to impact habitat sites, designated heritage assets, and irreplaceable habitats, all of which are potential "Footnote 7" exceptions.

5.11 I consider these in turn below, concluding that, in this case, there are no policies in the Framework that provide a clear reason for refusing the development.

Habitat Sites (European designations)

5.12 As the Appeal Site is located proximal to a number of European designations, the application was accompanied by a Report to Inform a Habitats Regulation Assessment (HRA) (**CD2/80**) which considered whether the proposals would likely result in an adverse effect on the integrity of these sites.

5.13 To support the Appeal, and following the submission of updated plans relating to the SANG proposals (**CD1/18** – **CD1/19**), an updated Report to Inform a Habitats Regulation Assessment has been prepared (**Enclosure 3 of CD1/14**), to inform the Inspector (the "competent authority") in undertaking the required Appropriate Assessment.

5.14 As detailed in Section 3 of the updated Report to Inform a Habitats Regulation Assessment (Screening), in the absence of mitigation the Appeal Proposals could have potential to result in a likely significant effect on the Ashdown Forest SPA (due to recreational pressure / disturbance on protected bird species), Ashdown Forest SAC and Lewes Downs SAC (both relating to potential impacts on air quality from increased vehicle movements on conservation objectives).

5.15 As detailed in Section 3 of the report, based on the "*improving emissions trend*" advocated by Natural England and confirmed by the conclusions of the Inspector from the Local Plan 2019 Examination (**CD6/24**), there would be no adverse effect on integrity of the SAC sites because of the Appeal Proposals.

5.16 Measures to mitigate recreational disturbance on the Ashdown Forest SPA are well established across the District, in the form of provision of Suitable Alternative Natural Green Spaces (SANG) and contributions to Strategic Access Management and Monitoring (SAMM).

5.17 The Appeal Proposals, alongside provision of SAMM contributions through the proposed legal agreement, include the delivery of a strategic SANG which would provide mitigation for the Appeal Proposals, plus a further 44 dwellings elsewhere.

5.18 As detailed in Section 3 of the report, subject to securing SANG provision in perpetuity, alongside SAMM contributions, there would be no adverse effect arising from the Appeal Proposals on the integrity of the Ashdown Forest SPA.

5.19 In view of the above, following the implementation of the proposed mitigation measures, the Appeal Proposals would have no effect on the integrity of surrounding European designations. The relevant "Footnote 7" exception therefore does not apply.

Designated Heritage Assets

5.20 Para 201 of the NPPF states that where a development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss or all of the other criteria set out in para. 201 are met.

5.21 As set out in the Heritage Statement of Common Ground (**CD1/12**) it is agreed between the Appellants and the Council that the Appeal Proposals would not lead to substantial harm or total loss of significance of a designated heritage asset.

5.22 Further, as set out in Section 2 of my Proof, there are numerous and significant benefits arising from the Appeal Proposals. Taken together these benefits would convincingly outweigh the less than substantial harm to the designated heritage assets arising from the Appeal Proposals even if the Council's position of the harm being at the 'higher end' of 'less than substantial harm' is correct (as detailed further in Section 6).

5.23 As such, the relevant "Footnote 7" exception does not apply.

Irreplaceable Habitats

5.24 The Appeal Site contains and is located adjoining areas designated as Ancient Woodland. Further, there are Veteran Trees located within the Appeal Site. Both of these designations are defined as "Irreplaceable Habitat" by the NPPF.

5.25 Para 180 c) the NPPF states that:

> **"Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists."**

5.26 Wholly exceptional reasons are defined through footnote 63:

> **"For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat."**

5.27 The expert evidence of Mr Baxter and Mr Forbes-Laird considers, in detail, whether a loss or deterioration of irreplaceable habitats would occur because of the Appeal Proposals.

5.28 Both conclude that loss and deterioration is fully avoided through the design and mitigation measures employed, including appropriately sized buffers, boardwalks and visitor management in the SANG and woodlands. I consider this further in Section 6 in response to RFR2.

5.29 As such, the impact on irreplaceable habitats does not provide a clear reason for refusal.

5.30 Nevertheless, if the Inspector finds that the Appeal Proposals do lead to loss or deterioration, I consider that both (1) wholly exceptional reasons and (2) a suitable compensation strategy exists.

5.31 As referred to in NPPF footnote 63, wholly exceptional reasons exists where the public benefit would clearly outweigh the loss or deterioration of the habitat.

5.32 If a loss or deterioration is found, which the Appellants' evidence does not support, then this would be at de minimus level in the context of the total Ancient Woodland resource within the Appeal Site.

5.33 This de minimus loss or deterioration when balanced against the considerable benefits arising from the Appeal Proposals (see Section 2), most notably the **significant benefits** arising from provision of housing and affordable housing, economic benefits, provision of SANG long-term woodland management and wider ecological benefits, demonstrate the wholly exceptional circumstances necessary in this case.

5.34 Further, there would be significant 'compensation' secured through the provision of supplementary planting and the implementation of a woodland management strategy which would envelop all areas of Ancient and non-Ancient Woodland, not just those who are impacted through the de minimus loss or deterioration.

5.35 Therefore, even were the Inspector to consider that para 180 c) applies, the significant public benefits and compensatory measures are such that the loss or deterioration to the Ancient Woodland does not provide a clear reason for refusal.

5.36 Accordingly, in the absence of any other policies in the NPPF that protect areas or assets of particular importance of relevance to the Appeal Proposals, I conclude that the tilted balance is not disapplied by para. 11d)i of the NPPF.

5.37 Therefore, the issue is whether any adverse impacts of the Appeal Proposals would significantly and demonstrably outweigh the benefits. This, in essence, is the “balancing exercise” that needs to be undertaken in the consideration of this Appeal and is discussed in the following sections of my Evidence.

6.0 THE REASONS FOR REFUSAL

6.1. Excluding the matters within the reasons for refusal, all other matters relating to the Appeal Proposals are considered acceptable to the Council as detailed in Section 6 of the Planning Statement of Common Ground (**CD1/10**).

6.2. The Council's position as set out in its Statement of Case (**CD1/6**) identifies at para 5.72 the following potential disbenefits:

- The harm to listed buildings and the nearby Maresfield Conservation Area (RFR3);
- The effect upon non-designated heritage assets (RFR3);
- The failure to demonstrate that a suitable access arrangement can be achieved for all users and to reduce dependence on the private car (RFR6); and
- The adverse impacts upon ancient woodland (RFR2 and RFR4).

6.3. Matters relating to safe access, suitable access arrangements for all users and impact on the highway network are further considered in ESCC's Statement of Case. The Council has indicated it will rely upon the evidence of ESCC as the Highways Authority in relation to these reasons for refusal (**CD2/102** para 5.64). As such ESCC's comments are reflected below in response to RFR6 and RFR7.

Reason for Refusal 1

6.4. As I concluded in Section 4, whilst there is a limited conflict with Policies GD2 and DC17 which resist development outside of settlement boundaries, these policies are out-of-date. The Council acknowledge this and accept that "*limited weight should be attributed to any conflict*". I agree and consider that only limited weight can be given to this as a disbenefit.

6.5. Through RFR1 the Council thereafter consider whether 'material considerations' exist to justify the departure from the Development Plan. The Council's conclusions being that whilst the Council does not have a 5-year supply of deliverable housing sites there are specific reasons why permission should be refused, i.e. the effect of development on Ancient Woodland or the significant environmental impacts.

6.6. As set out through this Proof, I disagree with the Council's conclusion.

6.7. My Section 5 above effectively replicates the process completed by the Council and, in my view, there are clear 'material considerations' on account of the Council's lack of 5-year

supply of deliverable housing sites, the application of paragraph 11d) of the Framework and the absence of any clear reason for refusing planning permission.

6.8. The test thereafter is whether the adverse impacts of the proposed development would **significantly and demonstrably** outweigh the benefits.

6.9. Section 8 of my Proof undertakes the planning balance, reflecting on the benefits identified in Section 2 and the adverse impacts alleged by the Council and others. For the reasons set out in Section 8, I am of the view the impacts do not significantly and demonstrably outweigh the benefits, and as such planning permission should be approved.

Reason for Refusal 2

6.10. RFR2 identifies the Council's position in respect of irreplaceable habitats, in this instance Ancient Woodland and Veteran Trees, and fragmentation of habitats which support protect species and other flora and fauna of nature conservation importance.

6.11. These matters are addressed in detail through the evidence of Mr Baxter (ecology) and Mr Forbes-Laird (arboriculture) who together assess the potential impacts of the proposals on irreplaceable habitats and Mr Baxter also considering other ecological matters.

6.12. Mr Forbes-Laird identifies in his Proof of Evidence that the Appeal Proposals have been designed from the outset with detailed input on Ancient Woodland matters, with potential adverse effects being either avoided or mitigated, with the end result that there would be no adverse impacts on Irreplaceable Habitats. This includes:

- Retention of all veteran trees within safeguarded buffer zones;
- Provision of buffer zones to areas of ancient woodland;
- Extensive new tree planting and woodland management;
- Very limited tree removal;
- Protection against ground damage within ancient woodland by means of boardwalks mounted on a minimally invasive 'Ground Screw' support system; and
- Connection, using trenchless methodology, of SuDS basin outflows to existing on-site watercourses in Longwood Gill and Shermanreed Wood ancient woodland.

6.13. Mr Baxter's evidence provides further response to the Council's concerns noting the Council has failed to take proper account of the proven mitigation measures proposed which are not novel or minimalistic in their application. Mr Baxter conversely considers the use of appropriate standard mitigation measures and proven visitor access management measures would result in loss and deterioration effects on Ancient Woodland being wholly avoided.

6.14. In respect of fragmentation, Mr Baxter's evidence confirms the Appeal Proposals, including the access arrangements, have been designed to avoid fragmentation of existing woodland corridors.

6.15. Moreover, as highlighted by Mr Baxter, the Council has failed to acknowledge the benefit of the Appeal Proposals in respect of long term positive conservation management which would be applied to woodland (both Ancient and non-Ancient) and which would provide for a net gain for biodiversity and ensure the long term future of woodland is secured.

6.16. I consider the evidence of Mr Baxter and Mr Forbes-Laird responds clearly to the Council's concerns in this respect, such that it demonstrates there would not be loss or deterioration to Irreplaceable Habitats or fragmentation of habitats.

6.17. As such, I consider the matters raised by RFR2 are fully addressed.

Reason for Refusal 3

6.18. RFR3 provides a lengthy overview of the Council's position relating to the effect of the Appeal Proposals on nearby designated and non-designated heritage assets.

6.19. Mr Stratford's Proof of Evidence on Heritage Matters (**CD1/23**) provides a thorough consideration of the potential effect of the Appeal Proposals on the significance of nearby designated heritage assets.

6.20. He finds that the Appeal Proposals would result in a less than substantial harm, at a low level, to the Maresfield Conservation Area as a consequence of change to the wider setting of the conservation area. The harm would arise from the loss of rural character to a single field through the introduction of new built form, which would be visible in the distance. This is a finding agreed by the Council.

6.21. Maresfield Conservation Area is not a heritage asset of the 'highest significance' as per NPPF para 200, however it remains a designated heritage asset and, as such, NPPF para 199 advises that 'great weight' should be given to any harm.

6.22. Nevertheless, the harm would be at the low level of less than substantial harm. As such, this should be, even when applying 'great weight' to the asset's conservation, afforded **limited weight as a disbenefit** in the planning balance.

6.23. Mr Stratford however disagrees with the Council in respect of the impacts on the nearby Grade II listed buildings of Buckswood Grange, Oast Cottage and Barn at Downlands Farm.

6.24. The Council's view is the listed buildings would experience harm and this would be at the 'higher end' of 'less than substantial harm'.

6.25. Conversely, Mr Stratford concludes the Appeal Proposals would not result in any harm or loss of significance to the listed buildings and that the Council's assessment that there is a relatively high level of harm through change to the setting of these assets is incompatible with the guidance set out in the Framework and its accompanying Planning Practice Guidance.

6.26. Even if the Appeal Proposals would result in harm to significance of these Listed Buildings, the harm deriving from any change to the setting of these assets would only be, at worst, at the lower end of the spectrum of less than substantial harm.

6.27. The NPPF (Para 199) states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Where there is harm, the NPPF (Para 202) advises that where less than substantial harm is identified to a designated heritage asset, this should be weighed against the public benefits of the proposal.

6.28. As set out in Section 2 of my Proof, there are numerous and significant benefits arising from the Appeal Proposals. Taken together these benefits would convincingly outweigh the less than substantial harm to the designated heritage assets arising from the Appeal Proposals, even if the Council's position of the harm being at the 'higher end' of 'less than substantial harm' is correct.

6.29 In respect of non-designated heritage assets, paragraph 203 of the NPPF requires a balanced judgment to be taken having regard to the scale of any harm and the significance of the non-designated asset.

6.30 The Historic Environment section of Planning Practice Guidance defines non-designated heritage assets as below:

> **"Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets.**
> **A substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage significance to merit identification as non-designated heritage assets."**
>
> Paragraph: 039 Reference ID: 18a-039-20190723

6.31 Further, in respect of "How are non-designated assets identified":

> **"There are a number of processes through which non-designated heritage assets may be identified, including the local and neighbourhood plan-making processes and conservation area appraisals and reviews. Irrespective of how they are identified, it is important that the decisions to identify them as non-designated heritage assets are based on sound evidence.**
>
> **Plan-making bodies should make clear and up to date information on non-designated heritage assets accessible to the public to provide greater clarity and certainty for developers and decision-makers. This includes information on the criteria used to select non-designated heritage assets and information about the location of existing assets. It is important that all non-designated heritage assets are clearly identified as such. In this context, it can be helpful if local planning authorities keep a local list of non-designated heritage assets, incorporating any such assets which are identified by neighbourhood planning bodies. (See the Historic England website for advice on local lists) They should also ensure that up to date information about non-designated heritage assets is included in the local historic environment record.**
>
> **In some cases, local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications, for example, following archaeological investigations. It is helpful if plans note areas with potential for the discovery of non-designated heritage assets with archaeological interest. The historic environment record will be a useful indicator of archaeological potential in the area."**
>
> Paragraph: 040 Reference ID: 18a-040-20190723

6.32 It should be noted that the Council does not have a "Local List" of non-designated heritage assets and instead choose to identify these as part of the decision-making process.

6.33 Mr Stratford's Proof of Evidence on Heritage Matters (**CD1/23**) considers the effect of the Appeal Proposals on non-designated heritage assets, specifically those identified by the Council as potentially being affected, namely:

- Chicory Cottage;
- Partridges Oast; and
- Lake Wood

6.34 Chicory Cottage forms part of the Appeal Site and total loss of the existing residential property would be necessary to deliver the proposed pedestrian / cycle route through the current residential curtilage (including Fir Tree Grove).

6.35 Whilst the Council have identified Chicory Cottage as a non-designated heritage asset (albeit only post-submission of the application, not at the pre-application scoping stage, nor in respect of previous applications relating to the house), Mr Stratford does not consider it to have enough heritage significance to qualify as such.

6.36 Mr Stratford concludes the loss of Chicory Cottage would not be "material" in terms of heritage policy.

6.37 Partridges Oast, conversely, was identified by the Council at the pre-application scoping stage as being, in its view, a non-designated heritage asset. Mr Stratford finds the "core significance" of the building lies in the architectural and historic interest of its fabric as an oast house and that the setting of the converted farm building does not now strongly contribute to its significance. The Appeal Proposals would result in no change to the physical form or fabric of the building, from which it principally derives its heritage significance.

6.38 The area closest to Partridges Oast, i.e. the informal track south of the former Downlands Farm complex, is a location from where there is a limited (incidental glimpsed) experience of the building. Mr Stratford considers this 'glimpsed' view would be from a location "*devoid of historic integrity and is therefore considered to make no material contribution to the understanding or appreciation of the significance of Partridges Oast*".

6.39 The design evolution has nevertheless fully considered the proximity to Partridges Oast. The area would be managed, in accordance with the parameter plans, as part of the natural green space, providing a buffer of open space between the historic farmstead and the new built form.

6.40 Mr Stratford concludes the Appeal Proposals would therefore result in a neutral impact on the significance of Partridges Oast.

6.41 Lake Wood is located to the south of the Appeal Site. It was not identified by the Council as a non-designated heritage asset at any stage in the determination of the application, including at pre-application stage, in any of the Council's Heritage Officer's consultation response, or in the Officer's Report. It is only post-submission of the Appeal that the Council have identified it as being a non-designated heritage asset.

6.42 Mr Stratford's assessment considers the heritage significance of Lake Wood is derived from the landscaped lake and rock outcrops set within a wooded enclave, with trackways which allow appreciation of its picturesque landscape within the wood; and to a lesser degree from its historical association with The Rocks mansion to the south. The Appeal Proposals would

result in no change at all to the physical form or fabric of Lake Wood or any components of historic interest within the wood itself.

6.43 Mr Stratford concludes the Appeal Proposals would result in a neutral impact on the significance of Lake Wood and its heritage significance would be preserved.

6.44. In light of the above and the evidence of Mr Stratford, I consider there is no disbenefit arising from the Appeal Proposals on non-designated heritage assets.

Reason for Refusal 4

6.45. RFR4 in the Decision Notice relates to flood risk and surface water drainage, identifies that the proposed works necessary to satisfy the Council and LLFA on drainage require "*works to and within the Ancient Woodland which are unacceptable and will cause loss of irreplaceable habitats*".

6.46. The proposed drainage strategy (set out in **CD2/82** and **CD2/113**) is illustrative, given the Outline nature of the residential development element of the application. Detailed drainage proposals would be submitted as part of detailed design, as part of Reserved Matters and/or condition.

6.47. As detailed in the consultee response from the Council's Drainage Officer of 30 September 2022 and the LLFA of 14 February (both in **CD1/1**) there is no objection to the principles of the drainage strategy. The LLFA response states:

> **We are satisfied that there is sufficient plan area set aside for attenuation features in the concept design and that a more comprehensive drainage strategy can be presented at reserve matters stage.**

6.48. Further, as set out at para 6.28 of the Planning Statement of Common Ground (**CD1/10**) and subject to the Inspector concluding the Appeal Proposals do not conflict with Para 180 c) of the NPPF, the parties agree the drainage strategy is fit for purpose and could serve the scheme.

6.49. The suitability of the drainage strategy approach therefore relates to the acceptability of SuDS proximal to areas of Ancient Woodland and the outfall of SuDs basins into Ancient Woodland, including any required works.

6.50. This is reflected in the holding objections of the Council's Drainage Officer and LLFA which states agreement on the drainage strategy is required from the other consultees relating to ecological and arboricultural matters.

6.51. As set out in response to RFR2, the potential impact of the Appeal Proposals, including the drainage strategy, has been fully considered through design and technical work completed. This has included consideration for the siting of drainage basins, within buffers of Ancient Woodland but outside of root protection zones, and the proposed outfalls into existing watercourses including the method of construction for these.

6.52. The Drainage Evidence of Mr Jenkin provides further detail on the drainage strategy, including the approach to directional drilling which is a tried and tested solution for forming trenchless drainage connections including through Ancient Woodland.

6.53. The impact of SuDS within the Ancient Woodland buffer and the proposed drainage connection is further considered within the evidence of Mr Baxter (ecology) and Mr Forbes-Laird. In respect of both their areas of expertise they conclude the SuDS proposals would be appropriate and would not lead to any loss or deterioration of Ancient Woodland.

6.54. The Appeal Proposals therefore present a suitable drainage strategy from both a drainage perspective and an Ancient Woodland perspective. Detailed design of the drainage strategy will be secured through condition.

6.55. As such, the concerns of the Council relating to RFR4 have been fully addressed.

Reason for Refusal 5

6.56. Para 4.4 of the Council's Statement of Case states that this reason for refusal would not be contested should measures be secured to mitigate adverse impacts on Great Crested Newts (GCN).

6.57. As detailed in Mr Baxter's Proof of Evidence, there is no "lack of information" in respect of the presence or potential impacts on GCN and, through applying standard mitigation, the Appeal Proposals will not unacceptably harm GCNs.

6.58. This would include securing a standard licence from Natural England which can only be done post planning. Mr Baxter considers this would be readily granted by Natural England given the intention to retain GCN habitats.

6.59. As such, I consider the matter raised by RFR5 is fully addressed.

Reason for Refusal 6

6.60. ESCC as the highway authority, who the Council rely on for 'highway' evidence, have raised concerns relating to the proposed vehicular access and the accessibility of the Appeal Site by way of walking and cycling opportunities (including adequacy of the proposed routes).

6.61. Mr Bell's Proof of Evidence on Highway and Transport matters (**CD1/25**) provides a detailed consideration of these matters.

6.62. In respect of the proposed vehicular access, ESCC's concerns relate to:

- The proximity of the entry of the existing northbound layby on the Bypass to the northern exit from the proposed new roundabout; and
- The proposed treatment of the site access road on its approach to the new roundabout junction to facilitate the proposed dormouse 'hop-over' feature.

6.63. Mr Bell at para 7.3 of his Evidence confirms that the proximity of the existing layby was considered as part of the design process with the design mitigating potential impacts. The design has been considered through Stage 1 Road Safety Audit (Appendix PAB-B) which identified no problems in this regard.

6.64. Further, Mr Bell at para 7.4 identifies that the dormouse hop-over feature has also been considered through the Stage 1 Road Safety Audit which again did not identify any problems. The dormouse hop-over feature has been designed to achieve both highway and ecological requirements and Mr Bell considers it would not lead to any increased likelihood of vehicles colliding with roadside trees.

6.65. The proposed vehicular access is therefore considered to be wholly acceptable, has been designed in accordance with the relevant standards and would not lead to any highway safety issues.

6.66. As regards the accessibility of the Appeal Site, Mr Bell confirms the Appeal Proposals seek to provide a genuine choice of transport mode for future users through a variety of means:

- A22 Route – a new shared footway/cycleway extending from the access on the A22 towards the town centre via Copwood Roundabout. The proposed footway/cycleway is 3 metres wide with the exception of a short 20 metre long section of the route beneath the Rock Road overbridge. It is completely segregated from the A22. Whilst less direct than other routes (Fir Tree Grove) and less likely be used by pedestrians other than

for recreational purposes, the route would nevertheless provide quick and convenient access to the town centre for cyclists (judged to be a 4 to 5 minute journey time);

- Fir Tree Grove Route – a new connection between the southeast corner of the Appeal Site and Rocks Road, via the existing curtilage of Chicory Cottage, including Fir Tree Grove. The route between the Appeal Site (residential development) and Rocks Road comprises a 3m wide boardwalk (within the Ancient Woodland section) and steps and ramp (both outside the Ancient Woodland). This would be an aesthetically pleasing route through woodland which would be lit and, within the woodland, follow a straight alignment. Beyond the Appeal Site boundary improvements are proposed to existing public footways, within the public realm;

- Snatts Road Route – utilising the existing farm access which joins Snatts Road, a new footway along the southern side of Snatts Road (approx. 150m) will connect the Appeal Site to the existing networks of footways and Public Rights of Way within this part of Uckfield. This utilises existing routes which are relatively well used, albeit some of these would not be appropriate for all users.

6.67. The routes have been considered through an independent Stage 1 Road Safety Audit (Appendix PAB-B) which identified no issues with the proposed routes that cannot be addressed through detailed design.

6.68. In addition to the above, the residential dwellings would be served by a redirected bus service 31 which will be facilitated by an agreed financial contribution of £1,100 per dwelling and on-site bus infrastructure. The Transport Statement of Common Ground (**CD1/9**) identifies that public transport accessibility would therefore be acceptable.

6.69. I therefore consider the Appeal Proposals offer a genuine choice of transport modes in accordance with para 105 of the NPPF. The concerns raised in RFR6 have been fully addressed.

Reason for Refusal 7

6.70. As set out in the Highways Statement of Common Ground (**CD1/9**) it is agreed the proposals would not lead to an unacceptable impact on the A22 corridor.

6.71. ESCC have raised concerns relating to residual traffic impacts on town centre junctions that can be mitigated through the installation of an enhanced control system.

6.72. Subject to this, ESCC (and by extension the Council) are content that the concerns raised by RFR7 are addressed.

6.73. The Appellants are content to pay the requested contribution and it will be included within the legal agreement currently being drafted.

6.74. Matters raised by Reason for Refusal 7 are therefore fully addressed.

Reason for Refusal 8

6.75. Para 4.4 of the Council's Statement of Case states that matters relating to the delivery of a policy compliant level of affordable housing would not be contested if they are secured by way of appropriate legal agreement.

6.76. This is in the process of being drafted and will be completed ahead of the Inquiry.

6.77. Matters raised by Reason for Refusal 8 are therefore fully addressed.

Reason for Refusal 9

6.78. Para 4.4 of the Council's Statement of Case notes that if the SANG is considered to be acceptable (relating to RFR2) then a legal agreement would be necessary to secure the SANG and its access in perpetuity, which would, alongside SAMM contributions, mitigate the impacts on the Ashdown Forest SPA.

6.79. The legal agreement is in the process of being drafted and will be completed ahead of the Inquiry.

6.80. Matters raised by Reason for Refusal 9 are therefore fully addressed.

7.0 THIRD PARTY COMMENTS

A. Public Comments

7.1 Circa. 200 third party responses were received in response to the submission of the Appeal from interested parties including local residents and objector groups (Downlands Action Group). I have reviewed these, and they raise a variety of comments in response to the Appeal Proposals.

7.2 The comments are wide ranging however, in summary, they relate to:

- The principle of development including perceived conflict with the Development Plan and use of agricultural land;
- The impact on the landscape character and historic landscape of the area;
- The impact on Ancient Woodland;
- The impact on the local environment in respect of ecology, air pollution, light pollution and noise;
- The impact on the local road network;
- The impact on local social infrastructure;
- The impact on designated heritage assets;
- The lack of appropriate pedestrian and cycle routes between the Appeal Site and services and facilities of Uckfield; and
- No different from previous Appeal decision in 2009.

7.3 The majority of these matters have been already addressed within my Proof, and/or through the Proofs prepared in respect of other matters.

7.4 The residual matters are considered below.

The impact on the landscape character and historic landscape of the area

7.5 Whilst not an area of dispute between the Appellants and Council, evidence has been submitted on behalf of the Appellants in respect of 'landscape' matters to respond to concerns raised by 3rd parties. The evidence of Mr Mylchreest summarises the work completed to date, which comprised a Landscape and Visual Impact Assessment supporting the Environmental Statement.

7.6 As set out in his Evidence, it is considered the information submitted as part of the application took full account of historic landscape, landscape, visual and impact matters. At no point during the application process was the validity or the completeness of the work submitted questioned by the Council.

7.7 Mr Mylchreest considers that whilst the character of the Appeal Site will inevitably change from open agricultural land to residential uses, this along should not preclude development. The use of greenfield sites is inevitable in the context of needing to meet housing needs.

7.8 Mr Mylchreest confirms the application work remains valid and demonstrates the Appeal Site is not an inappropriate location for housing. Further, that the change of open land to built form in this location would not be harmful to the landscape resource as a whole.

7.9 Mr Mylchreest confirms that the Appeal Site sits within a landscape which is physically and perceptually well-related to the existing settlement edge, and extremely well visually contained by surrounding woodland and topography.

7.10 Mr Mylchreest confirms that there would be a limited impact on the landscape and/or visual effects and that as such, the landscape harms would be confined to the Appeal Site itself. I consider that the landscape harms should therefore be afforded limited weight as a disbenefit, especially when considering the inevitable need for greenfield sites to meet housing needs and the significant degree of visual containment.

The use of agricultural land for development

7.11 For the reasons detailed previously, there is a need to use land outside of defined settlement boundaries to address the Council's up-to-date housing needs. This will inevitably require the use of agricultural land.

7.12 Para 174 b) of the NPPF states that planning decisions should recognise the benefits of best and most versatile agricultural land.

7.13 Agricultural land on the Appeal Site is not of the highest quality, used for growing hay rather than for crops or keeping of animals. The Department for Environment, Food and Rural Affairs (DEFRA) online Magic Map tool confirms the Appeal Site to be a mixture of Grade 3b and Grade 4 agricultural land (i.e. not Best and Most Versatile (BMV)).

7.14 I therefore consider the use of agricultural land in the case of the Appeal Proposals is not inconsistent with the guidance of the NPPF. It is therefore not a disbenefit of the scheme.

The impact on the local environment in respect of air pollution, light pollution and noise

7.15 The application was supported by a range of technical reports including those relating to matters of air quality, lighting and noise.

7.16 The Lighting Impact Assessment (**CD2/30**) provides a detailed consideration of lighting impacts against relevant legislation and guidance. This confirms the Appeal Site has been assessed to be located within "Environmental Lighting Zone E2, representative of a rural location with low district brightness".

7.17 As such, proposed lighting would be designed in accordance with the limiting criteria for an E2 Environmental Zone, in order to limit obtrusive light and light pollution. As set out in the report this would nevertheless still provide an adequate level of illuminance for "*security, safety and amenity throughout the site, whilst limiting obtrusive light, over-lighting, energy consumption and impacts on ecological receptors*".

7.18 The report concludes a well-designed lighting strategy could avoid impact from the Appeal Proposals on sensitive receptors in terms of obtrusive light and light pollution.

7.19 This is considered further in the ecological evidence of Mr Baxter who concludes a lighting scheme could be designed to avoid negative impacts on wildlife.

7.20 An Air Quality Assessment (**CD2/115**) was submitted following comments from the Environmental Health Officer and considers the potential air quality impact of the Appeal Proposals. As set out in the report, the risk primarily relates to vehicle emissions and construction phase dust and particulate matter.

7.21 The results of the work undertaken demonstrate that pollutant concentrations at sensitive receptors will be below the relevant Air Quality Objectives during the operational phase. Furthermore, no significant impacts on local air quality as a result of development-generated traffic are anticipated.

7.22 Further, following implementation of best practice mitigation measures during construction, no significant residual air quality impacts are expected.

7.23 As such, there are no overriding air quality constraints or significant air quality impacts, subject to standard mitigation during construction (to be secured by condition).

7.24 A Noise Assessment (**CD2/114**) was submitted following comments from the Environmental Health Officer and considers the noise levels and whether there would be an acceptable living environment for future residents of the Appeal Site.

7.25 As set out in the Assessment, existing noise levels are generally dictated by road traffic noise emissions from the A22. Nevertheless, no specific acoustic upgrades are needed to ensure recommended internal noise levels can be achieved in all habitual rooms across the Appeal Proposals.

7.26 Recommended external noise levels are predicated to be achieved in all external amenity areas, subject to gardens within circa. 170m of the A22 being acoustically screened through positing or the use of a minimum 1.8m perimeter close-boarded timber fencing.

7.27 Mr Baxter's evidence further considers the effects of noise on ecology. This notes that significant noise during construction stage would only be temporary in nature, and minimised by good working practices such that they would be unlikely to be of a magnitude to adversely affect wildlife.

7.28 Further, there would not be a significant noise effect arising during the operation of the Appeal Proposals (i.e. post-construction) which would necessitate any increase in buffer depths already being proposed between built development and Ancient Woodland.

7.29 I therefore consider there would be no unacceptable light, air quality or noise effects arising from the Appeal Proposals on the local environment.

The impact on local social infrastructure

7.30 Mr Veasey's Uckfield Socioeconomic Review (**Appendix JM5**) considers the potential impact of the Appeal Proposals on health and education facilities within proximity to the Appeal Site.

7.31 In respect of education provision capacity forecast data prepared by ESCC shows a declining trend in the number of pupils on roll within the Uckfield School Planning Area and Uckfield Secondary School Planning Area. In the 2025/26 academic year the forecast expects there to be a headroom capacity of 270 places (1.3 forms of entry) for primary education and 182 places (1.2 forms of entry) for secondary education.

7.32 The education headroom would be sufficient to meet the needs of the Appeal Proposals.

7.33 In respect health facilities, the existing provision within Uckfield at Meads Medical Centre and Bird in Eye Surgery have headroom capacity for 5,530 patients against NHS guidelines, the equivalent of 3.1 FTE GPs.

7.34 The Appeal Proposals would therefore not lead to an unacceptable impact on local infrastructure provision, and, in any event, the Appeal Proposals would contribution towards the provision of physical and social infrastructure (at Reserved Matters stage) through CIL contributions.

B. Consultee Comments

7.35 In addition to the above, responses have been received from the following statutory and non-statutory consultees:

- Natural England;
- Forestry Commission;
- Woodland Trust;
- CPRE Sussex; and
- East Sussex County Council Lead Local Flood Authority.

Natural England Response

7.36 Natural England's advice (dated 13 July 2023, **CD12/1**) confirms it focuses on "*impacts on designated nature conservation sites*", specifically the SANG proposals and whether these address the likely adverse effect on the integrity of the Ashford Forest SPA and SAC.

7.37 As detailed in the response, Natural England is satisfied the proposed SANG will be effective in providing the necessary on-site mitigation subject to:

- SANG design to be amended to provide boardwalk along the entirety of the circular route where it runs through ancient woodland.
- Discounting of SANG capacity on ecological grounds.
- Confirmation and securing of the long-term ownership and management of the SANG.

7.38 These requests have been actioned. Amended plans been submitted through this Appeal process to amend the SANG design to include the requested boardwalk within the SANG (**CD1/16** and **CD1/17**).

7.39 The SANG capacity has been discounted to remove areas of Ancient Woodland from the SANG capacity resulting in capacity for the proposed development plus an additional 44 homes.

7.40 Long-term ownership and management of the SANG is to be secured through legal agreement with the intention being for The Land Trust, an independent charity who manage open spaces nationally including SANGs and areas of Ancient Woodland (inc. SANG with Ancient Woodland), to manage the SANG proposed as part of the Appeal Proposals.

7.41 Natural England therefore identify no 'disbenefits' for the Appeal Proposals.

Forestry Commission Response

7.42 The Forestry Commissions' Response (dated 13 July 2023, **CD12/4**) confirms it provides "*advice on the potential impact… on trees and woodland using our local knowledge and expertise, planning policy and legislation…*". It provided no response during the course of the application but commented on the Appeal in respect of the loss of potential Ancient Woodland for access, fragmentation of woodland from access roads and impacts on Ancient Woodland.

7.43 These matters are responded to in the evidence of Mr Baxter and Mr Forbes-Laird in respect of Ecology and Arboriculture respectively. In summary:

- The location of the proposed access is within an area of non-Ancient Woodland and there is no evidence to suggest the area is Ancient Woodland;
- The proposed access arrangement has been designed to ensure the passage of wildlife continues and fragmentation is avoided; and
- Loss or deterioration of Ancient Woodland is avoided.

7.44 I therefore consider the points raised by the Forestry Commissions have been fully addressed through the Appeal Proposals.

Woodland Trust Response

7.45 The Woodland Trust's Response (dated 12 July 2023, **CD12/3**) builds on its previous application objection with "*further comments relating to information made available since our original response*".

7.46 The “additional comments” confirm that the Woodland Trust maintains an objection, despite the additional material submitted by the Appellants during the course of the application (which the Woodland Trust did not respond to during the application process). The response raises comments relating to use of Ancient Woodland within SANG, location of emergency access, the proposed drainage strategy and proposed boardwalk through Fir Tree Grove.

7.47 These matters are responded to in the evidence of Mr Baxter and Mr Forbes-Laird in respect of Ecology and Arboriculture respectively. In summary:

- There are examples of SANGs which incorporate Ancient Woodland. Access to woodland within SANG will be managed and there are conservation benefits which will arise from positive woodland management;
- The emergency access is in an area of non-Ancient Woodland and would be sensitivity designed and formed such that impacts on nearby Ancient Woodland is avoided;
- The proposed drainage strategy has been designed to maintain continuity of hydrological supply, with a SuDS treatment train applied to prevent contamination of watercourses;
- Fir Tree Grove is not considered an area of increased sensitivity, conversely it is degraded in nature and in poor condition. The use of Fir Tree Grove for the proposed boardwalk is considered acceptable.

7.48 I therefore consider the points raised by the Woodland Trust have been fully addressed through the Appeal Proposals.

CPRE Response

7.49 CPRE’s response (dated 12 July 2023, **CD12/2**) questions the competency of the Council’s Habitat Regulation Assessment process including the long-established and well proven mitigation measures of SAMM contributions and SANG provision which have been in place for many years.

7.50 This is addressed in Mr Baxter’s evidence which rejects the criticism of the Appellants’ shadow HRA work and notes Natural England raise no concern with this or the evidential context set out for SAMM and SANG.

East Sussex County Council Lead Local Flood Authority

7.51 The Lead Local Flood Authority (LLFA) response (dated 05 July 2023) identifies that the proposed drainage strategy seeks to mimic the existing hydrology of the Appeal Site, however this is reliant on piped connections within areas of Ancient Woodland.

7.52 The LLFA acknowledges that matters relating to ecology and preservation of Ancient Woodland are outside of its remit, however "in-principle" approval of the drainage strategy would require the satisfaction of the Council (in consultation with relevant statutory consultees) on Ancient Woodland matters.

7.53 As summarised in the preceding paragraphs and sections, and as evidenced in the Proofs of Mr Baxter and Mr Forbes-Laird, the Appeal Proposals would not lead to unacceptable effects on Ancient Woodland.

7.54 As such, the proposed drainage strategy would be deliverable, with further detail and consideration at the relevant detailed matters stage, and I consider there to be no disbenefit in this regard.

7.55 I therefore consider there are no disbenefits raised by 3rd Parties that have not been appropriately addressed, mitigated or subject to conditions

8.0 PLANNING BALANCE

8.1 This Section of my Evidence undertakes the 'Planning Balance' and weighs the benefits against the adverse impacts of the Appeal Proposals in order to arrive at a judgement as to whether the Appeal should be allowed applying paragraph 11 of the NPPF.

8.2. For the reasons set out previously, I consider paragraph 11d)ii is engaged (including after consideration of the Footnote 7 policies) and that permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits.

8.3. Table 6.1 below provides a summary of the impacts / disbenefits against the proposed benefits, as identified in the preceding sections, and my view on the relevant weight which should be afforded to these in the planning balance (on a scale of none, limited, moderate and significant).

Table 8.1: Overall Benefits Vs Disbenefits Impacts

Benefits	Disbenefit
Delivery of up to 424 new homes which should be afforded **significant weight** as a benefit in the context of the Council's housing land supply position.	Conflict with the Development Plan resulting from conflict with policies GD2 and DC17 (due to location of the Appeal Site outside of defined development boundary for Uckfield). As detailed in Section 2, the policies have limited weight, as such, the conflict with the Development Plan therefore attracts **limited weight as a disbenefit** in the planning balance.
Delivery of up to 148 affordable homes which should be afforded **significant weight** as a benefit in the context of the significant shortfall in affordable housing historically delivered, the undersupply to meet future affordable housing need and the persistent and growing affordability issues experienced locally	A low level of less than substantial harm to Maresfield Conservation Area, by virtue of loss of rural character to a single field through the introduction of new built form that would be visible in the distance, which when given 'great weight' is given to the assets conservation, should be afforded **limited weight as a disbenefit**.

Benefits	Disbenefit
A beneficial impact on deprivation arising from the Appeal Proposals, in the context of the Appeal Site being located within one of the most deprived location in the District for homelessness, owner-occupation affordability, housing affordability, private rental affordability and household overcrowding, afforded **limited weight** as a benefit.	Landscape harm arising from change to the character of the Appeal Site itself, which should be afforded **limited weight as a disbenefit** especially when considering the inevitable need for greenfield sites to meet housing needs and the significant degree of visual containment experienced.
Contribution towards the Council's self and custom housebuilding register of up to 22 self / custom build housing plots should be afforded **significant weight** as a benefit in the context of the current need for such plots	
Provision of additional employment during the construction phase should be afforded **moderate weight** as a benefit in the context of these temporary economic benefits not currently being delivered due to housing need not being met.	
Increased retail expenditure within local area should be afforded **significant weight** as a benefit in the context of these economic benefits not currently being delivered due to housing need not being met.	
Delivery of new public open spaces in excess of local standards which should be afforded **moderate weight** as a benefit creating new spaces for formal and informal recreation within walking distance of new homes and existing residents of Uckfield.	
Creation of SANG which alongside mitigating the impact of the Appeal Proposals on the Ashdown Forest SPA has the beneficial effect of providing mitigation for an additional 44 new homes to that proposed in the Appeal Proposals. This 'enabling' effect should be afforded **significant weight** as a benefit in the context of the housing land supply	

Benefits	Disbenefit
and affordable housing position.	
Commitment to delivery of a well-designed place, maximising the opportunities afforded by the landscape of the Appeal Site, through a Design Code which should be afforded **limited weight** as a benefit.	
Ecological enhancements including the delivery of a minimum of 10% Biodiversity Net Gain which should be afforded **significant weight** as a benefit delivering ecological gains over the baseline for the Appeal Site and in excess of the Council's policy requirements.	
The introduction of a woodland management package, which would reverse the decline of woodlands (inc. Ancient Woodland) located on the Appeal Site and improve their long-term resilience. This should be afforded **significant weight** as a benefit.	
The commitment to the delivery of a climate resilient development should be afforded **moderate weight** as a benefit supporting the Council's ambition to be a net zero District by 2050 and responding its declared climate emergency.	

8.4. As detailed in the preceding section, and summarised above, the only harms are those relating to the limited conflict with the Development Plan, the low level of less than substantial harm to Maresfield Conservation Area and the landscape harm arising from change to the character of the Appeal Site itself.

8.5. These harms must be balanced against the benefits arising from the Appeal Proposals, as summarised in Table 6.1.

8.6. I am of the view the benefits arising from the Appeal Proposal are significant.

8.7. It is therefore clear to me that any disbenefits / adverse impacts of the type being suggested by the Council or 3rd parties are limited and would not **significantly and demonstrably** outweigh the benefits I have identified.

8.8. The Appeal should therefore, in my view, be allowed.