# Report to the Secretary of State for Communities and Local Government

**by P E Dobsen MA (Oxon) DipTP MRTPI FRGS**
**an Inspector appointed by the Secretary of State for Communities and Local Government**

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**Date: 27 November 2008**

**Town and Country Planning Act 1990**

**Wealden District Council – Inquiry into conjoined Section 78 appeals against the refusal of 3 outline planning applications:**

**A) Downlands Farm, Snatts Road, Uckfield (appeal ref. 2046982)**

**B) Bird In Eye North, Framfield Road, Uckfield (appeal ref. 2042597)**

**C) Bird In Eye South, Framfield Road, Uckfield (appeal ref: 2053422)**

Inquiry held on 15 January-7 February, and 17 June-18 July 2008

Downlands Farm, Bird In Eye North and Bird In Eye South, Uckfield

File Ref(s): APP/C1435/A/07/2046982; APP/C1435/A/07/2042597; and APP/C1435/A/07/2053422

**Appeal A) file ref: APP/C1435/A/07/2046982**
**Downlands Farm, Snatts Road, Uckfield TN22 2AP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Clarence Preston Will Trust and Barham Estates Ltd. against the decision of Wealden District Council.
- The application (Ref WD/2006/2855/MEA), dated 29 November 2006, was refused by notice dated 22 February 2007.
- The development proposed (as amended) is "residential development for approximately 750 dwellings; a neighbourhood centre with employment uses (Class B1); community hall, land for community uses and small retail facilities; a primary school; creation of new vehicular access from the A22 and emergency and bus only accesses from Snatts Road; construction of estate roads and new cycle and footway connections; provision of a 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".

**Summary of Recommendation: that the appeal be dismissed**

**Appeal B) file ref: APP/C1435/A/07/2042597**
**Land at Bird In Eye North, Framfield Road, Uckfield TN22 5HA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Taylor Wimpey UK Ltd (formerly Taylor Woodrow Developments Ltd.) against the decision of Wealden District Council.
- The application (Ref WD/2006/2173/MEA), dated 24 July 2006, was refused by notice dated 17 January 2007.
- The development proposed is "mixed use development of land to provide at least 300 dwellings (including 30% affordable housing), 930 sq.m. of B1 business use, formal and informal open space, access roads and highways improvements including footpaths, landscape proposals and environmental enhancements".

**Summary of Recommendation: that the appeal be dismissed**

**Appeal C) file ref: APP/C1435/A/07/2053422**
**Land at Bird In Eye South, Framfield Road, Uckfield TN22 5HA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Heron Land Developments, Persimmon Homes and Gallagher Estates against the decision of Wealden District Council.
- The application (Ref WD/2006/3564/MAO), dated 12 April 2007, was refused by notice dated 6 July 2007.
- The development proposed is "outline application for the erection of 197 dwellings, including affordable housing, with associated access, structural landscaping and recreational space (including 4 LAPS and one LEAP)".

**Summary of Recommendation: that the appeal be dismissed**

## 1 Introduction: report format etc.

1. This report is in 6 sections, as follows: section 1 – Introduction; section 2 - The Inquiry (including Secretary of State matters); section 3 - Downlands Farm (appeal A); section 4 - Land at Bird In Eye North (appeal B); section 5 - Land at

Bird In Eye South (appeal C); and section 6 – Conclusions and Recommendations.

2. I use the shorthand terms Downlands, Bird In Eye North and Bird In Eye South throughout, to refer both to the sites and to the respective appellants. I also refer to "BIEN" for Bird In Eye North, and to "BIES" for Bird In Eye South. The appeals are listed in order of the site size (and scale of proposed development) rather than in the chronological date order of the appeals.

3. A contents page and appearances list is attached (see Annex). I also attach separate Appendices A (lists of core and inquiry documents), B (lists of proofs of evidence), C (list of statements of common ground), D (pre-inquiry meeting notes), and E (agreed planning conditions).

4. In this conjoined appeals inquiry there are 3 different appellants, who are promoting 3 geographically separate and essentially "competing" greenfield housing sites for the peripheral expansion of Uckfield. These have all had outline planning permission refused by Wealden District Council (The Council, or WDC).

5. In certain matters all 3 appellants object to each others' proposals, and bring detailed evidence against them. That applies especially to landscape impact, ecology and nature conservation, and traffic and transport. However, they also pursue a common case in respect of housing land requirements and supply. Their case in respect of planning policies, and the status of and weight due to various development plans, is also held in common. This shared ground between the appellants is reflected in the report format; for example, to avoid needless repetition I do not set out the housing land case in all 3 report sections 3, 4 and 5, but only under section 3 on Downlands.

6. During the inquiry, 11 statements of common ground (SCGs 1- 11) on specific matters were also produced by individual appellants and the Council. These are listed in Appendix C. Some supersede earlier versions.

7. Nevertheless, it should be noted at the outset that the Council remains fundamentally and in principle opposed to all 3 proposals. In the event that the Secretary of State is minded to approve one or more of them, the Council's own "preference" would be for the BIES, BIEN and Downlands schemes, in that order. That is also the reverse order of magnitude of the 3 schemes.

8. All the third parties who appeared at the inquiry are objectors to one or more of the proposals. Most provided short written statements, which are listed in Appendix B. There are no third party supporting appearances.

9. In general, despite the length of this report I have been quite brief in my reporting of all the parties' cases, seeking only to state the main points from each witness's evidence. I have tried to avoid unnecessary repetition. In my view, few significant concessions were made by any witnesses under cross-examination. To ensure a measure of stylistic consistency, I have not relied upon the witnesses' own summaries (where supplied) for this exercise.

10. The detailed points and arguments may be found in the inquiry proofs, and to assist with that I give alphabetical references [W etc.] to the proofs throughout. They are listed in Appendix B. Those with asterisks refer to witnesses who were not called, but whose evidence nevertheless remains before the inquiry. In general, the proofs provide numerous references to the inquiry core documents,

and to the additional documents tabled during the inquiry (both listed in Appendix A).

11. The proofs also come with their own appendices, which in some cases are duplications or part-duplications of the core documents. In this report, I refer only to (what I consider are) the more important of all these.

## 2 The Inquiry

12. A pre-inquiry meeting (PIM) was held at the Wealden DC offices at Crowborough on 8 November 2007, to agree various procedural and administrative matters. Notes of the meeting were subsequently issued and placed on the Council's inquiry website (Appendix D).

13. I made an accompanied inspection of all 3 appeal sites, and other locations in and around Uckfield, on 8 January 2008. I also made unaccompanied inspections of miscellaneous locations at other convenient times during the inquiry.

14. The Inquiry sat on Tuesdays to Fridays for a total of 28 days, at 3 different venues. From 15-31 January 2008, it was held at The Weald Hall, Uckfield Town Council Offices, Uckfield; and from 5-7 February, at Pilgrim Hall, Easons Green (near Uckfield). After a lengthy adjournment - necessitated by the inquiry over-running its initial time allocation, and the non-availability of key participants - the inquiry resumed at The Weald Hall from 17-19 June. From 1 July to the close on 18 July it was held at The East Sussex National Resort, just outside Uckfield.

15. One incidental advantage of this timetable was that I was able to see the sites and their surroundings in both winter and summer conditions.

16. For the most part, the inquiry followed a topic-based format. This in turn was derived from the Council's reasons for refusal. Thus the inquiry heard first about housing land requirements and supply, then continued with landscape matters, followed by ecology/nature conservation, before going on to consider highways, traffic and transport. It also covered planning policies, and finally, conditions and planning obligations. These topics are equally relevant to all 3 appeals. The topic-based pattern greatly reduced the number of separate appearances by individual professional witnesses, and thereby saved inquiry time.

17. The Secretary of State's Proposed Changes to the emerging South East Plan were published on 17 July, just before the end of the inquiry sitting phase. As I had previously indicated, I invited the main parties to make further written representations on the implications for their housing land case of these Proposed Changes. This meant that the parties closing submissions (and costs applications) also had to be delayed until after the end of the sitting phase.

18. I received these written representations by 13 October. I formally closed the inquiry, in writing, on 14 October 2008.

19. Costs applications were made by the Council and by BIEN, BIES and The Woodland Trust/Downlands Action Group against Downlands, and by Downlands against the Council and BIEN. I address those in 5 separate reports.

20. In the following sections 3, 4 and 5 I report each appeal in turn: appeal A, Downlands Farm; appeal B, Bird In Eye North; appeal C, Bird In Eye South. My conclusions are placed at the end, in section 6.

**Secretary of State Matters**

21. The 3 appeals were recovered by the Secretary of State on the basis that they each raise issues relating to residential development of 5 or more hectares or 150 or more dwellings.

22. By letter dated 13 July 2007, the Secretary of State indicated that she wishes particularly to be informed about the following matters:

23. a) the extent to which the proposed development would be in accordance with the development plan for the area;

24. b) the extent to which the proposed development would be consistent with Government policies in Planning Policy Statement 1: Delivering Sustainable Developments, and accompanying guidance The Planning System:General Principles, with particular regard to whether the design principles adopted in relation to the site and its wider context, including the layout, scale, open space, visual appearance and landscaping, will preserve or enhance the character and appearance of the area, having regard to the advice in paragraphs 33 to 39 of PPS1;

25. c) the extent to which the proposed development is consistent with Government planning for housing policy objectives in Planning Policy Statement 3: Housing, with particular regard towards delivering - high quality housing that is well designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; housing developments in suitable locations, which offer a good range of community facilities with good access to jobs, key services and infrastructure; a flexible, responsive supply of land, managed in a way which makes effective and efficient use of land, including re-use of previously developed land, where appropriate;

26. d) the extent to which the proposed development is consistent with the advice in PPG13: Transport, in particular on the need to locate development in a way which helps to promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling; reduce the need to travel especially by car, and whether the proposal complies with local car parking standards and the advice in paragraphs 52 to 56 of PPG13;

27. e) the matters raised in the Council's notice of decision;

28. f) whether any planning permission granted should be accompanied by any planning obligations under Section 106 of the 1990 Act, and, if so, whether the proposed terms of such obligations are acceptable;

29. g) whether any permission should be subject to any conditions, and, if so, the form these should take; and

30. h) any other matters that the Inspector considers relevant.

31. All of the above matters are addressed in the main parties' evidence. As stated above, I have tried to summarise the key points in this evidence, without alluding to every point made.

## 3 DOWNLANDS FARM (appeal A)

### Procedural Matters

32. On the final sitting day, I ruled that I would not hear the Downlands counsel (Mr. Clay) put questions to the other 2 appellants (BIEN and BIES) regarding their draft S106 obligations. This was in order to save inquiry time and ensure a reasonably timely close, and in the knowledge that Mr. Clay, if he so wished, would still have the opportunity to make closing submissions on the contents of those obligations. I also decided to allow only one set of closing submissions from each party, those of the Council to precede those of the 3 appellants, according to an agreed timetable.

33. There are no other procedural matters specific to the Downlands appeal of which the Secretary of State should take particular note.

34. The Council's 6 reasons for refusal are listed below. They apply in full only to the proposals in the application as originally submitted. At the appeal stage, with the agreement of The Planning Inspectorate (confirmed by me at the pre-inquiry meeting), certain amendments to the application were made [DL3.6-10]. These are described in several of the Downlands proofs and in proof [W3].

35. Before the inquiry, the Council indicated that it would not be pursuing reason for refusal No 3, re archaeology, owing to the re-positioning of the site access in the amended scheme [W3].

36. Some of the following matters are covered in SCG1. The Downlands site, and the other appeal sites, are conveniently shown on plan WDC17, which also names many other locations and streets etc. within Uckfield.

### The Site and its Surroundings

37. The appeal site, somewhat irregular in shape, comprises a swathe of the farmed and wooded countryside which adjoins the north western edge of Uckfield. Some 85 ha. in total area, it includes about 14 ha. of woodland and scrub on the western side of the A22 Uckfield by-pass (incorporated into the site for purposes of water attenuation). Most of it however lies on the south east side of the A22, between it and Snatts Road, a minor "country" road which generally demarcates the existing north western edge of the town.

38. In addition, the appeal site includes land for a proposed new cycleway within the highway boundary alongside the A22 and Bell Farm Road (B2012), and land for a new footpath/cycleway alongside Snatts Road and Church Street (the proposed Snatts Road link).

39. The bulk of the site comprises grade 3 agricultural land, interlaced with extensive areas of woodland, much of it semi-natural ancient woodland. Two wooded ghylls (or gills) provide natural divisions within it. Longwood Gill is a narrow woodland strip with a stream, while Shermanreed Wood, slightly broader in width, contains much recent replanting. There is a woodland belt along the A22 bypass to the west of an old carriage driveway. Part of the site adjoining Paygate Wood and lower parts around Budletts Wood were laid out as parkland in the nineteenth century, when the land was part of the Rocks Estate.

40. The site slopes generally from east to west, from about 60 m. AOD at Snatts Road to about 25 m. AOD at the bypass. Owing to the gills, it has a rather

complex detailed topography. The area at Budletts Common is flatter and different in character, comprising a mixture of degraded heath, scrub, and open fields.

41. There is no significant built development anywhere within the site boundary, although there are a few scattered, old established dwellings on the north side of Snatts Road, and in the area of Budletts Common.

42. Much of the farmland within the site is let on farm business tenancies. The woodlands are largely unmanaged, and are unfrequented. However, a public footpath crosses the site northwards from Snatts Road, and there is some informal use of the woodlands by dog-walkers etc.

43. The A22, which straddles the appeal site, represents a significant physical feature on the western side of Uckfield. West of it runs the Shortbridge stream, a tributary of the Sussex Ouse, which in turn is partly fed by the smaller streams within the site. North if it, and about 1 km. from the northern part of the site, is the village of Maresfield. East of that is the small scattered settlement of Five Ash Down. Both are separated from Uckfield by a substantial countryside gap.

44. The site contains several small ponds, some dug originally for sporting purposes. Immediately adjoining it to the south is Lake Wood, a SNCI (county site of nature conservation importance) with public access, which is managed by The Woodland Trust (a Rule 6 party and objector to the Downlands scheme). Other nearby SNCIs are west of the A22.

45. More detailed descriptions of the site, and of its location in relation to Uckfield, are in the application documents, the revised ES, SCG1, and in various proofs of evidence [esp. T1, RV1, Co1, B1, W3].

**The town of Uckfield**

46. Uckfield is a small East Sussex market town with a population of about 14,000. It functions as a local employment centre providing a wide range of jobs in manufacturing and services, as well as a shopping centre for its residents and the wider rural area.

47. The town lies in the west-central part of Wealden district, approximately at the rather indeterminate topographical boundary between the High Weald and the Low Weald, and a few kms. south of the High Weald AONB (Area of Outstanding Natural Beauty). The nearest towns are Haywards Heath to the north-west, Crowborough to the north-east, Heathfield to the east, and Lewes to the south-west. Of these, Crowborough and Heathfield are within Wealden district.

48. Uckfield is focused on the River Uck, which has flooded on some well-publicised recent occasions (notably 2000), and has local tributaries including the Framfield stream. It has a busy and vibrant town centre, based on and around the north/south High Street. The centre contains supermarkets (Tesco, Somerfield) and numerous other shops and services, as well as a small railway terminus, with fairly frequent trains to London, and a bus station.

49. During the post-war period, the town experienced successive phases of suburban expansion, especially from the 1970s onwards. The main employment area - the Bell Lane industrial estate – lies south and west of the town centre. The A22 Uckfield by-pass, built in the 1980s, skirts the town on its western side (and passes through the Downlands site). Nearby villages include the aforementioned

Maresfield and Five Ash Down, to the north, and Framfield, to the east. Otherwise, the town is virtually surrounded by rolling farmland, interspersed by patches of ancient and more recently established woodland.

50. Uckfield contains a secondary college of education, and several primary schools. Its environs contain some large country houses, such as Buxted Park.

**Planning Policy: the Development Plan**

51. At the time of final editing of this report (October 2008), the development plan comprises the Regional Spatial Strategy in the form of RPG 9, Regional Planning Guidance for the South East [PD2.1], and the saved policies of the East Sussex and Brighton and Hove Structure Plan (SP) 1991-2011 [PD3.1 and 2], and the Wealden Local Plan (LP, adopted 1998) [PD5.1].

52. In these appeals, the Council's reasons for refusal refer to policies in both the SP and the LP. The policies are individually named in section 4 of SCG1.

53. The appeal site is not allocated for development in the LP.

**Other Planning Policies**

54. Other relevant regional planning policies are contained in the emerging South East Plan, which, following the publication of the Secretary of State's Proposed Changes in July 2008, is at a very advanced stage.

55. The draft plan was published in March 2006 [PD2.2], and was examined in public in November 2006-March 2007. The Panel Report [PD2.3] was published in August 2007. The Proposed Changes were published just before the end of the sitting phase of this inquiry. They are therefore available to inform the Secretary of State's decisions on these appeals. When the South East Plan is subsequently approved, which - after a further round of consultations which closed on 24 October - is anticipated shortly, it will fully replace both RPG 9 and the SP.

56. The non-statutory Wealden Local Plan (NSLP) [PD5.2] was approved by the Council for development control purposes in November 2005. Its early stages followed the normal statutory procedures, including appropriate consultations etc, but at the prompting of GOSE these procedures were later abandoned in the face of the new development plans system, and the Council's duty to expedite the preparation of a local development framework (LDF).

57. The NSLP was later subject to legal challenge, concluding (in the Council's favour) in the Court of Appeal [PD5.24]. The NSLP, therefore, has not been quashed, but remains extant. The weight to be attached to it is a matter of dispute between the Council and the 3 appellants. Whereas the Council would afford it significant weight, the appellants would give it very limited weight. However, all parties agree that it cannot and does not have development plan status.

58. A more detailed history of NSLP plan preparation is in [W2] paras. 3.28-4.25. The most relevant NSLP policies are cited in the Council's reasons for refusal (also cited in section 4 of SCG1).

59. Unlike BIEN and BIES, no part of Downlands Farm has been allocated for development at any stage of the NSLP. BIEN and BIES formed part of a single allocation at the first deposit stage, but were subsequently deleted in favour of 3

other greenfield housing sites on the edge of Uckfield. These are known as land north of Mallard Drive; land north of Eastbourne Road (a.k.a. land at Cysley's Farm); and Sandpits, Lewes Road. I refer to these in this report as the allocated NSLP sites (at Uckfield). They all now have planning permission.

60. National planning policies of particular relevance to the appeal include those in PPS 1 [PD1.1], PPS 3 [PD1.2], PPS 7 [PD1.4], PPS 9 [PD1.5], and PPG 13 [PD1.7].

**Planning History**

61. Other than the current application/appeal, there is no significant planning history pertaining to this greenfield site. [W3]

**The Proposals**

62. The application is in outline, with all detailed matters reserved. The original application documents (see Appendix A) include: master plan map [DL1.4]; planning statement [DL1.5]; design and access statement (DAS) [DL1.7]; environmental statement [DL1.8]; and transport assessment [DL1.10].

63. During the appeal stage, certain amendments were made to the application. These are shown and described in the amended illustrative master plan [drwg. 01-007-305, DL3.8]; DAS [DL3.7]; revised environmental statement [DL3.6]; and revised transport assessment [DL3.9] etc. A complete list of application documents is at para. 2.4 of SCG1.

64. The most notable amendments are: i) the re-location of the main vehicular access from the Black Down roundabout to a position about 1 km. to the south, with a new roundabout on the A22; ii) the replacement of reference to 9,600 sq.m. of B1 and B8 uses by 2000 sq.m. of B1 and B8 uses within the neighbourhood centre; iii) the replacement of proposed neighbourhood centres by one neighbourhood, or "village" centre.

65. Although much of the application documentation is illustrative, and any outline permission would be subject to the approval of reserved matters, it is common ground that the following would not alter: the amount and type of development; the boundaries of the developed areas; the boundaries of areas of open space and structural landscaping; and the positions of the vehicular accesses and cycle/footpath routes.

66. The scheme layout is shown on the revised master plan, with much additional illustrative detail in the revised DAS. In summary, some 18.75 ha. of farmland would be developed for housing, comprising 750 dwellings (mixed houses and flats) in a variety of buildings of up to 4 storeys in height, and including up to 40% affordable housing overall (equivalent to 300 dwellings).

67. There would be 3 main housing areas, at an average density of 40 d.p.h, separated by the woodlands at Longwood Gill and Shermanreed Wood. A village centre and adjoining one-form-entry primary school would be located near the eastern end of Longwood Gill, approximately in the middle of the site but not in its most elevated position.

68. The main vehicular access would be from a new roundabout on the A22 Uckfield bypass, close to an area (within the site) of regenerating woodland. There would also be an emergency/cycle and pedestrian access, and a bus/emergency access,

both to Snatts Road. New cycle/pedestrian links to the town centre would follow the A22 (cycle only), and Snatts Road/Church Street (the Snatts Road link).

69. The proposals include the provision of a 55 ha. "country park", comprising mainly the retained areas of ancient woodland, and having a permanent ranger/warden, and a small information/education facility. This is presented as a unique feature of the Downlands scheme, of use by and of benefit to the town as a whole, but not all of it would be accessible to the public. Elsewhere would be a network of formal and informal open spaces, and the woodlands would be surrounded by 10-20 m. wide buffer areas.

70. The Downlands scheme is presented both as a partially self-contained new community, and as a sustainable urban extension to Uckfield. The DAS makes reference to the recently developed Bolnore Village, near Haywards Heath in West Sussex (which I visited unaccompanied), whose design and townscape in some respects it might resemble. Some of the illustrative material suggests, too, that the prevailing architectural style might be influenced by Arts and Crafts precursors.

71. Downlands' main features are described in [T1], which in summary lists the following as benefits: i) site availability and absence of development constraints; ii) sustainable mixed use development, with a total population of about 1,875; iii) accessibility and containment; iv) up to 300 affordable dwellings (40%); v) additional community benefits in the form of a country park, primary school, and various areas of open space; and vi) environmental enhancement and a high standard of design.

72. The appellants maintain that this mix of features distinguishes the scheme from both BIEN and BIES, either singly or in combination.

**Reasons for Refusal**

73. The stated reasons for refusal are as follows:

74. " (1) The proposed development represents an unjustified and unacceptable form of development of a site that lies in open countryside outside the defined development boundary for Uckfield, contrary to policies S5 and S10 of the East Sussex and Brighton and Hove Structure Plan 1991-2011, policies GD2 and DC17 of the adopted Wealden Local Plan (1998), and policies GD2 and DC15 of the non-statutory Wealden Local Plan (2005)."

75. " (2) The proposed development would result in the unacceptable loss of ancient woodland and wetland habitats and lead to the unacceptable fragmentation, isolation and disturbance of natural habitats that support protected wildlife species and other flora and fauna of acknowledged nature conservation importance, contrary to (SP) policies S1 and EN17, (LP) policies EN1, EN13 and EN16, and (NSLP) policies NE14 and NE16."

76. " (3) Insufficient information has been submitted to enable a proper assessment of the archaeological implications of the proposed development, contrary to (SP) policy EN24, (LP) policy EN25 and (NSLP) policy BE12."

77. " (4) The proposal does not satisfactorily demonstrate that adequate provision will be made to facilitate walking and cycling and reduce dependence on the private car, contrary to (SP) policies S1, S3 and TR3, (LP) policy TR3 and (NSLP) policies TR1 and TR2."

78. " (5) The proposal does not satisfactorily demonstrate that there would be an acceptable impact on the surrounding highway network, particularly in Uckfield town centre which is already heavily congested at peak times, contrary to (SP) policies S1 and TR3, (LP) policy TR3, and (NSLP) policy TR2."

79. " (6) The applicant has failed to demonstrate to the satisfaction of the district planning authority that the proper provision and delivery of the necessary infrastructure improvements can be secured to meet the additional needs arising from the proposed development, contrary to (SP) policy S3, (LP) policy CS1 and (NSLP) policy CS1."

**The Case for Clarence Preston Will Trust and Barham Estates Ltd (the Downlands appellants)**

80. The material points are:

**Planning policy etc.**

81. (The appellants' evidence is mainly in T1). The development plan comprises the adopted RSS 9 (i.e. RPG 9, 2001), and the saved policies of the SP and the LP. The emerging South East Plan has not yet been approved, and remains at a stage where its provisions should carry only limited weight.

82. In fact, the only relevant development plan policies below regional level are the saved SP policies. In particular, those related to housing strategy and targets based upon the extant RSS 9.

83. SP policy S22 provides the strategic basis for development at Uckfield over the period 2006-2011. Uckfield has been assessed through a full and proper process of policy development as being appropriate for major peripheral growth.

84. Within Wealden district, Uckfield is indeed one of the most sustainable locations for significant housing development (see [T1, section 7]). It is not constrained by high-level environmental policy constraints, such as landscape or nature conservation designations. It has a relatively dynamic local economy, many local services and facilities concentrated in the town centre, and good transport links, including a railway station with trains to London. In terms of location, it is situated mid-way between the sub-regional shopping centres of Brighton, Eastbourne and Tunbridge Wells.

85. Yet there is a policy vacuum at the local level. No post-2006 housing allocations have been made and confirmed *after a full and proper statutory process*. The Council has never justified its housing distribution and interpretation of SP policy S22 to any independent inquiry. Therefore its policy stance at this inquiry is seriously flawed. The fact that Downlands lies outside current development limits should be given little weight.

86. The NSLP is a non-statutory plan whose provisions also merit very little weight. While its housing allocations at Uckfield now have planning permission, they are insufficient to meet pressing housing needs to 2011, and in each case are less suitable as housing sites than Downlands. Moreover, they fail to give Uckfield the prominence for development which is clearly signalled by the SP.

87. The Wealden local development framework (LDF) is at an early stage. A core strategy issues and options paper was published in July 2007, but it is couched in very general terms, and it too merits very little weight in this appeal [PD5.4].

88. The Council has produced other policy documents which can be said to support the appeal scheme. In particular, the Officers Report to Cabinet, August 2007 [PD5.13]. This clearly summarises the Council's ongoing failure to deliver enough housing through the planning system, and makes various suggestions as to how this could be rectified - including the grant of permission to non-allocated sites. Downlands would be the best way of meeting the housing delivery shortcomings identified in that report.

89. The Downlands scheme is strongly supported by the policies and advice in PPS 3, which is a very important consideration in the appeal. PPS 3 requires LPAs to demonstrate a robust 5-year rolling housing land supply, but the Council is unable to do so (see below, housing land requirements etc.). Indeed, for some time it has been signally failing to deliver both market and affordable housing. And this within a local context of extremely high levels of need for affordable housing, and an acknowledged corporate objective to deliver it.

90. The failure to deliver housing means that applications which meet the PPS 3 deliverability tests should not be refused. The appeal site/scheme is: available (within a single charitable trust ownership); suitable (being in accordance with the SP, creating a sustainable community, accessible to public transport and to the town centre by foot and cycle, and having a generally benign and beneficial environmental impact); and achievable (capable of delivering about 400 dwellings by 2012).

91. Unlike BIEN and BIES, Downlands would not simply be a mundane and unremarkable residential extension to Uckfield. Instead, it represents a well-planned and designed, fully integrated new community, with a distinct identity of its own. In this, it is wholly in accord with the sustainability and design objectives of PPS 1. So this is not a speculative housing scheme aimed at maximising the developer's profit. The appellants are a registered charity, and proceeds from the site sale would go to some 17 other charities who are beneficiaries of the trust.

92. Seen within the context of PPS 3, none of the Council's stated reasons for refusing the Downlands scheme are valid. ([T1, sections 10-15] explains why in detail, with reference to all the Downlands evidence).

93. Although the strong case for more housing land at Uckfield might well justify the release of BIEN and BIES as well as Downlands, the latter has significant advantages in planning terms over the BIE sites, and should therefore be preferred.

94. Therefore, if the Secretary of State is minded to approve only one of the 3 inquiry applications, that one should be Downlands.

**Education**

95. On the basis of conventional local education authority (East Sussex County Council) assumptions, the Downlands scheme would "generate" 188 primary schoolchildren, 131 secondary, and 23 post-16 students. The proposals include a one form entry primary school (capacity 210 pupils) on a site adjacent to the local centre [M].

96. Details of the developer's funding contributions for this, and for other education facilities in Uckfield, are in a planning obligation (Appendix F).

**Housing land requirements and supply**

97. Evidence on this matter has been provided by all parties in 2 tranches, separated by an interval of several months. The first was in the early part of the inquiry (Jan/Feb 2008), when the SE Plan had only progressed to the intermediate stage of the Panel Report. For Downlands, this is contained mainly in [T2, W1 and the 3 appellants' joint statement on housing land supply, dated December 2007].

98. The second tranche of evidence - which was specifically requested by the Inspector - came after the inquiry sitting phase, and following the publication in July 2008 of the Secretary of State's Proposed Changes to the SE Plan.

99. The first tranche evidence is mainly in the appellants' joint statement. 1 October 2007 was agreed with WDC as the base date for the 5 year supply assessment. The document sets out the appellants' joint assessment of the SP residual requirement (5,356 dwellings), and compares this with the (somewhat lower) emerging SE Plan residual requirement, based on the Panel report (3,994). It then considers the known sources of housing land supply, comprising large site planning permissions and resolutions to grant permission (2,233), together with small site planning permissions (0-370), making a total deliverable supply of 2,233-2,603.

100. Based on these figures, the shortfall against the SP requirement was calculated at 3,123 (at worst)-2,753 (at best), leading to the conclusion that there was only 2.43 yrs. to 2.08 yrs. supply.

101. The (lesser) shortfall against the emerging SE Plan requirement was calculated at 1,761-1,391, leading to the conclusion that there was 3.25 yrs. to 2.79 yrs. supply.

102. On either basis, the Council plainly did not have a 5 years' land supply. In fact, it had considerably less than that. In those circumstances, PPS 3 states (para.71) that "Where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites…they should consider favourably planning applications for housing…"

103. Doc. [NORTH 2.1A] followed the first tranche evidence. It slightly modifies the appellants figures, and summarises the differences between them and the Council on housing land requirements and supply. From its Table 1, based on the SP requirement (of 880 dwellings per annum, 2006-2011) the Council accepts there would be a shortfall of 904 dwellings. But the appellants find a far greater shortfall, between 2,793 and 3,163. Even if the SE Plan (Panel report) requirement is considered (Table 2), rather than the SP, there would be a shortfall of 1,431-1,801.

104. The first tranche evidence also includes [G], on affordable housing, which is not disputed by the Council. This cites the LP and NSLP affordable housing policies (HG2 and HG4 respectively) which both require about 30% of dwellings in qualifying schemes to be affordable. It goes on to consider the Council's housing market assessment for the High Weald area (which includes Uckfield), the 2005 sub-regional housing needs study, and the 2005 district housing needs survey.

105. These studies demonstrate high levels of need in Wealden district for affordable housing. The context is one of high local house prices, and a very low

proportion of existing households in affordable housing. This need is recognised by the Council - and meeting it is said to be its top housing priority - but its past record of delivery of affordable dwellings in the district has in fact been very poor. And the NSLP affordable housing target (250 p.a.) is much less than the scale of need shown by the 2005 housing needs survey.

106. In a nutshell, the planning system hitherto has signally failed to provide enough affordable housing in Wealden district, and at Uckfield. But all 3 of the inquiry schemes would provide a substantial number of affordable homes to help meet this pressing need. BIEN and BIES would each provide 30% of their total number, while Downlands would provide up to 40% (300, out of 750 in total). It would in each case be provided through the mechanism of a S106 planning obligation, with various options for tenure. Given the high level of need demonstrated by [G], and the poor past record of delivery, this is a very material consideration which militates strongly in favour of permission for all 3 schemes at this inquiry.

107. The recent publication of the Secretary of State's Proposed Changes to the SE Plan has prompted a further look at housing land requirements and supply. For the 3 appellants, this is contained in [SCG11, also numbered Wo2]. At the same time, SCG10 was produced, showing the (updated) extent both of agreement and disagreement with the Council on housing land requirements and supply.

108. Although the Proposed Changes have been published, it is important to recognise that the SE Plan is not yet part of the development plan. Therefore the SP should continue to be the basis for the housing land requirement. That said, SCG10 follows the evolution of the annual requirement for Wealden at successive stages of the emerging SE Plan. Its Table 3 is based on the Proposed Changes' annual requirement for Wealden of 550 dwellings. This shows that with the inclusion of provision for the "backlog of unmet housing needs", referred to in Policy H2 (managing the delivery of the regional housing provision), there would be a shortfall of between 1,259 and 1,716 over the agreed 5-year period 2007-12.

109. [Wo2] explains how this has been calculated, by reference to 2 formulas for calculating both the affordable housing backlog, and the general housing backlog.

110. On that basis, even if the SE Plan Proposed Changes are taken as the source for the housing requirement, there is a demonstrable shortfall in Wealden's housing supply. Thus PPS 3 para. 71 comes emphatically into play: additional housing sites are needed in Wealden, and (in accordance with policy 22 in the SP) at Uckfield. As far as housing land is concerned, including the need for affordable housing, the Secretary of State should give favourable consideration to all of the inquiry applications.

111. This is supported by a recent (July 2008) appeal decision on land at Dittons Road, Polegate [NORTH14]. In it, the Inspector found that housing land supply at Wealden might be less than 4 years, and she went on to cite PPS 3 para 71, before allowing the appeal. The Secretary of State should reach a similar conclusion in this inquiry.

**Landscape matters**

112. (The appellants' evidence is mainly in RV1). Downlands comprises arable land set within a framework of woodland, and has undulating topography which slopes

north-westwards towards the Shortbridge stream valley. From its high points there are wide views across a heavily wooded landscape to the higher ground of the Ashdown Forest, in the High Weald AONB. However, there are comparatively few views from these areas into the site, and virtually none from the rest of Uckfield.

113. The site is well removed from the AONB, and is not itself subject to any statutory or non-statutory landscape designations. It is only visible from the Ashdown Forest at a distance of 5kms. A visual impact assessment shows that there would be no perceptible impact on these views.

114. Although the site falls within the Uckfield/Maresfield/Five Ash Down Countryside Gap defined in the LP, this policy was subsequently deleted and there is no equivalent policy in the NSLP. Notwithstanding this, a substantial gap of open countryside would be retained between Maresfield and Uckfield, measuring over 800m. at its narrowest point. Visually, Uckfield would not to any significant extent appear any closer to Maresfield than at present. And the entire development would be well contained by existing woodlands, and the A22.

115. The proposals are amply described in the revised DAS and in the revised ES. These show that there would be no significant adverse long term residual damage arising from it, and there would be no overall harm to the landscape character of the surrounding countryside. While parts of the site would, inevitably, be urbanised, this would only be perceived from a few isolated places in the countryside to the north, and the visual and landscape impacts in aggregate would only be of limited local importance.

116. The Snatts Road link, which has attracted some criticism on landscape and other grounds, would require comparatively little tree felling or woodland clearance. The area would still be perceived as woodland, albeit with a useful and attractive cycle/footpath running through it.

117. Overall, the benefits of development would far outweigh any local landscape (or other) impacts. They provide a great opportunity for the town. In particular, the proposed 55 ha. country park would benefit not only the scheme's residents, but Uckfield as a whole. It would link to neighbouring publicly accessible space at Lake Wood etc, to provide a continuous buffer along the A22 Uckfield by-pass. Neither BIEN nor BIES offer a remotely comparable environmental public benefit. In addition, Downlands would contain generous amounts of well-sited formal and informal open space around the developed areas.

118. The country park would deliver significant advantages. It would protect and enhance the environmental qualities of the site and the surrounding countryside; provide close physical and visual links for residents within their immediate environment; and promote through its management and its educational and interpretative facilities a full appreciation of the natural setting of the development.

119. In sum, the Downlands proposals are not merely "acceptable" in landscape terms. Far more than that, they provide a successful demonstration of a fully considered and integrated approach by the landowners, developers, designers and other specialists, which will deliver substantial overall environmental and social benefits. By comparison, both the BIE schemes are relatively mundane, but would have cumulative landscape impacts much greater than Downlands.

## Ecology and nature conservation

120. (The appellants' evidence is mainly in [Co1, Co1A and Co4]). The Downlands site includes a variety of arable and pasture fields and hedgerows probably originating from woodland clearance in post-mediaeval times, interspersed with scrub, remaining woodland blocks, and ponds. The grasslands are of recent origin, and species-poor. [Co1]

121. [Co1, app. 1] is a map of areas and site names within Downlands. Much site description and ecological survey data is in the revised ES. This, with other background documents, takes account of the amended proposals, as shown on the revised illustrative masterplan. The ecological background, including details of protected species (bats, dormice, badgers), reptiles and amphibians, aquatic invertebrates etc. is summarised in [Co1, section 2].

122. None of the existing land at Downlands is statutorily designated for its ecological interest or value, or for its contribution to nature conservation. It is a good, but certainly not an exceptional example of a mosaic of Wealden habitats. Overall, it is merely of district-level significance.

123. In general, no part of the Downlands site has had the benefit of positive conservation management. That point cannot be over-emphasised. Like many similar places in Sussex, it has been neglected, but this has not been of much real benefit for its biodiversity. Left to agriculture and occasional intrusions for commercial forestry, the system would continue to degrade (for example, through invasion by scrub and bracken). But the site has great potential for improved management, which would most certainly increase - not decrease - its biodiversity and conservation value in the long term. This is a crucial advantage of the Downlands proposals, compared with BIEN and BIES. [Co1]

124. The Downlands proposals provide an opportunity not merely to protect the existing biodiversity resources of the site, but positively to enhance them. Quite apart from their other merits, in terms of ecology and nature conservation they would amount to an overwhelming public good. They would not adversely affect any statutorily designated site, nor any protected species in a way which cannot be adequately mitigated during Natural England's licencing processes. [Co1]

125. PPS 9 and local planning policies require development to minimise any losses of existing biodiversity, and maximise the benefits of future management and habitat creation. There are specific legislative requirements for protected species, but otherwise habitats must be maintained in a favourable condition. [Co1]

126. The Downlands proposals would amply meet these requirements. Their ecological effects are described in [Co1, section 5]. In broad summary, the effects on, and losses of existing biodiversity resources would be minimal: i) there would be no significant loss of ancient semi-natural vegetation, including ancient woodland; ii) there would be no likelihood, with suitable drainage and access management, of significant changes to the ecology of the ghyll (or gill) woodland; iii) there would only be minor losses of vegetation of vegetation of recent origin and low biodiversity (including species-poor grassland and scrub); and iv) ground flora of the woodlands would only suffer minor and localised effects. [Co1]

127. The only wetland to be lost is 2 small isolated ponds of poor quality that would be replaced by several better ones. No natural habitats of any quality would be fragmented or isolated as a result of the proposals. While the woods would experience increased recreational use as they become part of the country park, they will also be better managed than before. Thus the human impact upon them will be essentially benign.

128. To set against these minor effects, development would bring the following positive benefits: i) 29.5 ha. of ancient semi-natural woodland would be brought under conservation management; ii) 2.6 ha. of replanted ancient woodland in Shermanreed Wood would be restored to semi-natural woodland; iii) Budletts Common (5.8 ha. of ancient wet acid grassland) would be restored, by scrub clearance and grazing, from neglect to high biodiversity, with great benefits - of regional significance - to habitats and dependent species; iv) a continuity of managed woodland and grassland would be established from West Park to Budletts Common; and v) great crested newts would benefit from enhanced habitat management and additional ponds. [Co1]

129. All these benefits would be secured (via a planning obligation) partly through a permanent warden or ranger for the proposed 55 ha. country park [Co1, app.7], who would co-operate with local nature conservation bodies. The park and warden would also promote public education on living with wildlife and appreciating the natural world. However, there would be restricted access to some areas of the country park.

130. Buffer zones with a minimum width of 10m. would adjoin all areas of ancient woodland. The whole site area west of the A22 would be part of the country park, and would not have any development on it, or public access to it.

131. During the construction phase, to obviate short-term environmental damage there would be an environmental management plan, overseen by an ecological "clerk-of-works". [Co1]

132. A permanent, 20m. wide green bridge would span the access road into the site from the new roundabout on the A22 [Co1, app.5]. This would be planted with suitable vegetation to provide a continuum of habitat across the road, and reduce any risk of habitat severance for animals such as dormice, bats, and reptiles. Despite the views of some sceptics, such bridges are not uncommon in Europe, and have been shown to work effectively.

133. The ES describes the various specific elements of the Downlands ecosystem in detail. On balance, the proposals and the prospect of active future management of undeveloped areas would be beneficial both for watercourses and ponds, and also for woods, grasslands and heath. In place of continued neglect, many Downlands wildlife habitats would gain from positive management by traditional means. [Co1]

134. No nearby SNCIs, including Lake Wood adjacent, would be adversely affected by the Downlands scheme. Nor would the hydrology or aquatic life of the Shortbridge stream, which lies west of the A22, or its tributaries.

135. [Co1, section 6] shows that the Downlands proposals comply fully with the key principles in PPS 9. They would also comply with SP and LP nature conservation policies. In addition, they respond to advice from statutory consultees, and as a

result Natural England does not object, and the Environment Agency has withdrawn its initial objection.

136. Detailed responses to other consultees' comments on the Downlands scheme are in [Co1, section 5]. These show that the scheme has been misunderstood, and misrepresented, even by organisations which seek to promote nature conservation. They ought to know better! In fact, the criticisms by The Woodland Trust and the Sussex Ouse Conservation Society are not well-founded. The Council's ecology-related reason for refusal has no merit. [Co1]

137. By contrast, both BIEN and BIES are at a considerable ecological disadvantage. They would both entail some harm to valuable habitats and protected species, and would also fail to bring forward any benefits for biodiversity in the wider area. They would not include any environmental/ecological benefits remotely comparable with the Downlands country park and proposed management strategy [Co1]

138. [Co1A] responds to, and comprehensively refutes, further ill-considered criticisms of the Downlands scheme made at this inquiry by the Council, and separately by BIEN and BIES.

139. The Council's evidence on ecology and nature conservation raises some 12 specific topics (see [R1]). These are: i) information about Downlands; ii) status of habitat types in relation to habitat action plans; iii) ancient woodland (definition, effects etc.); iv) Longwood ghyll and sandrock exposures; v) heath and fern (bracken) and its management; vi) grasslands, arable and stewardship; vii) habitat mosaics and places; viii) effects of people on places; ix) hydrology; x) Downlands in the context of landscape change; xi) protected species; xii) disparities in treatment of Downlands and BIEN/S sites.

140. Detailed and robustly-researched responses on all these matters are in [Co1A, sections 3-14]. These cannot readily be summarised here. On many if not all of them, the Council's evidence is factually and verifiably incorrect. Indeed, it contains several glaring errors. Some of its evidence wrongly applies ecological principles, and/or relies upon inappropriate examples. Worst of all, its overall drift is misleading. It grossly exaggerates the ecological effects of the Downlands scheme, and - on the other hand - underestimates its substantial ecological benefits. It also underestimates the harmful impacts of BIES and BIEN, and their comparative lack of ecological benefits. For all these reasons, very little reliance should be placed upon it.

141. [Co1A, sections 15 and 16] contain responses to the ecology-based criticisms of Downlands made by BIEN and BIES, respectively (see [Wr1 and Me1]). Again, these reveal many errors, inconsistencies and unjustified bias. The criticisms are all refuted, and very little reliance should therefore be placed on them.

142. [Co4] contains further responses to supplementary evidence by BIEN and BIES [WR2 and Me2], produced during the inquiry. They raise additional matters on the following main topics: protected species issues; the identification and extent of ancient woodland; effects on ancient woodland; indirect human impacts on habitats; and countryside, people and habitat management at Downlands. Again, these detailed points cannot be summarised here.

143. There is a separate note [attached to Co4] containing a summary of all the issues raised in the Downlands ecology evidence [Co1, Co1A, Co2, Co2A, Co3,

Co3A, and Co4] which should assist the inquiry. The overarching conclusion is that, by contrast with BIEN and BIES, the Downlands scheme would bring many specific nature conservation benefits, with minimal adverse effects. On balance, the proposals would bring a considerable benefit to biodiversity in the area, and would therefore comply fully with PPS 9, and all of the relevant development plan and other policies.

**Highways and transport matters**

144. (The appellants' evidence on Downlands is mainly in [B1 and B4]).

145. 2 of the Council's reasons for refusal (see above) related to transport and accessibility issues. Subsequently, a revised illustrative masterplan was produced which has been accepted as the basis for this inquiry.

146. The main revision was to take the principal vehicular access to the site from a proposed new roundabout on the A22 Uckfield bypass, rather than from the existing Black Down roundabout to the north (this was in order to avoid any harm to ancient woodland in that area). This change to the proposals was accompanied by a revised transport assessment (TA), dated October 2007 (DL3.9). [B1]

147. A description of the local highway network is in [B1, section 3]. Downlands lies north west of Uckfield close to the junction of 3 primary routes, the A22, A26 and A272. The A22 Uckfield bypass forms part of the A22 between London and Eastbourne. The A26 runs from the A22 to Crowborough and Tunbridge Wells, while the A272 goes west to Haywards Heath. [B1]

148. The site lies about 1.5 kms. to the north west of Uckfield town centre. It is bounded to the west by the A22 and to the north, east and south respectively by 3 minor roads – London Road, Snatts Road and Rocks Road. Where the A22 abuts the site, it has a wide, single carriageway, with grass verges on either side, and a 60 mph speed limit. [B1]

149. For public transport, Uckfield has local buses [routes are shown in B1, app. AMB-A] and a railway station. Historically, buses have been poor, with limited services, low quality vehicles, and inadequate passenger information. The small, terminus railway station is located near the bus station, at the southern end of the High Street by the River Uck. It provides a half-hourly service to London Bridge during peak weekday periods and an hourly service at other times, with a journey time of about 70 minutes for direct trains. [B1, 3.5ff.]

150. Uckfield's undulating terrain poses some difficulties for pedestrians. There is a somewhat tortuous, poorly maintained and ill-lit pedestrian footpath from Snatts Road to the town centre, via Pudding Cake Lane. Additional links are needed. [B1]

151. The proposed development would indeed be served by a much improved transport infrastructure. The proposals include provision for dedicated bus, pedestrian and cycle accesses as well as improvements to local transport infrastructure, to benefit both prospective new residents and the existing community. The package of measures to encourage a genuine modal shift - away from the private car to walking, cycling and public transport - is extensive, and far outweighs measures that could be implemented by the smaller BIE sites. [B1]

152. The main vehicular access would be via a new roundabout on the A22, designed to ensure a safe junction with sufficient capacity to accommodate all traffic flows [B1, app. AMB-B]. Snatts Road would only provide access for buses and emergency vehicles. [B1, 3.6]

153. The proposals feature a comprehensive and sustainable transport strategy. Crucially, in view of the recognised problems of congestion and road safety in Uckfield town centre, the impact of car trips on the town centre network would be minimised. The direct access to the A22 will ensure that the majority of essential car borne trips to destinations outside Uckfield will not have to travel through the town centre – in marked contrast to BIEN and BIES, from which most car journeys would have to enter the town centre via Framfield Road. [B1]

154. It must also be remembered that Downlands will include some employment and small retail facilities, as well as a primary school, recreational playing fields and a country park. This will facilitate the "internalisation" of many short trips – perhaps 10% of all residents' trips - within the development, thereby obviating the need to use the car. Neither BIEN nor BIES offers this significant advantage, which is encouraged by transport policy at all levels.

155. In addition, the Downlands transport strategy will strongly encourage a modal shift for other local journeys. Thus, a new 3.1 kms. cycle link would run alongside the eastern edge of the A22, within its ample grassy verge, to terminate opposite the bus station [B1, app. AMB-C]. A further new footpath/cycleway (the Snatts Road link) would follow Snatts Road and Rocks Road to provide a convenient (and attractive) link to the town centre. [B1, app. AMB-D]

156. [B1 app. AMB-E] illustrates walking isochrones from the site. This shows a list of facilities and services that would be within reasonable walking distance. [B1 Table 3.1] lists those within 2 kms. of Downlands centre. Together, these demonstrate that, like Downlands itself, some facilities are in the north of the town.

157. The proposals include a S106 obligation which will provide extensive improvements to local bus services nos. 31 and 245. This would involve re-routing both services through the site. [B1, 3.27-31 and apps. AMB-G and H]

158. In addition, a comprehensive community travel plan will include a package of "soft" measures to encourage walking, cycling, car sharing and the use of public transport. This would contain separate travel plan programmes for on-site business employees, pupils at the primary school, and residents. [B1, 3.32-37 and app. AMB-I]

159. On traffic impact, rigorous junction capacity tests have been undertaken using robust development trip rates for a 2016 completion year (see TA). These show that the access roundabout would operate satisfactorily, with minimal delay to through traffic on the A22. The safety audit shows that only minor design modifications might be advisable.

160. In terms of off-site junctions, the proposals would have impacts on peak hour flows at the Black Down roundabout to the north and the Copwood roundabout to the south, but these could be satisfactorily mitigated by minor improvement works to those roundabouts. These too have been subject to safety audits. [B1, 3.38-50 and apps. AMB-J,K,L,M]

161. The sustainable transport strategy has been developed with national (PPG13, PPS3) and local (SP, LP and NSLP) transport policies fully in mind. It would be wholly in accordance with those policies, in particular with regard to issues of location, and accessibility by non-car travel modes.

162. In general, longer distance car borne trips are directed onto the strategic road network, while more local trips, by bus, cycle and on foot, are encouraged either onto new dedicated infrastructure or onto the local minor road network. The proposals are fully compatible with the objectives of providing a balanced mix of land uses that will minimise the need to travel both among residents and the existing population, and will encourage modal shift away from car use. [B1, section 4]

163. Turning more specifically to the reasons for refusal, Downlands would not have an adverse traffic impact on the A22, Batts Bridge roundabout, or Maresfield village. [B1, 5.37-44, and apps. AMB-Q, R]

164. Uckfield town centre is of most interest to ESCC as local highways authority; but Downlands traffic to and through it would be minimal [B1 5.5-44, and apps. AMB-N, O, P]. The development traffic impact has been robustly analysed. In brief, based on a realistic trip rate derived from TRICS, the maximum increase in peak hour movements on the town centre road network would be less than 2% of existing traffic flows. This is virtually insignificant in traffic terms. Full details are in [B1 Table 5.1 and app. AMB-N].

165. However, for this appeal ESCC have changed their position, to insist on “nil detriment” (i.e. no increase over existing peak hour flows). But, contrary to ESCC’s assertions that stance is not supported by anything in national or local transport policy, and the Secretary of State should not support it. The 1998 LP and the NSLP for example both include a 2% impact threshold, as a trigger for developer contributions to a town centre traffic management scheme.

166. In fact, ESCC’s attempts to secure developer contributions to a town centre scheme already have a vexed history, and its position at this inquiry is both confused and confusing. An achievable traffic management scheme or solution is not yet in place, nor is even designed, but remains at the early planning stage. It will be subject to all manner of potential hurdles and obstacles, both financial and political. Contributions to a scheme have been sought from the 3 NSLP sites, and would be justified from the BIE sites – but are not justified from Downlands, since it would not significantly exacerbate town centre congestion.

167. While there is no viable scheme to improve traffic flows and road safety in the town centre, it is highly likely that the approved NSLP housing sites will be implemented. By contrast with Downlands, and as ESCC accepts, that will exacerbate existing town centre congestion.

168. In any event, there must be considerable doubt as to the wisdom of any sort of engineered, town centre scheme (involving new roads, road widening etc. in a one-way gyratory) which would increase road capacity in the town centre. Such a scheme would inevitably increase, not decrease, town centre traffic flows even further, and would therefore be self-defeating. It would not accord with current best practice. Instead, ESCC should focus on discouraging car use, and encouraging modal shift. That is precisely what Downlands would achieve. Therefore, ESCC’s opposition to Downlands is both puzzling and contrary.

169. In fact, Downlands would be highly accessible by non-car modes, and would comply fully with national and local policies and guidance in this regard. [B1, 5.45-60]

170. There can be no credible objection to the new access roundabout in principle. There is nothing in national or local policy which would preclude such a junction in that location. Nor is there any reason to suppose that it would be seen as a precedent for additional roundabout junctions on the A22. [B1, 5.61-88, and apps. AMB-M, S, T, U, V]

171. To summarise, the Downlands proposals are not merely acceptable in traffic and transport terms, but are highly commendable, and wholly consistent with the latest best practice in transport planning. They would make Downlands the most sustainable, in transport terms, of all 3 sites at this inquiry – and rather more so than the 3 approved NSLP sites. Unlike BIEN and BIES, they would not entail increased traffic congestion in the town centre, and they would have far superior pedestrian and cycle links with the town. In short, there are no reasonable grounds for refusing them. [B1]

172. [B4] is a response to ESCC's rebuttal evidence. It therefore deals with some of the foregoing matters in more detail. In particular: walk distances; trip rates; the travel plan; and the new junction on the A22. The following few paragraphs summarise the main counter-rebuttal points on these matters.

173. On walk distances, ESCC have queried some of those given by Downlands, suggesting they are under-measurements. [B1 annex A] provides some revisions, based on GIS, and is the most accurate set of results available to the inquiry. Comparable distances are shown for the BIE sites. The analysis shows that Downlands' accessibility to various town centre facilities compares well with the other inquiry and NSLP sites. [B4 2.1-8 and annex A]

174. On trip rates, ESCC is wrong to suggest that it has previously queried the Downlands assumed rates, or the assumed level of internalisation of trips. In any event, Downlands stands by its original trip rate assumptions [B4 4.1-3]

175. On the travel plan [B4 annex B], which would also be delivered as a component of a S106 obligation, ESCC underestimates the effect of Downlands' proposed improvements to bus services. That alone will go a long way towards a step-change in existing travel choices for Uckfield residents. And, with vigorous marketing, the travel plan(s) will also make a significant contribution towards modal shift, far more than ESCC seems prepared to recognise. [B4 5.1-15 and annex B]

176. On the new junction, contrary to ESCC's assertion, there is nothing in PPG 13, Circular 2/07 (Planning and the Strategic Road Network), or in the SP which would in principle, or as a matter of policy, preclude a new access roundabout on the A22 Uckfield by-pass. The A22 is not part of the motorway, trunk or "strategic" road network where such a policy objection might apply. Instead, it serves a more local function in the East Sussex road hierarchy. [B4 6.1-15]

177. Finally, it should be noted that the Downlands transport measures, as outlined above, are included in a completed S106 obligation. With these measures in place, Downlands would be the most sustainable in transport terms of all the 3 proposals at this inquiry.

## The Case for Wealden District Council

178. The material points are:

### Planning policy etc.

179. (WDC evidence is mainly in W2, sections 3 and 4). The application was considered in the light of development plan and other relevant policies. The former are in RPG 9, the SP and the LP. The latter are in the emerging South East Plan and the NSLP, and also include national planning policies in PPGs and PPSs and other documents. The reasons for refusal (see above) only cite the determining policies in PPSs, the SP, the LP and the NSLP.

180. The proposal would be contrary to all of these policies.

181. The South East Plan is at an advanced stage, following publication of the Secretary of State's Proposed Changes. These should be given significant weight, especially in the matter of housing land requirements for Wealden district and Uckfield. Although still extant, RPG 9 is to a large extent out of date, and will soon be superseded by the South East Plan. It no longer merits any significant weight.

182. The SP will also be superseded by the South East Plan, but for the time being its saved policies remain part of the development plan.

183. The LP only contains housing land allocations up to 2004, but it too has many saved policies, which have some bearing on the appeals.

184. The history of the NSLP is described briefly above (see Other Planning Policies). Although it cannot, by definition, have the same status or weight as the development plan, its early stages followed statutory procedures and benefited from lengthy and intensive public consultation. The merits of various competing housing sites, including those in this inquiry, were thoroughly considered. A legal challenge to the plan was rejected by the Court of Appeal. It was adopted for development control purposes only quite recently, in November 2005. Thus although it precedes the publication of PPS 3, it is adequately up to date. For all these reasons, the NSLP should be given very significant weight, almost the equivalent of that due to a statutory development plan. This has been acknowledged by Inspectors in appeal decisions.

185. For planning policy purposes, it should particularly be noted that the NSLP allocates 3 housing sites on greenfield land at Uckfield, with a combined capacity of 400 units. They comprise allocation UC1, Land north of Mallard Drive, for 120 dwellings; allocation UC2, Land north of Eastbourne Road (a.k.a. Cysleys Farm), for 220 dwellings; and allocation UC3, Land at Sandpits, Lewes Road, for 60 dwellings.

186. For a small market town like Uckfield, these 3 sites combined, with their 400 dwellings, amount to a very substantial level of growth over a short time period, as much as the town can reasonably absorb within its existing infrastructure capacity – and particularly that of the local road network. Nevertheless the appellants all tend to ignore or disregard them, as if they did not exist. Such a position is not merely untenable, it is absurd.

187. It must be emphasised that these allocated housing sites all now have planning permission. All can be developed by 2011, and thereby contribute to

the 5 year land supply required by PPS 3. Both collectively and individually, environmentally and in terms of sustainability, these 3 sites are preferable as housing sites to any of the 3 appeal sites, all of which have been rejected as candidates by the local plan process.

188. On its own, the Downlands scheme, with 750 dwellings (and other mixed uses), would be significantly larger than these 3 allocations combined. However, as the ensuing evidence demonstrates, there is no need for this scale of development at Uckfield to satisfy the housing land requirement. Moreover, as detailed below, there are significant objections to Downlands on landscape, ecological and traffic/transport grounds – none of which apply to the 3 allocated NSLP sites.

**Education – the primary school**

189. [C] sets out in detail the development contributions expected by East Sussex County Council towards education facilities (and certain other facilities, such as libraries, rights of way etc, but excluding highways and transport) in the event that Downlands (or any combination of the 3 appeal schemes) is approved. These are based on various national and development plan policies. Details of the contributions, and their timing etc, should in principle be included in the relevant planning obligation.

190. Apart from this, there are serious doubts as to whether the proposed on-site primary school at Downlands is actually deliverable [WDC28]. This for 2 reasons: first, 750 units is insufficient to justify a single form entry school, and therefore it is questioned whether ESCC would build one there. Rather, it may use the contribution to expand existing schools. But, just as Downlands is unsustainably located for a new school to be readily accessed from other parts of Uckfield, it is also unsustainably located for its population to gain access to other schools.

191. Second, the school site shown on the master plan contains steep slopes, and the necessary levelling means that the school could not be accommodated on the site shown. It would have to be enlarged. The road layout and development areas would also need to be revised, but the implications of this (close to Longwood Ghyll etc.) have not been assessed by the ES. They could be substantial. There would also be implications for the form of the planning application itself.

**Housing land requirements and supply**

192. Evidence on this matter has been provided by all parties in 2 tranches, separated by an interval of several months. The first was in the early part of the inquiry (Jan/Feb 2008), when the SE Plan had progressed to the intermediate stage of the Panel Report. For WDC, this is contained in [W1 and appendices].

193. The second tranche of evidence – which was specifically requested by the Inspector - came after the inquiry sitting phase, and following the publication in July 2008 of the Secretary of State's Proposed Changes to the SE Plan. In fact, formal closure of the inquiry was postponed mainly in order for the Inspector to take the Proposed Changes into account.

194. The first tranche evidence (which is briefly summarised below) had necessarily to take more account of the SP housing land requirement for Wealden district, and set out a number of housing land requirement and supply scenarios with that

in mind [W1 appendices 1-7]. The second tranche is based on the very sound premise that the SE Plan is now so advanced, and indeed so close to approval, that to all intents and purposes (including the purposes of this inquiry) the SP may now be disregarded. In short, it has been overtaken by events. Indeed, it is confidently anticipated that the SE Plan will be approved before the Secretary of State's decisions on these appeals, thereby replacing the SP entirely.

195. To recap, the main conclusions of the first tranche evidence [see W1] were as follows: a) although the SP was prepared for the period up to 2011, it will be replaced by the SE Plan late in 2008. Therefore, substantially more weight should be given to the provisions of the SE Plan than to the SP; b) it is appropriate to calculate land availability over the agreed 5-year period (from October 2007) totally upon SE Plan provisions since, when it is approved its requirements will apply from 2006 right up to 2026; c) the remaining allocations in the NSLP will convert to permissions, and consequently these allocations should be included as a source of housing land supply; d) based on the SE Plan Panel report annual requirement of 480 d.p.a, Wealden has a surplus of 1,111 dwellings, equating to 7.03 years' housing land supply [W1 app.7]. This rises to 8.75 years in the "rest of Wealden" area, which contains Uckfield [W1 app.11]; e) even if the SP were used as the basis for calculating the district requirement up to October 2008, there is still a 5.15 years' supply [W1 app.6]; f) the foregoing assessments are amply backed up by evidence of sites' availability, suitability and achievability, as required by PPS 3, para. 54 and the DCLG document "Demonstrating a 5 year supply of Deliverable Sites" [LA1.2]; g) thus land supply will be well in excess of the PPS 3 requirement to establish a 5-year land supply, and it will provide flexibility over the period of emergence of the LDF; h) in fact, a cautious approach has been taken towards the land availability assessments, and the aforementioned supply figures are likely to be exceeded owing to additional supply components not included in WDC figures - in particular, additional supply is likely to come from completions within 5 years of permissions yet to be granted on unallocated land (i.e. windfalls), and from higher densities on NSLP sites.

196. Thus, given the significant amount of available housing land in Wealden district, including more than 5 years' supply, to grant ad hoc permissions for any of the 3 inquiry sites would result in a serious unplanned over-supply of housing.

197. Also, it is highly probable that the NSLP allocations would come forward before any of the inquiry sites, (in the event of one or more being allowed). In addition, implementation of the NSLP sites will provide many affordable dwellings, to help meet the acknowledged need. None of the inquiry sites should be allowed on the basis that (as WDC readily acknowledges) it would provide affordable housing in line with normal policy.

198. The second tranche of WDC evidence on housing land requirements and supply shows how matters have moved on, and to a large extent supersedes the first tranche. The main points (from WDC closing submissions [WDC28, section 2]) are as follows. They draw mainly on [W6 and appendices].

199. First, it is worth stating that even if there were a shortage of housing land in Wealden (which is certainly not the case – see below) that should not automatically lead to any of these appeals being allowed. [PPS 3 paras. 69 and 71.] For such unallocated sites even to be considered for approval, they would have to be both acceptable in planning terms, and deliverable. But as other

evidence shows, none of them is acceptable (i.e. suitable), and there are very serious doubts about the deliverability of Downlands and, possibly, BIES.

200. On the housing land requirement, the Secretary of State's Proposed Changes have overtaken much of the earlier debate at this inquiry. There is now no justification at all for continuing to have regard to the SP (its policy H1 etc.). The SE Plan has a start date of 2006, prior to the start of the agreed 5-year supply period (October 2007).

201. The annual requirement for Wealden is now 550, giving a total Oct 2007-Oct 2012 of 2,750. This is agreed with the appellants.

202. Paras. 1.1-2.5 of Ch. 7 of the draft SE Plan have now been deleted and there is no reference to shortfalls or surpluses in the Proposed Changes. This confirms that any shortfalls should not be carried forward into the new SE Plan, and undermines the appellants' evidence on land availability, which relies heavily on shortfalls against previous plans prior to 2006.

203. Thus there is no justification for the appellants having regard to any so-called shortfall predating the start of the SE Plan period – i.e. pre-2006. They now seem to recognise this. In its place, they seek to raise an additional numerical requirement called "backlog of unmet housing needs". But this is without foundation. There is simply no reference to it in Proposed Changes policy H1. Disregarding this, but allowing for an agreed completions shortfall (of 444) from April 2006 to October 2007, the correct figure for the 5-year requirement (for the whole of Wealden) is 3,194 dwellings (2,750+444) [W6.4 app.B].

204. On supply, completions April 2006-Oct 2007 are agreed; the dispute is over future supply. The Council has analysed this very thoroughly. It is satisfied that there are no bars to development of the sites relied upon in its analysis; but where there is some reasonable doubt, a discount has been applied, in line with para. 54 of PPS 3. Overall, some 159 dwellings may now be added to the supply, compared with the "first-tranche" position.

205. Thus WDC can demonstrate a supply of 3,835, giving a surplus of 641 (3,835-3,194) [W6 table 3]. This equates to a 6 year land supply. And this is without reliance on the aforementioned 159 units (which would give a surplus of 800, or 6.25 years' supply) [W6, 4.8].

206. Owing to the increased district requirement (550 d.p.a.) in the Proposed Changes, compared with the Panel report (480 d.p.a.), this represents a reduced surplus against WDC's first-tranche position of about 7 years' supply (see above), but it still comfortably exceeds the PPS 3 requirement.

207. Moreover, the Secretary of State cannot ignore the SE Plan strategy. It is very important to note that Uckfield is not within the area where the Proposed Changes have increased Wealden's housing requirement. This is because the Changes increase the annual district requirement from 480 (the Panel recommendation) to 550, but the increases are all in the Sussex Coast part of Wealden (280 increasing to 350), and not in the "areas outside sub-regions" (also called the rest of Wealden), which include Uckfield. This area remains at the Panel's recommended 200, a lowly figure (see Proposed Changes chapters 17 and 25).

208. By contrast, there is now a far greater focus on housing delivery in the Sussex Coast part of Wealden (chapter 17). Within it, the policy is firmly aimed at regenerating the economy in the Hailsham/Polegate area. That regeneration objective depends heavily on housing development in that area. But within the rest of Wealden, including Uckfield (chapter 25), the policy emphasis in the Proposed Changes is on environmental protection and safeguarding the countryside.

209. Thus, while Wealden as a whole can demonstrate at least 6 years' housing supply, the part which includes Uckfield can demonstrate 8.71 years' supply [W6, 4.27].

210. It follows that to allow additional, unallocated housing at Uckfield would not only be unjustified by the up-to-date 5 year housing land requirement, but it would also upset and undermine the Secretary of State's regional strategy. It is assumed that the Inspector and the Secretary of State would have no reason or wish to do that.

**Landscape matters**

211. (WDC evidence is mainly in W3, paras. 8.1- 65.) Uckfield lies approximately at the transition between the High Weald and the Low Weald landscape character areas. Both the LP and the NSLP place the site broadly within the latter for the purposes of their environmental policies. However, the site and its surroundings have several High Weald landscape characteristics. These include the following: the fact that more than 50% of the site is heavily wooded, with large woodland blocks on all sides except the south east - hence its densely wooded appearance from a distance; a generally elevated, rolling topography; the narrow, deep, heavily wooded Longwood Gill; the stream through Shermanreed Wood; substantial sandstone outcrops in Longwood Gill (and at Lake Wood adjacent to the site); the substantial area of heathland at Budletts Common; and the large bold ridge which approximately follows Snatts Road, to the south east.

212. A photographic appraisal [W3, app. E], including various views from viewpoints in the countryside north of the site, demonstrates the ridge, the site's extensive open areas, and its woodland concentrated on the lower slopes. The ridge hides the town of Uckfield from views in the zone of visual influence. It has very little built development on it at present, and that which does exist is inconspicuous.

213. Not so the proposed development, which would be seen as a substantial, first encroachment of Uckfield beyond its natural hillside setting. Far from being a well-integrated urban extension, the development would appear as a very large, stand-alone settlement, spilling out into hitherto undeveloped and unspoilt countryside, and visually unrelated to (and not visible from) the rest of the town. Indeed, unlike BIEN and BIES, it is no exaggeration to say that the development would be physically and visually divorced from the town.

214. One of the most notable northerly viewpoints is the much-visited car park at Marlpits near Nutley in the Ashdown Forest. This is well within the High Weald AONB, and although the appeal site is over 5 kms. away, it is reasonable to suggest that, in what is at present an unbroken and heavily wooded countryside setting, the development would significantly harm the setting of the AONB.

215. Another much-frequented viewpoint is Maresfield recreation ground, which is much closer at hand. From here, large parts of the development would be clearly visible. The same applies to other public viewpoints. [W3, app. E]

216. Although this is an outline application, it is clear enough from the appellants' master plan and the design and access statement where development would occur, and at approximately what density and height. For example, the neighbourhood centre would be at a high point, relatively close to Snatts Road, where it would be the hub of the development. Commercial buildings and housing around it would be up to 4 storeys high. And this in a place higher than anywhere else in Uckfield's administrative area.

217. Located on a complex existing sloping landform, the adjacent primary school would almost certainly require a substantial amount of cutting, filling and levelling, which in turn would take more land from the planned housing areas, potentially raising their densities and building heights significantly above those anticipated in the DAS. This could only increase their visual impact.

218. Another major physical and visual impact of the proposed development would be on Snatts Road itself. This at present is a long, narrow, largely unlit country lane, which virtually marks the north western boundary of Uckfield. It would be transformed by the development, and would in effect be suburbanised. At present, one stretch of it gives extensive parkland views of the site which clearly show its strongly rural character; although the development would preserve part of this in the foreground, much of it would be visible from this locally well-known viewpoint [W3, app. H, view 1].

219. The hitherto undisturbed ancient woodland in Hunters Way Shaw on the southern side of Snatts Road would be decimated by the extensive tree felling (at least 31 trees would be lost) and scrub clearance needed for the proposed Snatts Road link. This would further harm the character of the site's surroundings and of Snatts Road itself.

220. On its south western side, the proposed new roundabout on the A22, with all the associated roadworks and other engineering operations, would represent another major intrusion on the landscape, and would further reduce both ancient and regenerating woodland in the locality.

221. It is acknowledged that the site is not designated in the LP/NSLP for its landscape value. However, it comprises a substantial tract of countryside on the north west edge of Uckfield, and is - unlike BIEN and BIES - clearly separate from the town itself. With its rolling fields, woodlands and other features, it is attractive, unspoilt and well worth preserving. Of the 3 sites in this inquiry, Downlands is overwhelmingly the one which would be most harmed in landscape terms by development. The sheer scale of development proposed would only compound this harm.

**Ecology and nature conservation**

222. (WDC's evidence is mainly in [R1]). Although the Downlands site has (as yet) no statutory nature conservation designations, this may be because it has been little studied until now. Yet Downlands contains various legally protected species, and priority species and habitats, which make up a strikingly rich and varied ecology.

223. Its priority habitats include eutrophic standing waters, aquifer fed springs, arable field margins, ancient and/or species rich hedgerows, wood pasture and parkland, wet woodland, lowland mixed deciduous woodland, lowland dry acid grassland, lowland meadows, lowland heathland, purple moor grass and rush pasture, and inland rock outcrops. Together, these create a valuable framework or mosaic of habitats for a diverse range of animals and plants.

224. It is not only Downlands itself which is of concern in this appeal. Adjoining and nearby sites with nature conservation designations include the Lake Wood SNCI, the West Park local nature reserve, Butchers Wood SNCI, Budlett's Common Rocks SNCI and Shortbridge Stream Meadow SNCI.

225. The appeal site is particularly notable for its sandstone rock exposures and gills (esp. Longwood Gill, but also the stream area in Shermanreed Wood), and for its widespread ancient woodland, secondary woodland, and (perhaps) primary woodland. (These and their most characteristic plant and animal species are described in detail in [R1, sections 8-13.])

226. A development of the scale proposed, on land hitherto largely undisturbed by human impacts, would seriously disrupt the "ecological synergy" which exists on this site between woods, fields, wetlands and the Wealden sandrocks. It would cause devastating habitat fragmentation. Some species would disappear altogether, while others would be reduced to critically low levels. The loss of flora and fauna would not be compensated for by the arrival of opportunist, pioneer species, including alien plants that would have a damaging effect on native wildlife. And the effects of development would also spill over into important adjacent habitats, mentioned above, including ancient woodlands and sandrock exposures.

227. PPS 9 states clearly that ancient woodland should not be lost, or damaged in any way. While there would be little physical clearance of ancient woodland on the main part of the site, many trees would be lost in connection with the Snatts Road footpath and cycle link, which would traverse ancient woodland. It is possible that this area includes some primary woodland, never previously disturbed. The link would pass through a 200m. length of Hunters Way Shaw, before crossing Rocks Road on a bridge. The works would also damage exposures of sandrock here.

228. Moreover, in general the development would have a range of harmful woodland-edge effects, contrary to PPS 9 and to SP and LP/NSLP policies. The remaining ancient woodland would deteriorate even if, as the appellants say, it is managed for long-term conservation and recreation within a country park. For example, general human disturbance near the woodland, with increased noise, traffic, night-time light levels, disturbance and predation by dogs and cats, and various kinds of pollution would in combination have a profound effect on the flora and fauna for which the wood is a habitat some or all of the time.

229. Harmful agents and effects would include subtle changes in micro-climate (e.g. the "heat island" effect), nitrogen pollution from car exhausts, increases in footfall and trespass, fire-raising, and dumping of garden and other rubbish. Despite the best intentions and efforts of any country park warden or ranger, it would in practice be virtually impossible to control access to parts of the woodlands and rock outcrops. The appellants' case is either disingenuous in this regard, or simply naive. Some damage from the inevitable increase in human

pressures would be innocent and inadvertent, but some would be deliberate and malicious, as has occurred at Lake Wood and in other comparable situations.

230. The proposals would largely destroy the biodiversity of the site's grassland and arable land, which the appellants have underestimated. For illustration, the abundance of grass seed in the fields at Downlands encourages birds, mice and voles, which, in turn, are food for owls and other birds of prey. And even the dullest-seeming grassland or arable can be rapidly improved for wildlife, as may be happening here under DEFRA's existing farm stewardship scheme.

231. Both PPS 9 and the SP and LPs contain a range of policies aimed at protecting and conserving biodiversity, especially in and around ancient woodlands and other priority habitats. These are cited in the reasons for refusal. But the effects of large scale development - some of them dramatic, others insidious, quite gradual and difficult to measure - could not all be subject to full or effective mitigation. If the development were to proceed, much ecological damage would be done. It could not be undone, and the policies would be breached.

232. The appellants rely on the use of buffer strips to protect the site's woodlands from harmful edge effects. It is accepted that these would have some ameliorative effect. But as shown on the master plan, they would not in general be adequate in width. A more generous width of 30 m. would be far preferable in most locations, as it would create a gradient (or ecotone) from closed canopy to short sward. However, this would have a knock-on effect for the general layout and design of the development elsewhere.

233. Nor is it accepted that the proposed green-bridge would have the desired effect of acting as a wildlife movement corridor, as it would be quite narrow, and shared with a footpath and cycle track. Green-bridges in general have had mixed success, and their efficacy in the UK is by no means proved. Failure of the green bridge would only exacerbate habitat fragmentation.

234. In the final analysis, far from being positive, on balance, for biodiversity, ecology and nature conservation, the effects of development would be overwhelmingly negative and harmful. This must be counted a very strong reason to refuse the Downlands proposals and dismiss the appeal.

235. Indeed, of the 3 sites in this inquiry, Downlands is the one which would be most harmed in ecological/biodiversity terms by development. The sheer scale of development proposed would only compound this harm.

**Highways and transport matters**

236. (WDC's/ESCC's evidence re Downlands is mainly in [H1, H4, H4A, H5 and SCG2, also numbered WDC16]. Much of [H1, H5 and SCG2] is equally relevant to BIEN and BIES, but is only summarised in this section. Relevant technical information is in the annexes to these proofs).

237. East Sussex County Council (ESCC) are the local highways authority and give evidence on highways and transport matters on behalf of themselves and WDC. ESCC maintains an objection in principle to all 3 appeal schemes on traffic and transport grounds.

238. In a nutshell, all 3 appeal schemes are unsustainable in transport terms, because they would lead to an undue increase in traffic congestion in Uckfield,

and in use of the private car. Despite their best efforts, none of the appellants have gone far enough to demonstrate a robust sustainable transport case.

239. Therefore, both individually and collectively, the 3 schemes would be contrary to national, regional, SP and local policies and guidance [relevant policies are in H1, annex A6].

240. No party to the inquiry disputes that the local roads network in Uckfield is already struggling to cope with existing traffic levels. It would be premature to allow any of the appeal schemes before there is certainty of delivery of town centre transport enhancements. Owing to cumulative impact, that applies with even greater force to any combination of the schemes.

241. That said, in the event that the Secretary of State is minded to allow one or more of the appeals, measures could be taken to mitigate their traffic impact and achieve a degree of modal shift away from car use. Thus there has been much detailed discussion, both before and during the inquiry, about what those measures could or should be, and how they could be incorporated into the necessary planning obligations. [H1]

242. With respect to traffic and transport, there are key themes common to all 3 appeals. All parties acknowledge an existing highway problem in and around Uckfield – growing town centre congestion, compromised road safety, rat running through nearby villages - and recognise that measures must be taken to accommodate existing and anticipated future traffic levels generated by recent planning permissions (the 3 NSLP sites) and any other permitted housing proposals. [H1]

243. Existing levels of congestion have a detrimental effect on the safety and free flow of traffic, and on pedestrian safety and amenity, particularly in the town centre. No further development should be permitted without a step-change in transport improvements and travel behaviour measures, including that of existing residents. [H1]

244. In this context, it should be noted that ESCC have exhausted all options for further improvements to the town centre highways network within the limits of adopted highway land, by such means as changing traffic signal timings etc. [H1]

245. Thus, since 2007 ESCC and WDC have jointly been considering a potential town centre solution, or scheme. Various hard engineering options have been tested by traffic modelling, involving link roads, and a northern and southern one-way gyratory system.

246. But alongside this there must also be a range of soft measures tailored and "retrofitted" to match the existing population of the town, in particular to encourage a modal shift away from the private car. [H1]

247. On behalf of ESCC, 3 alternative town centre schemes (with sub-options) have been tested by JMP consultants using a VISSIM model. However, meaningful public consultation on the options can only occur when there is funding certainty. The costs of each scheme are fairly similar - £8.6-9.2m. - but existing S106 contributions fall far short of this, and there is a large funding gap. Notwithstanding the planning objections to the 3 inquiry schemes, any that are approved should make a significant financial contribution. [H1]

248. The earliest that public funding could contribute to the overall scheme costs would be 2011, through the LTP3 funding award. [H1]

249. There are various significant obstacles - political as well as financial - to delivery of a town centre scheme. There is therefore much uncertainty over its prospects of implementation. These obstacles cannot be resolved, nor the uncertainty lessened, by this inquiry. Indeed, there is as yet no preferred scheme for the inquiry even to consider. [H1]

250. Even with an implemented town centre scheme, additional sustainable transport measures are required, to achieve the modelled trip rate of 0.66 vehicles/dwelling in the peak hour. Without those measures, a more reasonable trip rate of 0.8 vehicles/dwelling is expected. This is backed up by recent traffic surveys. On that scenario, wholly unacceptable levels of traffic queuing and delay would occur on the key routes into and junctions in the town centre – notably Framfield Road, and Bell Lane. [H1]

251. The 0.66 trip rate is a key assumption of the traffic modelling undertaken. It is accepted by the BIE traffic consultants but not by Downlands, who posit a 0.4 trip rate for their scheme based on TRICS data. But even the 0.66 trip rate would only occur in reality if the travel demand and sustainable transport packages are introduced early and are robust. In fact, further traffic surveys suggest the robustness of a 0.8 trip rate. [H1 table 1] is a summary of the traffic generated by the 3 appeal sites using the 0.66 and 0.8 trip rates. [H1]

252. The 3 appeal sites are not alone in their potential impact on local traffic conditions. It must be remembered that when implemented, the approved NSLP sites, totalling 400 dwellings, will themselves add to existing congestion.

253. Given the considerations above, if any of these 3 appeals are allowed, immediate measures must be taken to relieve congestion, to enable some "headroom" in the interim period before a town centre scheme is in place.

254. This would be consistent with the latest best practice in transport planning, which, arguably, endorses a "nil detriment" approach to traffic impact. This contrasts with the previous approach, under LP and NSLP policies, which tolerated traffic impacts from new development of up to 2%. But the interim (or "bridging") scenario could only work to a ceiling level of trips. [H1]

255. It should be noted that all new transport infrastructure should comply with the requirements of the Disability Discrimination Act (DDA).

256. The preceding points from [H1] are supported and illustrated by [H1 annexes A1-A25].

257. [H5] develops some of the foregoing points, especially in relation to: ESCC's position on the appeal schemes; the "nil detriment" impact criterion; prospect of LTP3 funding for the town centre scheme; impact of appeal schemes on peak hour traffic spreading; effect of enhanced local bus services; revised costings for town centre scheme options; pedestrian connectivity; and transport emissions.

258. As far as ESCC's position is concerned, this has long been that a developer-funded town centre solution is <u>essential</u> for Uckfield to enable significant further housing development to occur. Moreover, the approval of 400 units at the NSLP sites will effectively absorb any spare network capacity, thereby in effect forcing the "nil-detriment" stance. [H5]

259. This nil-detriment principle arises from growing concerns about local traffic congestion, and is supported by national planning guidance in Circular 2/07 and the DfT's guidance on transport assessments. It should be the starting point for consideration of the appeals. In practice, it supersedes the previous 2% impact criterion in the NSLP. Thus it is entirely reasonable for local highways authorities to resist development which would only exacerbate existing traffic congestion and polluting emissions. [H5]

260. There is no reasonable prospect of the town centre scheme being wholly funded by LTP3 monies, but these may become available as a top-up. [H5]

261. On peak hour spreading, all 3 appeal schemes would tend to exacerbate the existing situation in Uckfield. [H5, figs. 1 and 2]

262. On buses, ESCC stresses the need for a high-intensity, convenient town bus service as an essential part of any strategy to reduce existing peak hour car use. [H5]

263. Revised costings (some showing significant increases) for the 3 town centre scheme options are in [H5 annex 1].

264. All inquiry schemes will need to comply with the guidance in the DfT Manual for Streets, in order to provide safe and attractive routes for pedestrians, and thereby improve the sites' connectivity. Pedestrians and cyclists should not be at any disadvantage compared with car drivers [H5]

265. [H5] contains new data on traffic emissions. This further underlines the need for a town centre scheme.

266. Of the 3 appeal schemes, Downlands is by far the largest (750 dwellings etc.), and is the least acceptable in terms of traffic and transport sustainability. However, further negotiations during the inquiry have led to a significant measure of agreement between ESCC/WDC, BIEN and BIES, which is contained in [SCG2]. This sets out a summary of key issues, and a list of those upon which agreement has been reached, robustly supported by 11 annexes of technical data etc. Thus [SCG2] deals with the transport measures required for the BIE sites, and the scale of the required retrofit package.

267. It must be emphasised that WDC/ESCC maintain the view that no significant further development should be permitted at Uckfield in advance of eventual LDF allocations, and the delivery of a satisfactory town centre scheme. However, if the Secretary of State decides that some strategic housing provision is required from this inquiry, then up to 300 units (equivalent to the "headroom") could be afforded to the BIE schemes individually or together. [SCG2, section 1]

268. There is an agreed trip rate of 0.66 for the BIE sites. There is no agreed trip rate for Downlands. Provided a S106 obligation secures the travel plan, the package of headroom measures, and the appropriate contribution to the town centre solution, some development on the BIE sites could come forward. And their sustainability can be improved by the packages of agreed measures. SCG2 annex 9 contains a summary of the S106 package needed for the headroom. [SCG2, section 2]

269. [H1 annexes A1-A5 and A7] set out background context material to Downlands, including plans, key routes, and a pedestrian access audit. [H4 and annexes D1-D10] also refer specifically to Downlands.

270. On balance, Downlands is more distant from most (but not all) town centre facilities than are the BIE sites. Crucially, the Downlands site lacks good levels of route choice and accessibility – but both these attributes are essential to the achievement of genuine modal choice.

271. [H4 annex D4] is an analysis of the pedestrian infrastructure needed properly to connect the site with the town centre. Existing routes are few and very deficient, and the proposed new pedestrian/cycle links alongside the A22 and Snatts Road have serious limitations. The A22 route would be long and circuitous. It leads away from the town centre at first, and then it follows a very busy and polluted main road, containing fast traffic. For all these reasons, it would not prove very attractive to many Downlands residents.

272. There are local objections to the proposed Snatts Road link, which would also involve the loss of ancient woodland, and in any event it is probably not deliverable, owing to ownership constraints (see also below).

273. [H4A] contains rebuttal evidence on the following matters: distances to local shops and services; connectivity with town centre and surrounding area; trip rates, including potential for internalisation of trips; travel plan provisions; the nil-detriment criterion; the A22 access junction; and delivery of the town centre scheme.

274. In broad summary, all these matters suggest that the Downlands appellants are far too sanguine about their level of impact on the town centre, the efficacy of their proposals in achieving modal shift, and the overall accessibility and connectivity of the Downlands site. In fact, Downlands would be the least sustainable in transport terms of all 3 of the appeal schemes.

**Deliverability**

275. Government policy (esp. in PPS 3) advises that housing sites must be deliverable. But Downlands faces insuperable delivery problems. Even without all the other planning objections, this factor alone would justify dismissing the appeal.

276. In particular, the Snatts Road link, which on Downlands' own evidence is the only pedestrian route out of the site and therefore an essential part of their scheme, is simply not available. It lies over 3rd party land (including some owned by ESCC). But landowners' letters submitted by Downlands do not commit any of them to do anything other than negotiate. None provide any assurance that the land in question will ever be made available for the Downlands scheme.

277. Indeed, soon after the inquiry opened the Council invited Downlands to withdraw the appeal if it could not demonstrate delivery of the link. It has never done so. At the very least, the inquiry should conclude that the Snatts Road link cannot be relied upon. Owing to its poor prospect of delivery, it does not even merit the imposition of a Grampian condition.

278. Second, the primary school. There is no commitment by ESCC (the local education authority) to build a school on site in order to serve a development with insufficient child-yield. In any event, the submitted masterplan cannot accommodate the required facilities. This further undermines the Downlands case on sustainability and transport.

279. From the outset, Downlands claimed that it would provide "6 Good Things" - affordable housing, a country park, large amounts of informal open space, an exceptionally high standard of building design, a primary school, and the neighbourhood centre - all to a higher quantum or standard than could reasonably be expected or required on the basis of current planning policies. But the Downlands evidence is confused, contradictory and evasive on all these aspects.

280. In fact, none of these alleged benefits can be relied upon, and collectively they should not sway the Secretary of State in Downlands' favour. They are in effect stymied by the terms of the Trust Deed and the Option Agreement, both publicly available documents [WDC22]. Given the fiduciary duty of the trustees, Downlands has not been able to demonstrate that the Trust Deed could allow for a scheme at less than "best value". This indicates, for example, that their offer of additional affordable housing (i.e. more than the normal 30% policy requirement) is without substance. Much the same applies to the country park and the other so-called benefits.

**The Case for Other Parties**

281. The material points are:

282. *The BIEN appellants:* 1) Landscape considerations (see [Coo2]): Unlike BIEN (and BIES) the Downlands site is physically separate from Uckfield. It lies wholly on a north-west, outwards facing slope, far from the River Uck "bowl", and clearly outside the town. Development here would breach the strong northern topographical boundary. It would be perceived as Uckfield spilling over the ridge, and edging ever closer to the villages to the north. It would entail the following more specific adverse impacts: loss of elements of Low Weald landscape character; the introduction of high density development into a rural area; a much-diminished sense of remoteness and tranquillity; reduction in the countryside gap between Uckfield and Maresfield, and the creation of new development pressures in this area; and the breaching of the A22 by way of the proposed new roundabout. Moreover, in their landscape assessment methodology, which is neither transparent nor rigorous, the Downlands appellants have underestimated these impacts. Of the 3 appeal proposals, Downlands would have by far the greatest, and the most harmful impact in landscape terms.

283. 2) Trees (see [FL]): The Downlands proposals would entail some unacceptable damage to ancient woodlands, contrary to various national and local policies. In particular, to Thirty Acre Wood west of the A22, from the construction of the proposed new roundabout, and from the proposed attenuation basins. These works would involve both direct woodland loss, and disruptions to wet woodland hydrology.

284. 3) Ecology and nature conservation (see [Wr1 and Wr2]): The Downlands ES identifies a number of important on-site habitat types and species that would be affected by this large-scale development. In particular, ancient woodland, including gill woodland and wet woodland. Budletts Common also contains priority habitats, and the site is adjacent or close to designated nature conservation sites, including Lake Wood SNCI. [Wr1]

285. Some information in the ES is incomplete or inaccurate. In any event, the proposals would harm ancient woodland in Shermanreed Wood and elsewhere.

There would be unacceptable impacts on various ponds important for great crested newts, and upon the terrestrial habitats of this priority species. Dormice, which are present in Shermanreed Wood, Longwood Gill, Thirty Acre Wood and elsewhere, would also suffer from the loss and fragmentation of their habitat. In addition, there would be harmful impacts on nationally important invertebrates, reptiles, breeding birds, and bats. [Wr1]

286. In general, some of the ecological impacts of the Downlands scheme have not been properly assessed. Adequate mitigation has not been proposed. The impacts on ancient woodland, and on great crested newts, dormice, and other fauna would be contrary to national and local policies. Given the availability of alternative sites, Downlands should be ruled out of contention as a housing site on ecological grounds alone. [Wr1]

287. [Wr2, section 3] responds to matters raised by the Downlands appellants particularly in [Co1 and Co1A]. Despite that evidence, the information in the ES remains seriously flawed because of: i) under-reporting of the protected species present on the site (esp. bats, newts and dormice); ii) under-valuing what has been reported (esp. bats, amphibians and reptiles); iii) inadequate consideration of indirect impacts (including on adjacent designated sites); iv) inadequate assessment of significance of impacts (esp. on bats and amphibians); and v) inappropriate reliance upon mitigation (as opposed to impact avoidance).

288. In addition, there is no strong likelihood, much less guarantee, that the proposed country park would deliver beneficial effects for nature conservation (even if it could be delivered), and in any event they could not compensate for the significant adverse effects of the Downlands development. On a smaller scale, the same may be said of the much-vaunted (but unreliable) green bridge.

289. 4) Transport matters (see [Ru2]): Walking or cycling, the Downlands site is not currently accessible to a range of local facilities. It is further away from key town centre facilities than BIEN [Ru2, fig.1]. While new on-site facilities are proposed, their phasing and viability are at best uncertain. Moreover, because of land ownership constraints there is also considerable uncertainty over the deliverability of the proposed Snatts Road link into the town centre. By comparison, BIEN does not have any of these transport disadvantages.

290. The Downlands proposals also aim to re-route existing bus services 31 and 245 into the site [Ru2, figs. 2 and 3]. BIEN has examined the implications of this. The proposed service alterations will have detrimental effects elsewhere in terms of the areas currently served, and on passenger journeys. Also, they would be costly to introduce and may not be viable in the longer term.

291. Downlands would have a single point of vehicular access onto the A22 Uckfield bypass. Owing to the combination of this convenient access, a limited range of accessible local facilities, unattractive foot and cycle routes to the town centre, and unrealistic bus services, Downlands would have a high level of car dependency. Each car journey to the town centre would be almost twice as far as from BIEN. Compared with BIEN, it would not therefore be very sustainable in transport terms.

292. *The BIES appellants:* 1) Landscape considerations (see [D]): The Downlands site occupies the west-facing slopes of the sandstone ridge which forms the western edge of Uckfield. The important contribution of these slopes to the town's setting is apparent from vantage points to the north and west. Since the

town is not seen in these views, these western slopes provide it with a wholly rural setting. Resulting from this situation, and its intrinsic qualities, the appeal site has "substantial" landscape sensitivity, compared with the "slight" sensitivity of the BIES site. Its landscape value is "moderate", compared with "slight" for BIES. Its capacity to accommodate development (a factor which combines landscape sensitivity with landscape value) is "low", compared with "high" for BIES. The large scale development proposed at Downlands would have a significant and detrimental effect on the character of the landscape as a whole, and on the setting to Uckfield. Far from conserving the wholly rural setting that exists at present, the proposals would urbanise a wide tract of countryside previously unaffected by the urban influence of the town. Development of these western slopes would be visible from Maresfield and across the rural Weald, and adversely affect the relationship of Uckfield with its rural area. Of the 3 appeal proposals, Downlands would have the greatest, and the most harmful impact in landscape terms.

293. 2) Ecology and nature conservation (see [Me1, section 6]): Of the 3 appeal sites, Downlands enjoys by far the greatest abundance and diversity of wildlife habitats and species. Collectively, these are at least of county importance, and (as one independent expert has stated) some might warrant SSSI status. The proposals would result in a chain of adverse impacts, including: the loss of several areas of ancient woodland, ancient hedgerows, and other habitats of nature conservation importance; the fragmentation and isolation of habitats within the site and the wider countryside; impacts on off-site receptors, including designated areas; impacts on protected and notable species; conflicting mitigation requirements for the site's wide diversity of habitats and species; and damage to sensitive habitats including ancient woodland, gill woodland, heathland and sandrock exposures. These impacts are summarised in [Me1, app. Fig.9]

294. Indirect impacts would include the following: noise and light pollution; recreational pressure; cat predation; pollution from dust and runoff; fly tipping of garden and other waste; alterations to site hydrology; impacts on tree root protection; and introduction of invasive species. [Me1]

295. A number of protected and notable species would be harmed, including the great crested newt; dormouse; various bats and birds; and various amphibians and reptiles. [Me1]

296. Any potential benefits achieved by the proposed country park would be outweighed by all these adverse impacts. Current pressures from recreation are very low and a substantial increase in recreational damage is likely to occur from the increase of 750 dwellings in the immediate vicinity, despite the proposed access management measures. [Me1]

297. Unlike BIEN and BIES, the Downlands proposals therefore represent an unacceptable risk to the integrity of sensitive habitats of nature conservation importance, including UK BAP habitats and ancient woodland. They would be contrary to policies in PPS 9, the SP, the LP and the NSLP. [Me1]

298. In any event, development is not a necessary precondition for the maintenance and enhancement of natural habitats at Downlands. Parts of it are already managed under the Organic Higher Level Stewardship Scheme, and

numerous other grant schemes exist to fund management works of the kind proposed by the Downlands appellants. [Me1]

299. [Me2, section 2] responds in detail to matters raised by the Downlands appellants particularly in [Co1 and Co1A]. This confirms and indeed strengthens the ecological case against Downlands set out in [Me1]. In broad summary, the scale of the Downlands scheme and the ecologically sensitive nature of the site are inherently incompatible, and it is unavoidable that significant ecological impacts would also occur outside of the appeal site. The proposed country park would suffer from conflicting objectives and could not compensate for the ecological harm entailed. Downlands would conflict with national, regional, SP and LP policies, and on ecological grounds alone should not be permitted. That conclusion is supported by the expert opinions and evidence of various other organisations, including English Nature and The Woodland Trust, and by the Council.

300. The need for brevity precludes a detailed discussion of specific topics. To take just two, ancient woodland and the proposed green bridge: the Downlands appellants have underestimated the extent, and potential loss of ancient woodland on the site. This may be because of their misinterpretation of certain historic maps put in as inquiry documents. In fact, there are 5 areas which would be lost, not one. As for the green bridge, this would be most unlikely to maintain the connectivity of habitats for hazel dormice, or other species, and as a result would be largely ineffectual.

301. *The Woodland Trust:* (The Woodland Trust's evidence is in [WT]). The Woodland Trust owns Lake Wood, a 20 acre ancient woodland adjacent to the south of Downlands. It is a designated SNCI, a site of nature conservation importance. The Downlands proposals should be refused because of the harm they would do to ancient woodland both on the appeal site itself, and at Lake Wood.

302. Ancient woods are those where there is believed to have been continuous woodland cover since at least AD1600. Ancient semi-natural woodland is composed of native tree species that have not obviously been planted. Ancient woods over 2 ha. are recorded in ancient woodland inventories.

303. Ancient woodland is irreplaceable. Much has been lost, and the UK is now one of the least wooded parts of Europe (down to 12% cover, compared with 36% for Europe as a whole). Increasingly, the remaining ancient woods are small islands within a hostile landscape of intensive agriculture and urban sprawl. But they are now subject to protection. This is enshrined in the UK BAP targets, in which ancient woodland is a priority habitat.

304. Importantly, PPS 9 (para. 10) states that local planning authorities should not grant planning permission for any developments that would result in the loss or deterioration of ancient woodland, unless the need for, and the benefits of development in that location outweigh the loss of the woodland habitat. This is backed up by SP (EN17), LP and NSLP (NE12, NE16) policies.

305. The appeal proposals' impact on various areas of ancient woodland would be much greater than the appellants seem to recognise or acknowledge. This would not be mitigated or compensated for by the creation of the proposed country park. Apart from the direct loss of some ancient woodland, there would be numerous other specific impacts arising from the close proximity of such a large

development (other objectors' evidence on these is supported). All these would result in the inevitable degradation of the woodlands, including at Lake Wood, which would suffer from far greater disturbance than hitherto. Within the appeal site, the proposed buffering would be wholly inadequate. Even with consistent 30 m. buffers, much damage would be done. And the major loss of arable land which would also occur, would undermine the integrity of the Downlands network of habitats as a whole.

306. *The Downlands Action Group:* (DAG's evidence is mainly in [Wa, Wal, Re and S]). The proposals are not justified by housing need, as the Council has shown in its robust case on housing land requirements and supply. This is fully supported. [Wa]

307. In any event, "planning by appeal" is in principle unsatisfactory, and unacceptable within a supposedly plan-led system. [Wa]

308. The Downlands proposals are not in accordance with PPS 3 (see esp. para. 69), and, as the Council has also shown, they would be contrary to numerous development plan and other policies. In addition, from the application material it is uncertain whether the outline proposals are sufficiently detailed to be i) properly assessed by the decision-maker, and ii) deliverable. [Wa]

309. The appellants have also misjudged the landscape impact of their scheme. Their landscape impact assessment methodology [see RV1] is in part unconventional and highly questionable, and some of their detailed conclusions on the impact upon certain key viewpoints are far from convincing. Indeed, they almost defy common sense and observation. A proper assessment from these viewpoints shows that the landscape impacts would be significantly greater than they claim. In sum, given the very substantial scale of the proposals, they would amount to a wholly unacceptable intrusion upon an attractive and hitherto unspoilt piece of countryside. [Wa]

310. The clear-cut objections to the Downlands scheme far outweigh its alleged merits, and the Council was right to refuse it. [Wa]

311. Snatts Road retains its attractive character as a narrow country lane with a rural appearance, especially in its western section. This would be destroyed by the development and its associated traffic, and would become suburbanised. Sooner or later, there would be road widening, other highways works, street lighting and an influx of parked vehicles. Much to the town's detriment, a quiet but distinctive corner of Uckfield would be lost. [Wal]

312. The Downlands appellants claim that their proposals would encourage a modal shift away from car use, but to any resident already living in the area - particularly to a household with children - this is simply not credible. In fact, the site is too far away from the town, and would be ill-served by its circuitous, unattractive and sometimes dangerous cycle and pedestrian routes, especially alongside the fast and very heavily trafficked and polluted A22. Many residents would in practice choose schools away from the site, while other Uckfield residents would come to the proposed on-site primary school by car from outside. [Re]

313. The Snatts Road link would be particularly hazardous where it crosses Snatts Road, and again in Church Road, when approaching the town centre. Few people with young children would want to use it. Far from encouraging walking and

cycle use, the development would be emphatically car-dependent. This would be antithetical to sustainable development. [Re]

314. Contrary to the appellants' detailed but rather complacent ecological evidence, the proposals would do great harm both to many resident animal and plant species within the site, and also to the Lake Wood SNCI immediately adjacent. The site itself suffers very little human disturbance at present, which helps to account for its rich and diverse range of wildlife. Major development would change that radically for the worse. [S]

315. The appellants have greatly underestimated the potential range and scale of impacts and disturbance to habitats which would inevitably be caused by such a large human population in such close proximity. Their misplaced faith in narrow landscape buffers and country park management would be no panaceas for this, as is amply shown by long and sometimes painful experience at Lake Wood and elsewhere. Indeed, the many children, dogs and cats associated with the development could not in practice be readily managed, or their movements and activities controlled. In short, far from proving beneficial, the development would have seriously adverse consequences for local biodiversity. [S]

316. *Prof. TJC Beebee, Professor of Molecular Ecology, University of Sussex:* The proposed development would do profound and irreversible damage to the site's outstanding habitats for reptiles and amphibians. Although not yet designated as such, these alone would justify SSSI status for parts of the appeal site. There are no better sites for reptiles or amphibians in the Uckfield area. [Be]

317. Apart from the direct loss of habitat, the site's reptiles and amphibians in general would suffer from fires, human persecution and predation by cats, and its great crested newts in particular from the introduction of pet fish species into their breeding ponds. [Be]

318. So-called mitigation, as proposed by the appellants, would do little or nothing to protect the site's reptiles and amphibians. The green bridge, at best an unproven device, would be largely ineffectual. It would not prevent habitat fragmentation. [Be]

319. *Mr B. Kemp, Sussex Amphibian and Reptile Group:* Professor Beebee is one of the country's foremost herpetologists, his objections are fully supported, and should be taken very seriously. [K]

320. *Mr D. Godding:* The application seeks to bypass proper democratic consultation and the local plan process. Through them, local people have already rejected Downlands Farm as a candidate for development. The proposals would have a profoundly harmful impact upon Uckfield, traffic in the town centre, and on the character of the site and Snatts Road. They could not be successfully integrated with the town. The proposed Snatts Road link would not prove attractive to users. Indeed, none of the existing or proposed footpath and cycle links to the town centre are satisfactory, and therefore few Downlands residents would be encouraged to reduce their car use. Planning permission should be refused. [Go]

321. *Mrs J. Daly*: In its elevated position, the Snatts Road link would be extremely intrusive for the houses in Hunters Way adjacent. Apart from the destruction of trees to make way for it, there would be a new source of noise and disturbance, potential for anti-social behaviour, and a substantial loss of privacy.

322. *Mr E. Osborne:* Mrs Daly's objections are fully supported. In addition, through tree removal the link would exacerbate water penetration into back gardens, with a danger of minor flooding.

323. *Mrs J. Eastwood:* The proposed development would harm attractive countryside on the north side of the town, and would make Uckfield begin to coalesce with Maresfield. Only properly allocated sites should be considered for development, and public consultation on plans should not be ignored. The proposals would not be sustainable, as they would not encourage non-car travel modes. They would also seriously harm the site's varied and valuable flora and fauna. Planning permission should be refused. [E]

324. *Mr L.Ashby:* Although the proposals have their merits, there are various aspects which have not been properly considered. These include: the ownership of community facilities; the school's connection with other schools; the site's road access to the town centre; sewerage; and the routeing of new bus services. In general, more local consultation on all these is required. [A]

325. *Mr L.Keeley:* The Downlands proposals would not make adequate provision for affordable housing, or for housing the elderly. In general, they are not well-designed, and various improvements could be made. [Ke]

326. *Mr. M.Pope:* The Downlands proposals are incongruous, inappropriate, disjointed and unwanted. They seem to derive solely from the whims of a deceased developer. They would be contrary to a raft of planning policies, and are a blatant attempt to circumvent the democratic forward planning (LDF) process.

327. Moreover, they are superfluous to the needs of Uckfield, and disproportionate to its infrastructure capacity. In addition, they would seriously damage the site's very attractive rural landscape, as well as its ecology and biodiversity. There is no particular, established or known need for a country park, and the other alleged ecological benefits could all occur without such a massive housing development. The appellants are highly complacent, or perhaps naïve, about the inevitable human impacts upon fragile ecosystems - which are well documented from nearby nature reserves. Ancient woodlands would be damaged, particularly at Longwood Gill, and land contamination could damage the Shortbridge stream catchment.

328. Furthermore, the single road access would not work in highways terms, and development traffic would add to pollution, and congestion in the town centre. Neither the proposed cycleway along the A22, nor the Snatts Road link (which would also damage ancient woodland) would be safe, convenient or attractive for pedestrians or cyclists. In short, the Downlands scheme has no planning merits, only drawbacks, and it should be emphatically rejected. It should certainly not be accepted on narrow political grounds. [Po]

329. *Mr. N.Johnston:* The Snatts Road Link has not been properly planned or thought through. Local residents have not been consulted about it. Not only would it damage ancient woodland, it would also harm the residential amenities of the nearby houses in Hunters Way (20 photographs submitted). Its use would entail noise and disturbance, and other forms of nuisance, including a loss of privacy, and unwanted light at night. It would not be properly screened. There could be landslips, damage to property boundaries and localised flooding. Moreover, with sheer drops nearby, it might not even be safe for users. In any

event, owing to the various complications of land ownership revealed at this inquiry, it is probably not deliverable. At the very least, it is a major flaw in the proposals. [Jo]

**Written Representations**

330. Letters from interested persons received during the inquiry are included among the documents. They do not raise new matters.

**Conditions and Obligations**

331. [DOWN 31 and Appendix E] contains a list of 46 largely agreed suggested conditions in the event of a successful appeal. These are grouped into the following categories: reserved matters and time limits (conditions 1-5); phasing (6); operational (7-8); use of resources/sustainability/recycling (9-12); drainage/flood protection/contamination (13-17); highways/parking/garaging (18-21); open space and play areas (22-23); landscaping/fences/walls (24-26); the Snatts Road link (see also DOWN 32) (27-29); floodlighting and materials (30); the commercial area (31-32); ecology (33-42); tree protection (43-45); archaeology (46).

332. A details of materials condition is in fact absent from the list, but should also be included.

333. Some of these are standard conditions, and some arise from consultations with, e.g, The Environment Agency. Others derive from the SCGs.

334. I agree that these or similarly worded conditions would meet all the tests in the conditions Circular 11/95, and would otherwise be appropriate if the Secretary of State were minded to grant outline planning permission.

335. On the Snatts Road Link, Downlands suggests [DOWN 32] a Grampian-type addition (see (ii) below) to draft condition 27. The condition in full would read as follows: “Before preparation of any groundworks or foundations for the development, (i) detailed plans of the proposed cycle and footpath link from Snatts Road to Rocks Park Road (the Snatts Road link) for the area covered by plan 01-007-507 (inquiry document DOWN 8) including levels, sections, surface materials, ramps, steps and constructional details shall be submitted to and approved in writing by the local planning authority; and (ii) unless otherwise agreed in writing by the local planning authority no development shall occur unless/until the details of the necessary interests in the land required to carry out the Snatts Road link works have been secured by the developer, submitted to and confirmed in writing by the local planning authority”.

336. With a letter dated 31 July 2008 from Burges Salmon Solicitors, and before the inquiry formally closed, the appellants submitted 2 unilateral planning undertakings. There is a principal undertaking [DOWN 21] and a supplemental undertaking [DOWN 22], both dated 31 July. An explanatory note [DOWN 28] summarises the obligations in both.

337. [DOWN 28] covers the following matters, which are contained in the 2 obligations’ schedules: the principal undertaking [DOWN 21] - phasing; affordable housing; the primary school; early years provision; community facility; country park management; outdoor playing space, landscape areas and country park; commercial areas; contributions to ESCC services; travel plans; highways; community management company. The supplemental undertaking [DOWN 22] –

contributions to “retrofit” transport infrastructure and town-wide travel plan measures.

338. In [WDC29] the Council/ESCC commented on various details in these 2 unilateral undertakings, objecting to some provisions and suggesting changes to others. I note that this document states that most of the matters it raises could be overcome by re-drafting the relevant provisions. Should the Secretary of State be minded to grant planning permission for Downlands, these points may require further correspondence/resolution with the parties.

## 4 BIRD IN EYE NORTH (BIEN) (appeal B)

### Procedural Matters

339. There are no procedural matters relating exclusively to the BIEN appeal of which the Secretary of State should be aware.

340. Some of the following matters are covered in SCG3.

### The Site and its Surroundings

341. The appeal site, irregular in shape and about 15 ha. in size, is located about 1.4 kms. south east of Uckfield town centre, to the north of Bird In Eye hill on the B2102, Framfield Road [Wo1, plan WBP2]. Beyond flood plains (see below), the site is bounded by existing residential development to the west and north. There is also a substantial area of frontage development adjacent to the south, alongside the Framfield Road. This represents the existing, eastern limits of the town. Further east lies open countryside and the village of Framfield.

342. The railway line lies just beyond the site’s northern boundary, which follows the River Uck. Its tributary, the Framfield stream, forms the site’s western boundary, which is close to the New Town area of south Uckfield. There is ancient woodland adjacent to the east.

343. The smaller BIES appeal site is nearby, to the south of the Framfield Road, but is not contiguous with BIEN. Both sites lie on the eastern side of the Framfield stream.

344. There is a small (0.5 ha.), long established industrial area (The Yard) close to the northern site boundary of BIEN. This forms an exclave, being detached from the town, and at present surrounded by fields. Its uses include B1, B2 and B8, a taxi firm and a scaffolding storage yard. This area would be partially surrounded by the proposed development, which would include B1 uses as a buffer between it and the new housing (see also below, The Proposals).

345. Most of the BIEN site is poor-to-average quality farmland, with about two-thirds in permanent pasture. It forms part of a much larger, mixed agricultural/equestrian holding.

346. Like Downlands and BIES, the site is not subject to any landscape or nature conservation designations, nor affected by the proximity of any conservation area, or (unlike BIES) the setting of any listed building. A substantial part of it is within the River Uck floodplain, but no development is proposed in that area, and there is no objection on grounds of flood risk.

**The town of Uckfield**

347. This is as described above (see under appeal A). Further details are in [Wo1].

**Planning Policy: the Development Plan**

348. The development plan policy background is the same as for appeal A.

**Other Planning Policies**

349. Other planning policies are as described under appeal A. In addition, it should be noted that both BIEN and BIES were allocated for housing development in the First Deposit draft [PD5.3] of the Wealden Local Plan Review - the precursor of the NSLP – in January 2003. The allocation was subsequently deleted.

**Planning History**

350. Other than its allocation in the First Deposit draft of the Wealden Local Plan review, the application site has no significant prior planning history. Planning applications relating to The Yard (the isolated employment site adjacent to the north) are described in [W4]. They are not claimed by any party to be significant or particularly relevant to the present inquiry.

351. The appellants' description of the Council's consideration of the application is in [Wo1, p.16-21].

**The Proposals**

352. The proposals are in outline with all matters reserved except for access. Details are on the master plan L.11 (as revised) and provide for a mixed use development, comprising principally housing, but with some employment and community and complementary uses, and infrastructure.

353. The application is accompanied by a planning statement [BIEN1.5], an Environmental Statement [BIEN1.7, 1.8 ] and a Design and Access Statement (DAS) [BIEN5.3]. Together, these provide a detailed description of the proposals, with assessments of their impact, but they are partly illustrative.

354. Although the application refers to "at least 300 dwellings…", the appellants are content to accept a condition limiting development to a maximum of 300 [Wo1, para. 4.3]. The density would be about 33 dwe./ha (para. 3.6, SCG3).

355. The proposals include: 300 dwellings, including 30% affordable housing; 930 sq.m. B1 business uses; formal and informal open space for recreation and leisure, along with space for habitat protection; a surface water drainage strategy; access roads and highway improvements, with pedestrian and cycle facilities; and landscape proposals.

356. Access, in the form of a ghost island priority T-junction, would be from the existing access point off Bird In Eye hill, (B2102, Framfield Road). There would also be pedestrian and cycle routes to the town centre, adjoining the Framfield stream and connecting to the Framfield Road. There would be no such connection to the north eastern part of Uckfield via a (previously suggested) crossing over the River Uck and the railway line.

357. A central access road would follow the alignment of the existing road to the industrial area, outside the appeal site, which would remain as it is, with its own

reserved right of way. Development would be served to the west and east, with some residential parcels backing onto properties fronting Framfield Road. This land slopes northwards towards the River Uck, but there would be no development in the floodplain, which would be reserved for public open space.

358. Abutting the existing industrial area would be some 930 sq.m. of new B1 uses, between the former and the new housing. Ancient woodland to the east of the site would be retained.

359. The appellants control farmed land south of Victoria Pleasure Ground, located in south Uckfield about 1 km. from the appeal site. They have offered a S106 obligation which would transfer this land to the Council for use as public open space. [Wo1, p.13 and plan WBP3]

360. The scheme would comprise a mix of house types (1 to 5 bed dwellings), with higher densities located along the access road, and lower densities around the periphery. Buildings would be of 2-4 storeys, with the lower ones on higher land. Further details are in the DAS.

**Reasons for Refusal**

361. The stated reasons for refusal are as follows:

362. " (1) The proposed development represents an unacceptable and unjustified form of development of a site which lies outside the limits of the defined development boundary for Uckfield and Framfield, contrary to the provisions of planning policy statements 1 and 7, (SP) policies S1, S4, S10 and EN1, (LP) policies GD2, EN1 and DC17, and (NSLP) policies GD2 and DC15."

363. " (2) The development proposal would lead to an unacceptable increase in existing safety hazards and unacceptable traffic conditions in the immediate area, specifically rural lanes around the village of Framfield and Uckfield town centre, an area that is already heavily congested at peak times, and the proposal is therefore contrary to (SP) policies TR3 and S1, (LP) policy TR3, and (NSLP) policy TR2."

364. " (3) The proposal does not satisfactorily demonstrate that adequate provision will be made to encourage sustainable modes of transport, and therefore the proposal is contrary to (SP) policies S1 (c) and TR3, and (NSLP) policies TR1 and TR2."

365. " (4) Notwithstanding the provision of an Environmental Statement, insufficient information has been submitted to address the impact of the development proposals on landscape management, habitat enhancements, space allocation for buffer zones between the built form and retained natural features (including adjacent ancient woodland – Wealden Ancient Woodland Survey 2005) and impact on connectivity with other sites for protected species. Based on the submitted information, therefore, the proposed development package is contrary to the provisions of PPS 9, (SP) policies S1, EN17, EN18 and EN20, (LP) policies EN1, EN5, EN12, and EN16, and (NSLP) policies NE1, NE14 and NE15."

366. " (5) No mechanism exists to secure affordable housing on site and as a result the proposed development is contrary to (SP) policies H4 and S7(d), (LP) policy HG3 and (NSLP) policy HG4."

367. " (6) Significant areas of the site are noise sensitive. Despite the provision of an Environmental Statement, it has not been adequately demonstrated to the satisfaction of the district planning authority that the site could be redeveloped to secure the description of development set out in the application and take into account the noise constraints on site. Accordingly, the proposed development is contrary to (PPS1 and PPG24), (SP) policies S1(b), E5 and EN1, (LP) policies EN27 and BS5, and (NSLP) policies BE1, HG8 and BS5, coupled with the advice contained within adopted SPG "Housing Estate Design" 2004."

**The Case for Taylor Wimpey UK Ltd. (the BIEN appellants)**

368. The material points are:

**Planning policy**

369. (The appellants' case is mainly in [Wo1]). The development plan currently comprises RPG 9, 2001 [PD2.1]; the saved policies of the SP, 1999 [PD3.1 and 2]; and the saved policies of the LP, 1998 [PD5.1 and 15].

370. RPG 9 will eventually be replaced by the South East Plan [draft PD2.2], for which the Secretary of State's Proposed Changes have now been published. The emerging RSS is a material consideration in this appeal. The Panel Report sets out a higher annualised housing requirement (480 p.a.) to be met within Wealden district than the draft South East Plan (see also below, housing land requirements and supply). The Proposed Changes raised that again (550 p.a.).

371. Although its saved policies remain a part of the development plan, the 1998 LP is substantially out of date. The Council began a statutory review, and published a first deposit draft in 2003 [PD5.3]. In that, BIEN was allocated for housing. In 2004 however, the Council resolved not to progress the emerging plan through statutory procedures to a public local inquiry. A revised draft was published in 2004 [PD5.14], in which BIEN was no longer an allocated housing site. In 2005, the Council approved the NSLP for development control purposes [PD5.2]. Like Downlands and BIES, BIEN is not allocated in that non-statutory plan.

372. Notwithstanding this, the case for BIEN is tacitly supported by (and is certainly not contrary to) the housing requirements and policies in RPG 9, the South East Plan, and - in particular - the SP.

373. [Wo1, paras. 6.12-22] briefly describes key RPG 9 policies. It should be noted that its policy H2, which set the housing requirement for East Sussex, is not disaggregated to a district level.

374. [Wo1, paras. 6.23-33] describes key SP provisions. The SP sets out policies for development in East Sussex to 2011, and merits considerable weight in this appeal. Policy H1 sets out the phased requirement for housing completions. In Wealden, this is to be met at a rate of 550 per annum over the whole plan period (1991-2011), split between 440 p.a. (1991-2006) and 880 p.a. (2006-2011). Thus there is a doubling of annualised completion rates in Wealden in the last 5 years of the SP.

375. The policy (in para. 6.12) goes on to identify Uckfield, along with Hailsham and Polegate as the 3 most sustainable locations for housing growth in the district. Saved Policy S22 refers to the need for "major peripheral expansion" at Uckfield between 2006 and 2011. BIEN relies upon this SP policy in particular. Policy H3

requires the maintenance of a 5 year supply of housing land. Policy H4 refers to affordable housing, at levels to be decided in local plans.

376. [Wo1, paras. 6.34-45] describes key LP provisions. It covered the period 1994-2004, and therefore, unlike the SP, its housing policies are out of date. It should be noted however that one policy, UC7(i), confirms the allocation of land south of Victoria Pleasure Ground for public open space (as proposed by BIEN).

377. [Wo1, paras. 6.46-94] describes the evolution of the LP review, through the first and revised deposit drafts, through to the adoption of the NSLP in December 2005. In the first deposit draft, BIEN (with BIES) was included under policy UC1 in an allocation of 500 dwellings at Bird In Eye hill. Its advantages for development, compared with competing sites, are described in the reasoned justification, and remain entirely relevant today.

378. Nevertheless, and ill-advisedly, the site was subsequently deleted by Members apparently on highways grounds. Other sites, at Cysleys Farm and Sandpits, were allocated instead. These are both in more peripheral, less sustainable locations than BIEN, and (especially in the case of Cysleys Farm) would have far more harmful landscape impacts.

379. Owing to the Council's unfortunate decision not to proceed with statutory local plan procedures, there was never an opportunity for BIEN to put its case for allocation before an independent Inspector at a local plan inquiry. This fact cannot be over emphasised. Had there been, its planning merits over the subsequently allocated sites in the NSLP would, no doubt, have been vindicated. BIEN were, and remain aggrieved by the Council's failure to proceed via the normal, statutory route. The emerging LP could and should have been progressed through the statutory stages, and this would have provided a sound and robust policy base, at least to 2011. The inevitable alternative - and, of course, the position at this inquiry - is so-called "planning by appeal".

380. Judicial Review occurred in the High Court and then in the Appeal Court. While the Court of Appeal's judgment is accepted by BIEN - by which, in effect, it was deemed lawful for the Council to proceed with a non-statutory plan - the planning consequences are unfortunate. Owing to the slippage in LDF preparation, there is and will be no statutory local plan containing Wealden housing allocations until 2012 at the earliest. The Council does not dispute that.

381. As for the NSLP, it cannot merit more than very limited weight. The Council is therefore quite wrong to treat it, at this inquiry, as if it had almost the same weight as a statutory local plan. That said, the BIEN proposals would in fact comply with many NSLP policies and development control criteria. For example, those relating to affordable housing (the 30% requirement etc.), transport, density and design. Indeed, BIEN's only instance of non-compliance with the plan is that it is not an allocated housing site.

382. In fact, the 3 allocated housing sites at Uckfield in the NSLP are all inferior, both as locations, and for environmental reasons, to BIEN. Moreover, they do not amount to the "major peripheral expansion" at Uckfield required by the SP's Policy S22, and they would not meet housing land requirements to 2011.

383. A further material consideration is the Council's quite recent (August 2007) Cabinet report on Improving the Delivery of Housing [PD5.13]. This acknowledges the Council's past and continuing failure to provide enough housing

land to meet requirements, and concludes by recognising the general lack of a delivery culture within the Council. Without referring to individual sites, it makes several suggestions as to how more housing could be delivered in Wealden. Emanating as it does from within the Council, it is a very significant document, and many of its arguments tacitly support the allocation/approval of BIEN.

384. BIEN's case on the housing land requirement and supply is summarised under Appeal A (case for the joint appellants), and is not therefore repeated here. The various requirement and supply figures are contained in the BIEN documents listed in Appendix A. The most recent, updated to take account of the Secretary of State's Proposed Changes to the South East Plan, are in SCG10 (a document agreed between the 3 appellants and the Council) and SCG11 (joint appellants statement). SCG10 shows (in its Table 3) a large shortfall, even against the 5-year (2007-2012) land requirement in the Proposed Changes, in the range 1259-1716. SCG11 however reiterates that the SP should be the basis for calculating housing land supply for the purposes of this inquiry. This shows an even more serious shortfall.

385. BIEN would draw particular attention to a recent appeal decision at Dittons Road, Polegate [NORTH.14]. In it, the Inspector found that the Council could not demonstrate a 5-year land supply. There is no reason why the Secretary of State should not draw a similar conclusion in this inquiry.

386. A discussion of policy would not be complete without reference to PPS 1 and PPS 3. Both are very strongly supportive of increased housing delivery, and PPS 3 puts the onus on local planning authorities to ensure at least a rolling 5-year land supply, which in this case the Council has failed to do. BIEN would fully comply with all PPS 3 guidance, including para. 71, which states that where there is not a demonstrable 5-year supply, LPAs should consider favourably planning applications for housing.

387. Indeed, given this national policy context, together with a lack of demonstrable planning or environmental objections to BIEN, and its superiority in planning terms to all the alternative sites - whether allocated in the NSLP, or under consideration in this inquiry - BIEN should now be given outline planning permission, subject to the agreed planning conditions and the submitted unilateral planning obligations.

**Housing land requirements and supply**

388. (The case is substantially the same as for appellants in appeals A and C. See under appeal A).

**Landscape matters**

389. (The appellants' case is mainly in [Coo1] and the accompanying appendices/plans/photographs). Simply in landscape terms, the BIEN site is preferable to all the alternatives. Historically, Uckfield has grown organically on either side of the River Uck valley, which forms a readily perceptible, bowl-like landform. However, some recent development has extended beyond this natural constraining boundary. Nevertheless, future development should as far as possible be contained within "the bowl", as it would be at BIEN.

390. Owing to its location and topographical orientation within the bowl, BIEN is the most closely associated of the 3 appeal sites with Uckfield, both physically and

visually. It faces the urban area, rather than the open countryside. By contrast, Downlands lies beyond the strong visual enclosure of the northern ridge, and faces away from the town; BIES lies beyond and to the south of BIEN, and outside the strong visual enclosure of Bird In Eye hill.

391. As can be seen from the ES: there are no landscape or visual reasons why BIEN should not be developed for housing; new development would be seen as further, natural organic growth of the town, contained within strong landscape boundaries; the site is bounded by development on 2 sides, with landform and woodland on the other sides; the landscape impacts of development are not significant; the "zvis" - zones of visual influence - of all phases of development are very small, and the extent of the impacts limited; they would be restricted to views from existing housing areas on the opposite valley side; there would be no landscape impact on conservation areas, listed buildings, or historic parks or gardens; public access to the site would be improved, existing hedgerows reinforced, and new woodland created; existing woodland and hedgerows within the site would be retained and protected; any local visual impact will reduce with the growth of new planting, which will also enclose the existing employment area and create a strong green skyline along Bird In Eye hill. The latter points would be implemented by way of a landscape management plan, forming part of the reserved matters.

392. With these obvious merits, the site compares very favourably in landscape terms with the alternatives, including both the other appeal sites and the sites allocated in the NSLP. Each site/proposal may be assessed in terms of landscape character, visual impact, and mitigation, and an overall conclusion reached on the sites' suitability for development. As the table [in Coo1, p12-13] shows, BIEN is the best of the competing sites. Of the others, Downlands would be particularly harmful, while Cysleys Farm (allocated in the NSLP) would also have a significantly harmful landscape impact.

**Ecology and nature conservation**

393. (The appellants' case is mainly in [Wr1, WR2 and SCG5, also numbered NORTH12]).

394. The BIEN scheme is informed by a thorough ecological appraisal, which included a desk study and field surveys. This was an important input into the master-planning exercise, and provided the ecological baseline for the assessment of ecological impact, as set out in the ES [BIEN 1.7]. The desk study and field survey methods are fully described in appendix E1 of the ES ecology report. [Wr1]

395. There are no statutory or non-statutory designated nature conservation sites within or adjacent to the site boundaries. The scheme would have no direct or indirect impacts on designated sites further afield. [Wr1]

396. There are 2 areas of ancient woodland within the site boundaries [fig. 2 in app. 1]. Both will be retained, and will have adjoining buffer zones, with their widths and general characteristics agreed with the Council. Public access would be controlled through the use of fencing and footpaths. A nature conservation management plan would ensure appropriate management in the long term. [Wr1]

397. There are 13 hedgerows within the site, of which 9 are species-rich, and 5 are defined as "important" under the hedgerows regulations [PD1.25]. Together they comprise a network of habitat corridors across the site. The scheme would retain the major part of this hedgerow network, with appropriate buffer zones (also agreed with the Council) to protect it from indirect effects. Scheme planting would create an additional 400 m. of new hedgerow, and also repair and strengthen the existing network. [Wr1]

398. The River Uck and Framfield stream form the northern and western boundaries of the site, and are of particular nature conservation value for their fish species and aquatic invertebrates. They are also habitat corridors. They would have wide buffer zones from the built development, provided by the retention of adjacent flood-plain grassland, and their waters would be carefully protected during and after construction. [Wr1]

399. None of the habitat types to be lost to development are of any particular ecological value. They include improved grassland, species-poor semi-improved grassland, and amenity grassland, with some scrub and young planted trees. [Wr1]

400. Although the site may support small numbers of dormice, the ecological surveys have not confirmed their presence. In any event, the proposals would not result in a significant loss of habitat for them. There are no known bat roosts. Nor is the site significant for amphibians or reptiles. Outlying badger setts occur in the ancient woodland margins, and would not be affected by the scheme. [Wr1]

401. The site supports various common and widespread invertebrates, but the proposals would not on balance affect them. There are also several species of breeding birds. These are active mainly in the woodlands and trees alongside the streams, which would be retained. The partial loss of grassland would be compensated for by new gardens and areas of open space, as well as by the new hedgerows. [Wr1]

402. As the Council now accepts (see SCG5, also numbered NORTH.12), the BIEN proposals would not have any significantly harmful ecological impacts which would not be adequately mitigated. Therefore, they would not be contrary to any policies in PPS 9, the SP, the LP or the NSLP. [Wr1]

403. There is no objection to the scheme by Natural England, and any ecological objections or reservations expressed in other consultation responses have been adequately addressed in the ES, and in the revised scheme masterplan (Drg. L11B). The latter, with its retention and protection of all important existing wildlife habitats, its provision of ample buffer zones around ancient woodlands, streams and hedgerows, and its creation of new hedgerows and other planting, will ensure that any ecological effects are minimised, while providing new habitats and opportunities for wildlife. [Wr1]

404. The Secretary of State should note that [Wr1] remains a robust statement of the appellants' evidence on ecology, and is endorsed by SCG5 (NORTH.12) agreed with the Council. Section 5 of SCG5 deals with appropriate planning conditions related to ecology.

405. [Wr2], which supplements [Wr1], is a response to various specialised and detailed ecological matters, including survey methods, raised by the Downlands appellants, particularly in [Co1A, Co2 and Co2A].

406. [Wr2, sections 4 and 5] deal with the BIEN site and proposals. [Wr2, app.1] is a cumulative effects table, showing the combined ecological impacts of BIEN and BIES. These, in all cases, would not be significant. [Wr2] shows that the methodological criticisms made by the Downlands appellants of the BIEN ecological surveys and evidence are misconceived and have little or no validity, and that BIEN would have no significant ecological effects, given the mitigation strategies agreed with the Council.

407. By contrast, the Downlands proposals would have a far greater and more harmful impact on nature conservation and ecology.

**Highways and transport matters**

408. (The appellants' case is mainly in [Ru1] with separately bound figures, appendices and drawings).

409. There are 2 highways and transport related reasons for refusal (see above). Reason 2 refers to alleged safety hazards and unacceptable traffic conditions. Reason 4 suggests that the proposals fail to provide for sustainable modes of transport.

410. It is significant that neither matter was thought problematical when the site was allocated in the first deposit draft of the local plan review in 2003.

411. One of the salient characteristics of the BIEN site is its relatively close proximity to Uckfield town centre, with its many shops and other facilities and public transport (rail and bus) termini. This would facilitate sustainable transport choices by prospective residents and reduce potential dependence on the private car.

412. Thus the site compares favourably with Downlands, in particular, which is more peripheral and less accessible to/from the town. With regard to traffic impact, the BIEN proposals for 300 houses (compared with 750) are also much smaller in scale than Downlands.

413. The relevant SP, LP and NSLP transport policy context is set out in [Ru1, section 2]. The appeal proposals meet the relevant policy criteria and requirements.

414. The ESCC Local Transport Plan [PD4.2] is also a material consideration, as is the ESCC Local Area Transport Strategy [PD4.1]. The BIEN proposals are consistent with the aims of these documents.

415. As part of the planning application an Environmental Statement was submitted [BIEN1.7 and 1.8], including a Transport Assessment (TA) by PBA [BIEN1.11]. Key TA findings are summarised in [Ru1, section 4]. These show that the appeal site is highly accessible to a range a facilities (jobs, leisure, retail) by foot, cycle and public transport. Thus the site's convenient location would promote sustainable travel choices.

416. For illustration, fig.T1.1 in [Ru1, app. APR1] shows the site's position in relation to Uckfield. It lies only about 1.2 kms. from the town centre. Fig. 2

shows the site in relation to a range of local facilities along Framfield Road, and in the High Street, both north and south of the railway line. It is located within an easy 10 mins. (800m.) walk of most of the local facilities on Framfield Road, and is only a little further removed (20 mins. walk) from the High Street.

417. The site is passed by the 318 bus route between Uckfield and Heathfield (fig.T1.3). Through a planning obligation, the BIEN scheme would contribute to improvements in the frequency of this service. In addition, bus route 245 provides a shuttle service between the community hospital, close to the BIEN site, and the town centre.

418. ESCC is in general agreement with the scheme's TA in terms of the baseline conditions and transport impact, and this provides a robust basis for a package of suitable transport measures to accompany the proposals.

419. In terms of traffic generation and congestion, the BIEN scheme has been robustly tested by the TA. It uses a trip rate of 0.87 vehicles 2-way in the morning peak hour, generating 261, 2-way vehicle trips from the residential part of the scheme.

420. The trip rate was used in the assessment of key road junctions: the site access (PICADY model); Framfield Road/High Street, and High Street/Bell Lane (TRANSYT signal model). These junctions were assessed at base years and in 2011 with and without the development.

421. The site access junction was shown to work within capacity in 2011. Framfield Road/High Street will operate near to capacity with and without development in 2011; however, BIEN will only contribute 2 to 3 additional vehicles per minute. The High Street/Bell Lane junction would be over capacity both in the base year and 2011. However, with an appropriate package of supporting measures, this can be mitigated.

422. Following the submission of the application, further discussions between PBA and ESCC's consultants Owen Williams have resulted in a revised and partially agreed package of transport measures to accompany the scheme [see Ru1, section 4]. The 7 measures comprise: i) Framfield Road footway and cycleway scheme; ii) site access junction; iii) Framfield Road parking scheme; iv) Framfield Road pedestrian scheme; v) public transport; vi) town centre scheme; and vii) travel plan. The following 7 paragraphs describe these in more detail.

423. i) Framfield Road footway and cycleway: Drwg. 09630/103/030D2 shows a proposed foot/cyclepath linking the site on its western boundary with the Framfield Road, including a new pelican crossing, relocated bus stops etc. This path would connect with the footway on the north side of Framfield Road, connecting through to the town centre. It would also connect with the network of foot and cycle routes within the site itself, and would entail minimal harm to woodland (see [Ru1, app. APR9]).

424. ii) Site access junction: Drwg. 09630/103/001B (as agreed with ESCC's consultants) in [Ru1, app. APR2] shows the latest proposed layout for the site access from Bird In Eye hill. The existing T-junction access would be upgraded to provide a right turn ghost island arrangement with improved visibility. There would also be a separate emergency and pedestrian/cycle access to the west. A new 30 mph speed limit is proposed, with traffic calming features. There would

also be new footways, a pedestrian crossing refuge, new bus stops and street lighting.

425. iii) Framfield Road parking scheme: Drwgs. 09630/001/008/01E,02E,03E and 04E show a proposed parking and traffic management scheme for the section of Framfield Road between the High Street and the Framfield stream. This provides for 51 on-street marked parking bays; revised waiting and loading restrictions; a marked 2-way traffic route; 2 pelican crossings and improved footways and crossing points at side roads. Their overall effect would be to revise the existing on-street parking layout while retaining enough spaces to meet demand, and provide a corridor through these parking areas so as not to compromise the free flow of traffic along Framfield Road. The scheme incorporates amendments suggested by ESCC's consultants.

426. iv) Framfield Road pedestrian scheme: ESCC and their consultants Owen Williams have undertaken an audit of pedestrian facilities along Framfield Road, and have identified and costed improvements. Most of these can be readily agreed by the appellants, who are entirely willing to make a financial contribution towards them (see [Ru1, app. APR6]).

427. v) Public transport: the appellants have discussed possible improvements to the frequency of the 318 bus service with ESCC (see [Ru1, app. APR8]). This matter is still under discussion.

428. vi) Town centre scheme: ESCC have appointed JMP consultants to operate a traffic model for Uckfield town centre, which currently suffers from morning and evening peak hour congestion. JMP have tested various options (1, 2, 3) for highways and signals works etc. aimed at ensuring acceptable traffic flows and highways safety. BIEN and BIES have funded additional traffic modelling to assess their respective traffic impact, individually and together. This has shown that under options 1, 2 and 3c the town centre road network would operate within acceptable levels of capacity. Any preferred option (which might cost up to £10m.) would be funded by developer contributions, including from BIEN. As yet, no scheme has been agreed, and the matter remains under discussion. Should it remain undecided, BIEN are prepared to contribute to alternative (as yet unspecified) transport measures.

429. vii) Travel plan: As suggested in the TA, residential and employment travel plans could be developed, possibly in response to a planning condition. The purpose would be to achieve a meaningful and lasting level of reduction in car trips.

430. Collectively, this package of 7 measures would do much to encourage the use of sustainable transport modes to and from the BIEN site. They would also support BIES, if the Secretary of State is minded to approve both schemes [Ru1, table 2]. They would respond to SP and LP policy requirements. With them in place, the site can be safely accessed, and the increase in travel demand generated by the development can be accommodated on the local highway network - notably on the Framfield Road, and in Uckfield town centre - without adding unduly to traffic congestion.

431. [Ru1, table 1] cross-references the measures against the 2 reasons for refusal for BIEN, and shows how they have both been fully addressed.

432. In sum, the BIEN proposals are satisfactory in highways and transport terms, and they comply with development plan and other policies.

433. The foregoing case has to some extent been updated by SCG2, the joint statement on highways and transport issues produced during the inquiry by ESCC/WDC, BIEN and BIES (but not Downlands). This is introduced and summarised in Mr. Harris's evidence for WDC and ESCC (the local highways authority). It represents an attempt to accommodate some development from the appeal sites before 2011, in addition to that in the NSLP's 3 committed sites, but only in the event that the Secretary of State agrees with the appellants that there is an overriding housing need in Uckfield which must be met. In short, BIEN is prepared to sign up to, and make financial contributions towards, the various transport infrastructure measures proposed by ESCC in SCG2, including the "headroom" package which aims to remove existing car trips from the local road network. The BIEN measures are included in a planning obligation.

**Noise**

434. (The appellants' case is in [Cog and SCG6]). The BIEN proposals would neither cause, nor suffer from any significant levels of, or nuisance from, noise. That applies to noise from any source, be it road or rail traffic, industrial, or other. This is amply demonstrated by the appellants' 2 thorough noise assessments: that by Peter Brett Associates for the ES in 2006, and that by Mr. Cogger in late 2007 for the purposes of the inquiry. (The Council's evidence does not take the latter into account). The data have been assessed in the context of both national policies and standards, and local (SP and LP) policies [Cog].

435. Measured noise levels at the site are generally within those criteria considered suitable for residential development. Both day and night, they fall within NEC "A". This means that noise is not a determining factor in granting planning permission. Whilst slight excesses are evident at locations close to the B2102 (Framfield Road) at the southern site boundary, these are minor and localised and could be dealt with by standard and commonly used mitigation techniques (including fencing and the use of appropriate room layouts) [Cog].

436. Contrary to the Council's suggestion, there is no significant or consistent source of noise from the existing employment site that would compromise the proposed residential development. The Council is therefore being unduly alarmist about this. In fact, the assessments demonstrate no significant continuous noise arising from that site, while short term impacts from the handling of scaffolding are insufficient to constitute a noise nuisance. Other noise associated with the employment site is restricted to occasional vehicle movements along the access road [Cog].

437. Nor would the development compromise the continuation of these existing employment uses. In addition, the increase in traffic generated by the development would not give rise to a perceptible change in traffic noise levels at properties adjacent to the B2102 or other nearby roads [Cog].

438. It is clear even from the scheme masterplan that the rear gardens of properties adjacent to the access road and properties to the west of the employment site will benefit from screening by the massing of the residential buildings. Properties to the east of the employment site will benefit both from screening and distance attenuation by the proposed commercial development [Cog].

439. There are therefore no grounds for refusing planning permission on the basis of any noise considerations. Indeed, the policies cited by the Council are all very general in nature, and do not establish specific noise criteria. In any event, they would not be contravened by the development [Cog].

440. During the inquiry, BIEN and WDC produced SCG6, on noise. This is very important. It confirms that the Council no longer has any objections in principle to the proposals on noise grounds, as it is satisfied with the mitigation strategy proposed by the appellants. Suggested agreed condition 43 (BIEN18) refers.

## The Case for Wealden District Council

441. The material points are:

### Planning policy

442. The Council's case is substantially the same as in appeals A and C. The proposals would be contrary to the policies cited in reasons for refusal 1-3. (The other reasons for refusal, 4-6, have now been substantially overcome).

### Housing land requirements and supply

443. The Council's case is substantially the same as in appeals A and C. In the light of this, there is no need or requirement for BIEN to contribute to housing land supply.

### Landscape matters

444. (WDC evidence is mainly in W4, paras. 7.1 – 12 and in SCG4, also numbered NORTH9).

445. The appeal site is reasonably well contained by the woodlands at its eastern/north eastern extremities, but is quite prominent in the landscape when viewed from the north, beyond the River Uck, in the vicinity of Hempstead Lane. The development would contain 3 and 4 storey buildings, which would be seen in views from this part of Uckfield. [W4]

446. The town's landscape character would be affected if development at this peripheral location is allowed on this scale, and at this height. To place a number of relatively tall buildings here would be out of keeping with the character of Uckfield, where most tall buildings are in the centre. There is also the question of cumulative impact to consider, when the site is assessed alongside the nearby BIES; clearly, both sites combined would have a greater landscape impact than either one of them on its own. [W4]

447. That said, BIEN is smaller and much better related, physically and visually, to the rest of Uckfield than is Downlands, and development here would be far less damaging in landscape terms. [W4]

448. On the basis of the amended plans L11B (master plan), L13B (development density), and L14B (building heights), which would reduce the maximum building heights to 2.5 - 3 storeys, and would retain adequate landscape buffers alongside the woodland areas, there are no outstanding landscape objections to the proposals. It is now accepted that a high quality urban design and layout within the site can be achieved. If outline planning permission were granted, the detailed design scheme could be addressed in the reserved matters. [SCG4]

449. Nevertheless, in the absence of an overriding housing need, there remains an objection in principle to development beyond the defined development boundary. In addition, the site's relationship with the existing employment uses at The Yard is inherently unsatisfactory, and an example of poor design [SCG4]

**Ecology and nature conservation**

450. (WDC evidence is mainly in [R2 and SCG5, also numbered NORTH12]).

451. As a result of the appellants' further information and evidence at the appeal stage, the Council no longer objects to the proposals on grounds of ecology and nature conservation. Therefore reason for refusal No (4) may in effect be withdrawn, and the ecological issues addressed through planning conditions [see SCG5, section 5]. Provided a sound ecological plan is implemented with adequate funding, an acceptably high level of valued biodiversity can be developed and maintained at the site.

452. The proximity of existing development increases the importance of retaining landscape scale ecological features on site and in the vicinity, including managed hedgerows with buffer strips. This will allow their biodiversity to be protected and enhanced, and provide corridors for species movement.

453. Many of the site's hedges, especially in the eastern part, are species-rich and important both as landscape features and for wildlife. These should be maintained, according to a formal management plan, with a 5m.-10m. buffer strip on either side. There should be no application of fertilisers, herbicides or pesticides within 10m.-20m. of the hedge where it is adjacent to farmland or other open spaces.

454. In order to protect the biodiversity of ancient woodland at the eastern and western site fringes, development, including private gardens, should be at least 20m. distant from it. While a width of 30 m. might be thought appropriate elsewhere, in this case the wood is narrow and will remain open on its western side, with a good buffer zone.

455. There is scope for a path through the western woodland area having less impact than that shown on the illustrative masterplan. The use of the floodplain as a managed public asset for quiet recreation is commended.

**Highways and transport matters**

456. (WDC's/ESCC's case re BIEN is mainly in H1, H2, H2A, H5 and SCG2).

457. [H1, H5 and SCG2] contain evidence which is relevant to all 3 inquiry schemes. This is summarised above, under appeal A, and therefore is not repeated here.

458. [H2] refers in places specifically to BIEN. [H2 annexes B1-B11] contain background and survey information.

459. [H2 section 4] gives modelled traffic queue lengths at critical town centre junctions under a range of assumptions on trip rates etc.

460. BIEN's relative sustainability in transport terms depends in part on its distance from town centre facilities, and also on the nature, variety and quality of existing and proposed pedestrian and cycling routes. On balance, BIEN is closer to most (but not all) town centre facilities than Downlands, and about the same distance

as BIES, which lies nearby on the south side of Bird In Eye hill. There is little to choose between BIEN and BIES in this regard.

461. Like Downlands, BIEN lacks a high degree of route choice, which is reflected in the proposals' reliance upon the Framfield Road to take cars, buses, cycles and pedestrians into the town centre.

462. There would not be any link over the River Uck and the railway line to the north eastern part of the town. In terms of connectivity, this would be a significant drawback of the current scheme.

463. [H2A] addresses some minor inaccuracies and inconsistencies in the BIEN traffic/transport case.

464. The BIEN transport proposals would be delivered through a S106 obligation.

**Noise**

465. (WDC evidence is mainly in [L and SCG6]). A longstanding employment area (The Yard), containing industrial and other employment uses, abuts the northern part of the appeal site. It includes a scaffolding operation. It is at present isolated, and surrounded by fields. Well removed from the nearest residential areas (on Bird In Eye hill and north of the river and railway), it is not regarded as a significant source of noise nuisance to any property [L].

466. However, with the proposed development - from which it would be wholly independent - it would be in close proximity to new housing to the east and south west. Even a casual site inspection, not employing acoustic experts or noise measuring devices, confirms the potential for noise nuisance (especially from the scaffolding operation) to harm the residential amenity of nearby parts of the proposed development [L].

467. The Council has not undertaken its own technical noise assessment. But an assessment was duly submitted with the application in 2006 and addressed in the ES. This makes appropriate reference to the legal and policy framework for considering matters of noise impact and sensitivity to noise nuisance (esp. in PPG 24; BS8233:1999; and BS4142:1997). And the noise monitoring points used are appropriate for determining which NECs – noise exposure categories, see PPG 24 – would apply to different parts of the appeal site [L].

468. However, in some respects the appellants' 2006 assessment is limited and therefore flawed. Noise measurements have not been taken over a long enough period to determine these NECs accurately. Nor is there sufficient data on the full range of noise sources, including the heavy plant, within the employment area, or on their occurrence throughout the day. The difference between the noise rating level and the noise background level may have been underestimated [L].

469. In addition, while there is potential for noise mitigation through design, there remains some uncertainty as to how far the detailed housing layout would achieve this [L].

470. During the inquiry, WDC and BIEN produced SCG6, on noise. This takes the appellants' further noise assessments into account. It confirms that the Council no longer has any objections to the proposed development on noise grounds, as

it is satisfied with the mitigation strategy proposed by the appellants. Draft agreed condition 43 (BIEN18) refers.

**The Case for Other Parties**

471. The material points are:

472. *The Downlands appellants:* 1) Landscape matters (see [RV2]): The Council's original objections to BIEN on landscape grounds are sound, and are generally supported. The site includes the western part of a north facing ridge and slope that forms an important rural backdrop to Uckfield. Development would be particularly conspicuous in views from a main residential area (Manor Park estate and the Hempstead Lane area), causing a range of adverse visual impacts. Like BIES, it would also cross the natural development boundary of the Framfield stream. The new access proposals would require new footways, illuminated street signage, highway lighting and vegetation loss, all amounting to substantial urban features which would harm the rural aspect of Bird In Eye hill. This would be compounded by night time effects. Furthermore, when considered in conjunction with BIES, the BIEN scheme would have substantial adverse cumulative effects. New intrusive development would be seen from wide areas of east and south Uckfield. It would also create new development pressure on other greenfield land to the east, owing to a lack of adequate defensible boundaries. And, like BIES but unlike at Downlands, there would be no compensating advantage of a substantial new country park.

473. 2) Ecology and nature conservation (see [CO2 and CO2A]): In broad terms, there are several features of ecological value at and adjoining the BIEN site. They include: the River Uck and Framfield stream; ancient semi-natural woodland; species-rich hedgerows; and habitats for bats, grass snakes, badgers and dormice. Impacts of the proposals would include: possible water pollution and hydrological change; loss of sections of hedgerows; loss of and damage to ancient woodland; and fragmentation of habitats suitable for dormice, bats, badgers and reptiles. [Co2]

474. The mitigation proposals are noted. However, although they may assist the scheme to comply with protected species legislation, the BIEN proposals do not begin to match the ecological advantages of the Downlands scheme. This is because they do not bring forward a recreational/educational resource - the 55 ha. country park proposed for Downlands – for the town as a whole, nor any benefits for biodiversity in the wider area. [Co2]

475. In addition, as with landscape there has been no cumulative ecological assessment of BIEN with BIES. If both were approved and implemented, Uckfield would spread to the east of the Framfield stream, and a greater length of it as well as the River Uck could be harmed. More hedgerows would be lost, and more protected species habitats fragmented or lost. [Co2]

476. Notwithstanding these rather broad-brush conclusions, it is not really possible, from the appellants' evidence, to make a full assessment of the scheme's ecological impacts. This is because there are various flaws in their ecological impact assessment. These are that: i) the description and evaluation of some features, and the assessment of impacts, is inadequate; ii) the marl pit pond in the field east of the site has been ignored; iii) the standard IEEM guidelines for ecological impact assessment [PD1.18] have not been followed; and iv) no zone of influence of the development has been determined.

477. This has led to an under-estimate of ecological impacts at BIEN, which contrasts oddly with the appellants' exaggeration of the limited impacts of the Downlands scheme.

478. Details substantiating these criticisms are in [Co2A]. In a nutshell, there is a lack of adequate and robust ecological survey information for the BIEN scheme, as originally stated in WDC's 4th reason for refusal. Despite the Council's own evidence to this inquiry, that reason remains valid.

479. 3) Traffic and transport matters (see [B2]): The BIEN proposals have a number of serious deficiencies, 4 in particular. In summary, these are: i) the scheme would be heavily car-dependent, with substandard footways and no special cycle provision on Framfield Road; ii) nor would it deliver a bridge link over the River Uck and railway, an item regarded as essential by the Council; iii) BIEN traffic would have a significant impact on the High Street/Framfield Road signal junction, and on the town centre, with no guarantee of mitigation. Thus it would exacerbate traffic congestion in the town centre; iv) there would be no significant improvements to bus services, and the residents would be reliant on existing services too far from the site. In all these matters, BIEN would compare unfavourably with Downlands. In addition, there is no cumulative assessment of the traffic impact of BIEN with BIES, and therefore the Secretary of State has insufficient information or justification for allowing both schemes.

480. Seen in the round, in planning terms BIEN is greatly inferior to Downlands (see [T4]). It would not create a sustainable community, with diverse and well designed and integrated facilities. It would be just another bland, peripheral housing estate. And, as noted above, it would compare very poorly in terms of landscape impact, ecology and nature conservation, and traffic and transport.

481. *Miss C. Handford*: BIEN and BIES should both be refused planning permission. Both proposals would exacerbate flood risk from the River Uck and the Framfield Stream, and cause the repetition of the serious flooding problems experienced in Uckfield in 2000, and subsequently. Secondly, they would greatly increase traffic congestion and pollution along Framfield Road, which is very busy, and can be dangerous, particularly at peak hours. In addition, they would make parking conditions on and around Framfield Road even more difficult than they already are, given the paucity of on-street parking. Many local residents are concerned about these matters, as shown by a recently canvassed 32-page petition (tabled). The suggested Framfield Road parking scheme would be inadequate. Local residents are also concerned that at this inquiry the Council's (and ESCC's) officers appear to be withdrawing their objections to development at Bird In Eye, despite the members' opposition, and the refusal of planning permission.

482. *Mr. L. Ashby:* Miss Handford's traffic and parking-related objections to the BIE schemes are endorsed. 28 recent letters from local residents in and around Framfield Road (tabled) make similar points.

**Written Representations**

483. Letters from interested persons received during the inquiry are included among the documents. They do not raise new matters.

**Conditions and Obligations**

484. [BIEN18] contains a list of 43 agreed suggested conditions in the event of a successful appeal. These are grouped into the following categories: reserved matters and time limits (conditions 1-5); form of development (6-9); operational (10-12); use of resources/sustainability/recycling (13-16); drainage/flood protection/contamination (17-23); highways/parking/garaging (24-27); open space and play areas (28-29); landscaping/fences/walls/trees (30-35); floodlighting and materials (36); commercial area (37-38); ecology (39-41); archaeology (42); noise (43).

485. BIEN and the Council subsequently agreed that draft condition 20 should be prefaced by the words "Unless otherwise agreed in writing by the local planning authority…". In addition, a details of materials condition is in fact absent from the list, but should be included.

486. Some of these are standard conditions, some arise from consultations with, eg, The Environment Agency, and others derive from the SCGs.

487. I agree that these or similarly worded conditions would meet all the tests in conditions Circular 11/95, and would otherwise be appropriate if the Secretary of State were minded to grant planning permission.

488. Before the end of the inquiry sitting phase, the appellants submitted 2, draft S106 unilateral undertakings [BIEN 16 and BIEN 17]. BIEN 16 deals with District Council matters, and BIEN 17 with County Council matters. BIEN 16 schedules 1,3 and 6 cover the provision of affordable housing, and schedules 2, 4 and 7 cover the provision of children's outdoor playing space and landscape areas. Schedule 5 covers the provision of other play space. BIEN 17 schedule 1 covers contributions to certain ESCC services; schedule 2 refers to highway works; schedule 3 covers contributions to local access improvements; schedules 4, 5 and 6 cover contributions to public transport, to a bus and emergency vehicle access gate (at the approved Mallard Drive development), and to the Framfield Road parking scheme; schedule 7 covers a contribution in instalments for the town centre (traffic) solution; and schedules 9, 10 and 11 cover other transport measures, including a site travel plan.

489. In [WDC24] the Council/ESCC commented on certain details in draft BIEN 16 and BIEN 17, and suggested some changes.

490. Following this, further correspondence occurred between the end of the inquiry sitting phase, and the formal inquiry close on 14 October 2008. With a letter from Harold Benjamin Solicitors dated 22 August 2008, BIEN 16 and BIEN 17 were updated, taking [WDC 24] into account. Details of the affordable housing (amount-mix-floorspace-tenure etc.), and all financial contributions are included. An additional schedule 8 to BIEN 16 refers to the marketing of the proposed commercial area. The solicitors' letter takes issue with some of the [WDC 24] suggestions.

491. A letter from Harold Benjamin Solicitors dated 29 September 2008 attached the 2 completed unilateral undertakings, also dated 29 September. In my view, these obligations would in general meet the 5 tests for planning obligations in Annex B to Circular 05/2005, Planning Obligations, and they would be necessary to any grant of planning permission.

492. However, in [WDC 29] the Council/ESCC makes further detailed comments on the completed BIEN obligations. I note that this document states that most of

the matters it raises could be overcome by re-drafting the relevant provisions. The Downlands closing submissions also make detailed comments. Should the Secretary of State be minded to grant planning permission for BIEN, these points may require further correspondence/resolution with the parties.

## 5 BIRD IN EYE SOUTH (BIES) (appeal C)

### Procedural Matters

493. There are no procedural matters relating exclusively to the BIES appeal of which the Secretary of State should be aware.

### The Site and its Surroundings

494. The appeal site, which is irregular in shape and about 9.6 ha. in size, comprises mainly open pastures on the eastern side of Uckfield, to the south of the Framfield road (B2102) off Bird In Eye hill. It also contains small unused areas of woodland and scrub. It slopes generally uphill from west to east, from the boundary adjacent to the Framfield stream (a tributary of the River Uck), to the boundary adjoining the Bird In Eye farm buildings. There is an area of ancient woodland, Bird In Eye Shaw, adjacent to the south.

495. More detailed descriptions of the site are in, especially [Th, D, and Me1]. Respectively, these emphasise its location and setting on the eastern edge of Uckfield, its landscape features and wider landscape context, and its ecological assets and characteristics.

496. The site has access from Bird In Eye hill, which currently serves a small complex of farm buildings and other business and recreational uses. A grade II listed oast house makes a conspicuous central feature in this group, and can be clearly seen from locations on the west side of the Framfield stream. A new junction with Bird In Eye hill is proposed as part of the proposals, a short distance to the east of the existing.

497. There is longstanding frontage development to Bird In Eye hill - mainly detached houses and bungalows in sizeable plots – on both the north and south sides. This includes development up to the boundary of the site with Bird In Eye hill. Beyond the Framfield stream to the west (and immediately south of the community hospital) is an open, grassed site known as “land north of Mallard Drive”. This is allocated for housing in the NSLP, and now has planning permission. Like BIES, it is controlled by the appellants and is intended to be developed by them.

498. The site is within walking distance of a range of facilities and services along Framfield Road, and in Uckfield town centre, which lies about 1 km. to the north west. (Details, including walking distances, are in [Wi]).

### The town of Uckfield

499. This is as described above (see under appeal A), and in various proofs and documents.

### Planning Policy: the Development Plan

500. The development plan policy background is the same as under appeals A and B. In addition, it should be noted that both BIEN and BIES were allocated for

housing development in the first deposit draft [PD5.3] of the Wealden Local Plan Review – the precursor of the NSLP.

**Other Planning Policies**

501. Other planning policies are as described under appeal A.

**Planning History**

502. Other than its allocation in the first deposit draft of the Wealden Local Plan Review, the application site has no significant prior planning history. Minor applications relating to the small complex of buildings at Bird In Eye farm are agreed to have no particular relevance for the appeal.

**The Proposals**

503. The application is in outline, with all detailed matters reserved except for the means of access. It seeks permission for 197 dwellings, on approximately 6.1 ha. of the 9.6 ha. site. The average net residential density would be 32 dwellings/ha. Five play areas would be included, comprising 4 LAPS and one LEAP. The remainder of the land, mainly adjacent to the Framfield stream and along the southern site boundaries, would comprise retained woodland and scrub, recreation land, and other open areas, including detention ponds.

504. The proposals are described in some detail in the DAS. This includes a range of illustrative material, including a master plan, which provides information on the proposed use, the amount of development, an indicative layout, scale parameters (including building heights), and indicative points of access.

505. The scheme's underlying design principles are described in [Th].

**Reasons for Refusal**

506. The stated reasons for refusal are as follows:

507. " (1) The proposed development represents an unacceptable and unjustified form of development of a site which lies outside the limits of the defined development boundary for Uckfield and Framfield, contrary to the provisions of PPS 1 and 7, (SP) policies S1, S4, S10 and EN1, (LP) policies GD2, EN1 and DC17, and (NSLP) policies GD2 and DC15."

508. " (2) The development proposal would lead to an unacceptable increase in existing safety hazards and unacceptable traffic conditions in the immediate area, specifically rural lanes around the village of Framfield and Uckfield town centre, an area that is already heavily congested at peak times and the proposal is therefore contrary to (SP) policies TR3 and S1, (LP) policy TR3 and (NSLP) policy TR2."

509. " (3) Notwithstanding the provision of an Environmental Statement and taking account of enhancement proposed as part of the application, insufficient information has been submitted to address the impact of the development proposals on landscape management, habitat enhancements, effect of pedestrian and cycle links on habitats, layout of development, space allocation for buffer zones between the built form and retained natural features (including adjacent ancient woodland – Wealden Ancient Woodland Survey 2005) and impact on connectivity with other sites for protected species. Based on the submitted information, the proposed development package is contrary to the provisions of

PPS 9, (SP) policies S1, EN17, EN18 and EN20, (LP) policies EN1, EN5, EN12 and EN16, and (NSLP) policies NE1, NE14, and NE15".

510. " (4) The proposal does not satisfactorily demonstrate that adequate provision will be made to encourage sustainable modes of transport, contrary to (SP) policies S1 (c) and TR3, and (NSLP) policies TR1 and TR2".

511. " (5) No mechanism exists to secure affordable housing on site and as a result the proposed development is contrary to (SP) policies H4 and S7 (d), (LP) policy HG3 and (NSLP) policy HG4".

**The Case for Heron Land Developments, Persimmon Homes and Gallagher Estates (the BIES appellants)**

512. The material points are:

**Planning policy**

513. (The appellants' case is mainly in [Gr, sections 4, 6 and 7]). Together with BIEN, and land north of Mallard Drive, the appeal site was included in a single residential allocation for up to 500 dwellings under policy UC1 in the first deposit local plan [PD5.3] in January 2003. The allocation followed a substantial degree of local consultation.

514. This draft allocation alone confirmed the site's general suitability for housing, in terms of its location, sustainability and all environmental factors and constraints. But, like BIEN, BIES was not subsequently maintained as a housing allocation in the NSLP. This was a flawed decision on the Council's part.

515. The BIES site and proposals fully comply with national planning policy guidance in PPS 1, PPS 3, PPG 13 etc, and owing to a compelling housing need in Wealden, and specifically at Uckfield the appeal should be allowed.

516. There is no dispute that the SP housing requirement to 2011 [PD3.1] cannot be met within the built-up areas of the district, and therefore that suitable and deliverable sites for urban extensions are required. These, by definition, must be on greenfield land.

517. Schemes should be well integrated with the existing pattern of settlement, and should be at locations well served by public transport. Located on the edge of Uckfield but close to the town centre (within 1 km. direct), and also convenient for bus routes and the railway station, the appeal site readily meets both criteria.

518. Importantly, as the BIES transport evidence [Wi] shows, the proposals can be accommodated without seriously harming traffic circulation along Framfield Road, or adding significantly to town centre congestion. This was not properly appreciated by the Council in its decision to delete the allocation.

519. Para. 71 of PPS 3 [PD1.2] states that where, as in this case, LPAs have less than 5 years supply of housing land (see below), planning applications for housing should be considered favourably. Even the Council acknowledges that it has a major problem in delivering housing land in the next 5 years. [PD5.13]

520. The BIES proposals also meet the criteria set out in para. 69 of PPS 3: i.e. they would achieve high quality and a good mix of housing; the site is suitable for housing, and environmentally sustainable; the proposals would use land

effectively and efficiently; and they would comply with all planning for housing objectives. All this is amply demonstrated by the BIES evidence to this inquiry.

521. The SP [PD3.1] contains various relevant saved policies [PD3.2], which are part of the development plan. Among these are S4, S22, H1 and H4. These all may be said to support the appeal proposals. In particular, policy S22 identifies Uckfield as a location where "major peripheral expansion" for housing and associated facilities may take place 2006-2011. BIES relies upon this clear policy statement.

522. In the light of PPS 3 advice, the appeal proposals are justified as an exception to saved policy GD2 in the LP [PD5.1], which was adopted in 1998; in any event, this plan's allocations only covered the period to 2004, and its development requirements now have little relevance or weight. Other LP saved policies, which are also part of the development plan, would largely be met by the proposals.

523. As mentioned above, the site is not an allocated housing site in the NSLP [PD5.2]. However, by the very fact that it is non-statutory, and not subject to a full independent evaluation of alternative sites, the NSLP merits only very limited weight in this appeal. It is not, therefore, determinative.

524. That said, as the appellants' evidence to this inquiry demonstrates, the proposals would accord with many other NSLP policies, covering a wide range of conventional planning requirements and criteria. These include NE1, NE7, NE14, NE15, BE1, HG4, HG7, HG8, HG9, TR1, TR2, TR5, TR8, LR2, LR4, TS1, CS2 and CS4.

525. In general, BIES would be more suitable for housing than alternative sites at Uckfield (including the NSLP allocated sites at Sandpits, Lewes Road, and at Cysleys Farm, north of Eastbourne Road; and the Downlands and BIEN appeal sites). It would also meet all current policy requirements for affordable housing, and this can be secured by way of a planning obligation. An obligation would also cover appropriate transport infrastructure and community requirements, in compliance with the relevant policies.

526. The emerging South East Plan is a material consideration in this appeal, but it has not yet reached its final form.

527. The Panel recommended an overall increase in housing land supply for the SE region of 10% (see also below, under housing land requirements and supply). The proposed figure for Wealden district thereby increases from 400 dwellings per annum to 480 dpa. The Secretary of State's Proposed Changes increase the requirement further, to 550 p.a.

528. Finally under the heading of planning policy, the Secretary of State has several options in deciding these 3 appeals, and will need to consider which site is the most or least suitable for development.

529. Downlands has such critical disadvantages - in terms of harm to the landscape and to ecology/nature conservation, as well as traffic and transport - that it should not be approved, regardless of any housing land supply considerations.

530. Having far less impact in environmental terms, BIES and BIEN should both be allowed if the Secretary of State considers this is warranted by the housing land position. But if only one appeal is to be allowed, the smaller BIES scheme should

be preferred to BIEN. This is because it would have the least impact in terms of the release of greenfield land.

531. In sum, the BIES proposal complies with national and SP policy, and with much LP (and NSLP) policy. But the NSLP, which fails to allocate the site, merits only limited weight. BIES is also fully consistent with the emerging SE Plan, albeit this has not yet been approved.

**The proposals - design principles**

532. (The site constraints and the proposals' underlying design principles are in [Th], with separately bound appendices). As shown in the DAS, the appeal scheme is a carefully considered and appropriate design solution for the site. It would have both a robust structure and a distinct sense of identity. Overall, it would be perceived as an attractive, relatively small-scale extension to Uckfield, in particular to the New Town area south of the river and railway line [see Th, app. 3]. This area provides a palette of design references that can be used in the detailed architectural design of individual buildings, boundaries and spaces.

533. The development will differ from, but will complement that to be built on land north of Mallard Drive, west of the Framfield stream [see Th, app. 1.2]. It will retain existing local views of the listed oast house. It will not exceed or dominate the skyline towards Framfield; it retains and enhances some meadowland; leaves ancient woodland undisturbed and encourages biodiversity.

534. The scheme will comprise a mix of 2-3 storey detached houses, terraces and apartment blocks. The highest (3 storey) buildings will be on the lower slopes. A variety of housing designs will create a sense of local identity and distinctiveness, with an appropriate balance of public open space and private gardens, separated by hedges and fences.

535. The housing layouts will maximise solar gain, and all dwellings will comply generally with sustainable building principles and practices. The layout will integrate the required parking (at 1.5 spaces max. per dwelling), and promote crime prevention and personal safety. Pedestrian and cycle movement will be facilitated. There will be ample, well-located and supervised play areas.

536. The landscape and ecological enhancement strategies include water management to control the surface water hollows. The many green spaces within the site will provide a highly attractive setting for the buildings and circulation areas.

**Housing land requirements and supply**

537. (The case is substantially the same as for the appellants in appeals A and B.)

**Landscape matters**

538. (The appellants' case is mainly in [D], with separately bound appendices and plans/photographs). The appeal site, some 9.6 ha. in size, is located on the eastern side of Uckfield, within 1 km. of the town centre, and is adjoined by built-up areas to the west, with playing fields, a hospital and a school. It lies on the lower slopes of Bird In Eye Hill, on the west, town-facing slopes of the Framfield stream. Its character may be described as "urban-edge", having strong visual links with the town. It is at best undistinguished in terms of its landscape quality. The land use is predominantly horse-grazing.

539. While the site is contained by mature woodland blocks, including the ancient woodland at Bird In Eye Shaw, it lacks any sense of rural seclusion or remoteness from development. In this, as in other respects, it differs significantly from Downlands.

540. The site is visible from properties abutting its northern and western edges, and from the area around Uckfield community hospital. There are no views of it from Framfield village or the landscape to the east.

541. The outline proposals respond to the site's topography and existing features, avoiding any skyline development and respecting the prominence of Bird In Eye Farm, with its grade II listed oast house. Open space running from the Framfield stream valley floor to the top of the hill would maintain views towards them. The landscape proposals would develop the existing framework of woodland, shaws and hedgerows to enhance their landscape and wildlife conservation value, and contain local views of the development. Internal planting would soften built forms, and contribute to a tree-lined skyline.

542. Apart from improved grassland, there would be no loss of existing landscape features, and no trees of any significance would be removed. All existing woodland would be protected by substantial buffer zones. The overall effect of development on the wider landscape would be minimal, owing to substantial screening by local topography and mature woodland. The remote and secluded character of the Low Weald particularly around Framfield would be wholly unaffected. In sum, the landscape and visual effects of development would be localised, and limited to the immediate landscape context.

543. By contrast, development of the Downlands site would have a far more significant effect on the landscape around Uckfield (see under BIES case, appeal A). In landscape terms, BIES has significantly greater capacity to accommodate development.

**Ecology and nature conservation**

544. (The appellants' case is mainly in [Me1, Me2 and SCG8, also numbered SOUTH3]).

545. In general terms, the appeal site comprises several horse-grazed improved grassland fields with broadleaved semi-natural woodland and scrub habitats along its western margin. The site slopes down to the Framfield stream which flows northward along the western site boundary, beyond which lies a neglected semi-improved grassland. [Me1]

546. Although a formal ES was not required, a comprehensive ecological assessment was submitted with the planning application [Me1, app. A]. This provides full details of its methodology, the conservation context, habitat surveys, protected and notable species, impact assessment and mitigation strategy etc. It is fully fit-for-purpose. [Me1]

547. The assessment's findings and conclusions remain robust, reliable and relevant. They are amply detailed for an outline application and are now accepted by the Council [see SCG8]. The broad conclusions are that the improved grassland fields that would house most of the development are of negligible nature conservation importance, although their margins provide habitat for 2 reptile species (grass snake and slow-worm). The woodland within the west

of the site is its only habitat of more than local ecological interest, being of county conservation importance and providing habitat for protected species including badgers, bats and (possibly) dormice. [Me1]

548. Providing the recommended mitigation and enhancement measures are implemented, the development would have a negligible ecological impact. Indeed, the development has the potential to increase opportunities for wildlife in the locality, through the retention, creation, management and enhancement of woodland, scrub, rough grassland, hedgerow and garden habitats. [Me1]

549. Taking these matters further, [Me1, section 2] describes the planning policy background; [Me1, 3] the baseline ecological condition; and [Me1, 4] impact assessment and mitigation.

550. It should be noted that the site has no statutory or non-statutory nature conservation designations, and no UK BAP priority habitats (as defined in the Countryside and Rights of Way Act 2000). The Sussex biodiversity action plan includes BAPs for habitats and species considered to be of county biodiversity importance; among those, the site contains or is bordered by examples of hedgerows, streams and woodland. The woodland located on the western site margin, and Bird In Eye Shaw (located outside the site adjacent to its southern boundary) are identified as ancient woodland. There are no TPOs on the site. [Me1]

551. Importantly, the scheme's mitigation proposals include the provision of landscape buffers and the restriction of public access [see Me1, 4]. The buffers between the proposed development areas and "ecological receptors" will each have several functions, and will be wide enough to reduce all potential impacts to an insignificant level. This is accepted by the Council [SCG8]. A buffer of about 50 m. width is proposed between the development area and the Framfield stream. Water detention basins will provide new wetland habitats. [Me1]

552. The level of connectivity of wildlife habitats between the site and the surrounding countryside would be maintained. With the buffers and other mitigation measures in place, there would be no adverse effects on badgers, dormice, bats, birds or reptiles, or other protected or notable groups or species. [Me1]

553. Indeed, unlike at Downlands, the scheme does not raise any significant issues for ecology/nature conservation which could not be resolved through its design (including at the reserved matters stage), and mitigation measures [SCG8]. These, including the Harlands Farm toads, have all been discussed in detail and agreed with the Council's ecology witness. Natural England has no objections. In sum, no significant wildlife habitats would be damaged or disturbed. And no national or local nature conservation policies would be breached. There are therefore no reasons relating to ecology or nature conservation for resisting development of the BIES site. [Me1 and SCG8]

554. The Secretary of State should note that [Me1] remains a robust statement of the appellants' evidence on ecology, and is supported by the Council's evidence. [Me2], which supplements it, is a response to various specialised and detailed ecological matters, including survey methodologies, raised by the Downlands appellants, particularly in [Co1A, Co3 and Co3A]. There are no other objectors on ecological grounds.

555. [Me2, section 3] deals with the BIES site and proposals. It shows that the methodological criticisms made by the Downlands appellants of the BIES ecological surveys and evidence are misconceived and have little or no validity, and confirms that BIES would have no significant ecological effects, given the mitigation strategies agreed with the Council [SCG8].

556. By contrast, the Downlands proposals [see Me2, section 2] would have a far greater and more harmful impact on nature conservation and ecology.

557. For reference, agreed ecology conditions for the BIES scheme are in [SCG8, section 12].

**Highways and transport matters**

558. (The appellants' case is mainly in [Wi] with separately bound figures, appendices and drawings).

559. There are 2 highways and transport related reasons for refusal (see above). Reason 2 refers to alleged safety hazards and unacceptable traffic conditions. Reason 4 suggests that the proposals fail to encourage sustainable modes of transport.

560. It is significant that neither matter was thought problematical when the site was allocated in the first deposit draft of the local plan review in 2003.

561. One of the salient characteristics of the appeal site is its relatively close proximity to Uckfield town centre, with its many facilities and public transport (rail and bus) termini [Wi, Fig. SMA1]. This would facilitate sustainable transport choices by prospective residents, and reduce potential dependence on the private car. Thus the site compares very favourably with Downlands, in particular, which is more peripheral and less accessible to/from the town. With regard to traffic impact, the proposals for 197 houses (compared with 750 and 300 respectively) are also smaller in scale than Downlands, in particular, and BIEN.

562. The relevant SP, LP and NSLP transport policy context is set out in [Wi, section 2]. The appeal proposals meet all the relevant policy criteria and requirements.

563. Following consultation with ESCC, a Transport Assessment (TA) for 197 dwellings was prepared [BIES1.13]. It was agreed not to address or propose any highways improvements in or around Uckfield town centre, as a separate study was being undertaken on behalf of ESCC.

564. The TA findings are summarised in [Wi, section 3]. These show that, contrary to reason for refusal 4, the appeal site is highly accessible to a range of facilities (jobs, leisure, retail) by foot, cycle and public transport. In short, the site's very convenient location would promote sustainable travel choices.

565. The site's accessibility to local facilities is summarised in fig. SMA2 in the TA and in [Wi, table 1 and fig. SMA1]. A radial of 1.6 km. is an indicator of the facilities within reasonable walking and cycling distance. Whether assessed against PPG 13 criteria (paras. 75 and 78) or national travel survey (NTS) statistics, the accessibility of the site is clearly demonstrated.

566. New bus stops are proposed along Framfield Road close to the proposed pedestrian and cycle access [Wi, app.2]. The appellants are prepared to offer a

financial contribution towards these and other improvements to the 318 bus service. ESCC has advised on an appropriate sum.

567. Uckfield railway station is only 1.4 kms. from the site centre – about 17 mins. by foot. The central bus station, at 1.5 kms. distance, is 18 mins. walk away. The walk time to the community hospital is 9 mins. There is also ready access to Harlands primary school (16 mins. walk) and to both Uckfield technical college and Heathfield community college (20 mins. by bus).

568. 95% of the dwellings on the site would be within a 20 mins. walk to Uckfield town centre, and also within a 6 mins. walk from a bus stop.

569. The proposals include a travel plan to encourage travel modes other than the private car. This includes a package of measures [see Wi, para.3.42], and would promote car-sharing, cycling and walking.

570. A peak hour trip rate of 0.7 per dwelling was used in the TA. Based on that, the site will generate 138 (inbound and outbound) vehicles per hour in both the morning and evening travel peak hours. The access junction, comprising a simple priority junction as now agreed with ESCC, will operate within capacity [Wi, apps.4 and 5].

571. An emergency access is proposed from the site to Bird In Eye hill [Wi, app.1]. This would provide the site's main pedestrian and cycle route to Framfield Road.

572. The proposals would contribute to a need for certain off-site highway works, and the appellants would help fund these following consultation with ESCC [Wi, section 4]. PBA, the traffic consultants for BIEN have designed a scheme for on-street parking for residents of Framfield Road. This involves a reorganisation of the existing parking spaces to assist the free flow of traffic along the road, particularly by ensuring a continuous 2-way flow. [Drawings and cost estimates are in Wi, app. 6]. ESCC supports this scheme.

573. On town centre highways improvements, ESCC has begun the process of design and costing. WDC is confident a scheme could be implemented which would address existing town centre congestion and accommodate traffic from already committed sites and the BIES site.

574. ESCC has accepted that only 5% of development traffic would be directed towards Framfield – thereby having a minimal impact on the rural road network. Despite some local objections, the BIES scheme would not cause any significant traffic congestion, or reduce road safety, in or around Framfield.

575. With the related highways improvements in place, contrary to reason for refusal 2 the site can be safely accessed, and the increase in travel demand generated by the development can be safely accommodated on the local highway network – notably on the Framfield Road, and in Uckfield town centre - without adding unduly to traffic congestion.

576. In sum, the proposals are acceptable in highways and transport terms, subject to the completion of highways works and contributions to bus services in accordance with a S106 obligation.

577. The foregoing case has to some extent been updated by SCG2, the joint statement on highways and transport issues produced during the inquiry by ESCC/WDC, BIEN and BIES (but not Downlands). This is introduced and

summarised in Mr. Harris's evidence for WDC and ESCC (the local highways authority). It represents an attempt to accommodate some development from the appeal sites before 2011, in addition to that in the NSLP's 3 committed sites, but only in the event that the Secretary of State agrees with all 3 appellants that there is an overriding housing need in Uckfield which must be met. In short, BIES is prepared to sign-up to, and make financial contributions towards, the various transport infrastructure measures proposed by ESCC in SCG2, including the "headroom" package which aims to remove existing car trips from the road network. The BIES measures are included in a planning obligation.

## The Case for Wealden District Council

578. The material points are:

### Planning policy

579. The Council's case is substantially the same as in appeals A and B. The proposals would be contrary to the policies cited in the reasons for refusal (except reasons 3, see below, and 5).

### Housing land requirements and supply

580. The Council's case is substantially the same as in appeals A and B. In the light of this, there is no need or requirement for BIES to contribute to housing land supply.

### Landscape matters

581. (WDC's case is mainly in [W5, page 7]). The proposed development would intrude upon the rural landscape on rising land beyond a (partially breached) natural boundary to Uckfield represented by the Framfield stream. It would be clearly seen from the vicinity of Harlands primary school, Harlands Road, and the Uckfield community hospital.

582. However, development here would relate visually to the existing development on the east side of Framfield stream, and that allocated in the NSLP on land north of Mallard Drive. It would not impinge upon the skyline, and would be contained to a considerable extent within the surrounding ancient woodland and buffer strips.

583. There is longstanding residential development on the east side of the Framfield stream, up Bird In Eye Hill, and also a complex of buildings at Bird In Eye Farm. The site is not and has never been designated for its landscape value. The design and access statement shows an acceptable development layout, which responds successfully to the site's topography, and respects long-distance views of the grade II listed oast house at Bird In Eye Farm. In sum, by contrast with Downlands, there is no good case, on landscape grounds alone, to resist development of the type and scale proposed.

### Ecology and nature conservation

584. (WDC's case is mainly in [W5, appendix C and in SCG8]).

585. As a result of the appellants' further information and evidence at the appeal stage, the Council does not object to the proposals on grounds of ecology and nature conservation. Therefore reason for refusal No 3 may in effect be withdrawn and the outstanding ecological issues addressed through planning

conditions. These arise from the ecology of the open field areas; the surrounding woodlands; wetlands; and, specifically, common toads and the Harlands Farm pond (see [W5, app. C and SCG8]).

586. The ecological impact of the development can be mitigated by good management both during the clearance, construction and post-development phases. The issues arising at reserved matters stage will be: management of, and access to woodland, wetland and buffer areas; realising the ecological potential of the buffer zones; mitigating the impact of engineering operations to create the balancing ponds; access at the site's north western corner; and the need to facilitate the movement of common toads to and from their breeding pool at Harlands Farm.

587. Agreed suggested ecology conditions are in SCG8.

**Highways and transport matters**

588. (WDC's/ESCC's case re BIES is mainly in [H1, H3, H3A, H5 and SCG2])

589. [H1, H5 and SCG2] contain evidence which is relevant to all 3 inquiry schemes. This is summarised above, under Downlands, and therefore is not repeated here.

590. [H3] refers in places specifically to BIES. [H3 annexes C1-C12] contain background and survey information.

591. [H3 section 4] gives modelled traffic queue lengths at critical town centre junctions under a range of assumptions on trip rates etc.

592. BIES's relative sustainability in transport terms depends in part on its distance from town centre facilities, and also on the nature, variety and quality of existing and proposed pedestrian and cycling routes. On balance, BIES is slightly closer to most (but not all) town centre facilities than Downlands, and about the same distance as BIEN, which lies nearby on the north side of Bird In Eye hill. There is little to choose between BIES and BIEN in this regard.

593. Like Downlands and BIEN, BIES lacks a high degree of route choice, which is reflected in the proposals' reliance upon the Framfield Road to take cars, buses, cycles and pedestrians into the town centre.

594. [H3A] addresses some minor inaccuracies and inconsistencies in the BIES traffic/transport case.

595. The BIES transport proposals would be delivered through a S106 obligation.

**<u>The Case for Other Parties</u>**

596. The material points are:

597. *The Downlands appellants:* 1) Landscape matters (see [RV3]): The site occupies the west-facing slopes of Bird In Eye hill, and is highly conspicuous in views from Harlands, and the general vicinity of the primary school and the community hospital. The development would cause a significant adverse visual impact on this range of publicly accessible viewpoints and on many residents in south Uckfield. Like BIEN, it would also cross the natural development boundary of the Framfield stream. The new access proposals would require new footways, illuminated street signage, highways lighting and vegetation loss, all amounting

to substantial urban features which would harm the rural aspect of Bird In Eye hill. This would be compounded by night-time effects. Furthermore, when considered in conjunction with BIEN, the BIES scheme would have substantial adverse cumulative effects. New intrusive development would be seen from wide areas of east and south Uckfield. It would also create new development pressure on other greenfield land to the east, owing to a lack of adequate defensible boundaries. And, like BIEN but unlike at Downlands, there would be no compensating advantage of a substantial new country park.

598. 2) Ecology and nature conservation (see [Co3 and Co3A]): In broad terms, there are several features of ecological value at and adjoining the BIES site. They include ancient semi-natural woodland; the Framfield stream; hedgerows; and habitat for badgers, bats, reptiles, dormice and breeding birds. Impacts of the proposals would include some loss of woodland and species-rich hedgerows; loss and fragmentation of some habitat; and pollution of the Framfield stream. [Co3]

599. The mitigation proposals are noted. However, although these may assist the scheme to comply with the protected species legislation, the BIES proposals do not begin to match the ecological advantages of the Downlands scheme. This is because they do not bring forward a recreational/educational resource - the 55 ha. country park proposed at Downlands - for the town as a whole, nor any benefits for biodiversity in the wider area. [Co3]

600. In addition, as with landscape there has been no cumulative ecological impact assessment of BIES with BIEN. If both were approved and implemented, Uckfield would spread to the east of the Framfield stream, and a greater length of it could be harmed. More hedgerow would be lost, and more protected species habitats fragmented or lost. [Co3]

601. Notwithstanding these rather broad-brush conclusions, it is not really possible, from the appellants' evidence, to make a full assessment of the scheme's ecological impacts. This is because there are several serious flaws in their ecological impact assessment. These are that: i) the ecological surveys are not comprehensive, as claimed, and are inadequate as a basis for the evaluation of features or any assessment of impacts; ii) no zones of influence of the development/site activities have been determined; and iii) the standard IEEM guidelines [PD1.18] for ecological impact assessment have not been followed.

602. This has led to an under-estimate of the ecological impacts at BIES, which contrasts oddly with the appellants' exaggeration of the limited impacts of the Downlands scheme.

603. Details substantiating these criticisms are in [Co3A]. In a nutshell, there is a lack of adequate and robust ecological survey information for the BIES scheme, as originally stated in WDC's 3rd reason for refusal. Despite the Council's own evidence to this inquiry, that reason remains valid.

604. 3) Traffic and transport matters (see [B3]): The BIES proposals have a number of serious deficiencies, 3 in particular. In summary these are: i) the scheme would be heavily car-dependent, with substandard footways and no special cycle provision on Framfield Road; ii) BIES traffic would have a significant impact on the High Street/Framfield Road signal junction, and on the town centre, with no guarantee of mitigation. Thus it would exacerbate traffic congestion in the town centre; iii) there would be no significant improvements to

bus services, and the residents would be reliant on existing services too far from the site. In all these matters, BIES would compare unfavourably to Downlands. In addition, there is no cumulative assessment of the traffic impact of BIES with BIEN, and therefore the Secretary of State has insufficient information or justification for allowing both schemes.

605. Seen in the round, in planning terms BIES is greatly inferior to Downlands (see [T5]). It would not create a sustainable community, with diverse and well designed and integrated facilities. It would be just another bland, peripheral housing estate. And, as noted above, it would compare very poorly in terms of landscape impact, ecology and nature conservation, and traffic and transport.

606. *The BIEN appellants:* Unlike Downlands, there are no compelling reasons to refuse the BIES scheme. That said, if the Secretary of State were minded to allow only one of the appeal proposals, that should be BIEN, not BIES. That is because it relates better in landscape and visual terms to Uckfield, while having no other disadvantages compared with BIES.

607. *Miss C.Handford:* BIES and BIEN should both be refused planning permission. Both proposals would exacerbate flood risk from the River Uck and the Framfield Stream, and cause the repetition of the serious flooding problems experienced in Uckfield in 2000, and subsequently. Secondly, they would greatly increase traffic congestion and pollution along Framfield Road, which is very busy, and can be dangerous, particularly at peak hours. In addition, they would make parking conditions on and around Framfield Road even more difficult than they already are, given the paucity of on-street parking. Many local residents are concerned about these matters, as shown by a recently canvassed 32-page petition (tabled). The suggested Framfield Road parking scheme would be inadequate. Local residents are also concerned that at this inquiry the Council's (and ESCC's) officers appear to be withdrawing their objections to development at Bird In Eye, despite the members' opposition, and the refusal of planning permission.

608. *Mr.L. Ashby:* Miss Handford's traffic and parking-related objections to the BIE schemes are endorsed. 28 recent letters from local residents in and around Framfield Road (tabled) make similar points.

**Written Representations**

609. Letters from interested persons received during the inquiry are included among the documents. They do not raise new matters.

**Conditions and Obligations**

610. [SOUTH12 and Appendix E] contains a list of 37 agreed suggested conditions in the event of a successful appeal. These are grouped into the following categories: reserved matters and time limits (conditions 1-5); form of development (6-7); operational (8-10); use of resources/sustainability/recycling (11-14); drainage/flood protection/contamination (15-19); highways/parking/garaging (20-23); open space and play areas (24-25); landscaping/fences/walls/trees (26-31); floodlighting and materials (32); ecology (33-36); archaeology (37).

611. A details of materials condition is in fact absent from the list, but should be included.

612. Some of these are standard conditions, some arise from consultations with, eg, The Environment Agency, and others derive from the SCGs.

613. I agree that these or similarly worded conditions would meet all the tests in conditions Circular 11/95, and would otherwise be appropriate if the Secretary of State were minded to grant planning permission.

614. Before the end of the inquiry sitting phase, the appellants submitted 2, draft S106 planning undertakings [SOUTH 10 and SOUTH 11]. These were later superseded by [SOUTH 13 and SOUTH 14] respectively. [SOUTH 13] deals with ESCC matters, and [SOUTH 14] deals with District Council matters. [SOUTH 13] schedule 1 covers contributions to certain ESCC services; schedule 2 refers to highway works; schedule 3 covers contributions to local access improvements; schedules 4, 5 and 6 cover contributions to public transport, to a bus and emergency vehicle access gate (at the approved Mallard Drive development), and to the Framfield Road parking scheme; schedule 7 covers a contribution in instalments for the town centre (traffic) solution; and schedules 8, 9 and 10 cover other transport measures, including a site travel plan. [SOUTH 14] schedules 1, 3, 4 and 7 cover the provision of affordable housing, and schedules 2, 5 and 6 cover the provision of children's outdoor playing space and landscape areas and of other play space.

615. Further correspondence occurred between the end of the inquiry sitting phase, and the formal inquiry close on 14 October 2008. With a letter from CMS Cameron McKenna Solicitors dated 12 September 2008, [SOUTH 13] and [SOUTH 14] were updated and issued as 2 duly executed deeds of unilateral undertaking, both dated 11 September 2008. The letter refers to a piece of unregistered land, and a previously agreed planning condition about the proposed pedestrian and cycle access route, and gives a preliminary assurance that this condition (no.3) can be fulfilled and enforced.

616. 2 further letters refer to this matter: from Sharpe Pritchard (for WDC/ESCC) dated 16 September 2008 [WDC30], and from CMS Cameron McKenna dated 26 September 2008. The former raises legal arguments, arising from this question of title, and concerning the deliverability of the proposed pedestrian/cycle link. The latter reaffirms the appellants' view that the link can both be implemented and kept in use, and that this would be adequately secured by condition 3.

617. I take no particular view on the contents of these letters, which refer more to legal points and principles, than to town planning matters. But should the Secretary of State be minded to grant planning permission for BIES, they may require further correspondence/resolution with the parties.

## 6 Conclusions and Recommendations (re: all 3 Appeals)

618. The following conclusions are divided into 2 main sections: a) general matters, and b) site specific matters.

### a) General matters - Overview

619. In this section 6, I set out my conclusions on the main town planning issues raised by the 3 appeals, together with my recommendations as to whether or not outline planning permission should be granted for all (or any) of them.

620. At the head of each subsequent section, references [in square brackets] are to the numbered paragraph sections of the report from which I have drawn the information most relevant to the matter in hand.

621. Instead of addressing each application/appeal separately, I deal with all 3 under each main heading in these conclusions. This is because, by common agreement, all 3 raise broadly similar planning issues, and the sites are essentially competing with each other. It also follows from the way I structured the inquiry.

622. At this point, I should mention 2 caveats. First, I have tried in these conclusions to be as brief as possible, by stating only the most salient points which I think should assist the Secretary of State in determining the appeals.

623. Therefore, I have not specifically addressed a number of detailed points which arose in evidence, including in cross-examination, some of which are also mentioned in closing submissions. I consider that those I have omitted either i) led to no firm or clear-cut conclusions, or ii) were of only peripheral relevance. The inquiry evidence, however, is available in the listed proofs and documents.

624. Secondly, owing to a lengthy midway adjournment, and the postponement of the inquiry close to accommodate further written evidence on the SE Plan and the costs applications, the inquiry was spread over much of 2008 - almost a year.

625. Inevitably, therefore, there were changes in circumstances (notably the publication of Proposed Changes to the SE Plan), as well as an iterative process whereby several of the professional witnesses responded to each others' criticisms of their case with rebuttal proofs (one ecology witness ended up submitting 7 separate proofs). These led to some more entrenched positions. On the other hand, some SCGs were produced during the inquiry, which by definition narrowed some differences between the parties.

626. Both factors have complicated the process of reporting, as there have been various quite intricate shifts in the parties' stances. I do not attempt to trace all these. I have endeavoured, instead, to report the gist of the cases as I understood them to stand at the time of closing submissions, thereby omitting some apparently superseded material.

627. Turning to the substance of the applications, these are all for mainly housing development on greenfield sites on the edge of Uckfield. While BIES is exclusively for housing, BIEN and Downlands also contain some employment and other uses. Therefore, the focus should be on whether the respective sites are

suitable and available for housing, within the context of both planning policy (national and local), and general housing land considerations.

628. The 3 appellants collaborated on one aspect of their case - housing land requirements and supply – but disagreed, sometimes quite heatedly, on various other aspects. They challenged each others' evidence on such matters as landscape impact, ecology and nature conservation, and traffic and transport.

629. The Council remains opposed to all 3 applications, both on the grounds of lack of need, and on site-specific grounds. It regards all of these sites as neither necessary nor, albeit for different site-specific reasons, suitable.

630. The Council (and other 3rd party objectors) also oppose these applications on the basis that they are all on non-allocated sites, which have previously been rejected by the process of site-selection for development plans/the NSLP. Thus they have no great sympathy with "planning by appeal". In their view, such large housing sites (with about 750, 300 and 200 dwellings respectively) should only come forward through the plan-making process. None of these sites was included in the Adopted 1998 LP, nor in the 2005 NSLP, and the current phase of statutory plan-making, the LDF, is still at an early stage, with no draft housing allocations as yet.

631. Therefore, the Council would regard any permission granted for these sites as prejudicial not only to the existing and emerging local planning process, but also to the very principle of a plan-led system.

632. Given the primacy in PPS 1 etc. of the plan-led system, to which the Government remains committed, I have much sympathy with this view. On the other hand, PPS 3 para. 72 makes it clear that LPAs should not refuse planning applications solely on the grounds of prematurity.

633. Although all 3 applications are in outline, they all contain a good deal of supporting information. For example, all have quite detailed design and access statements, and 2 – BIEN and Downlands – also have environmental statements. In my opinion, these statements fulfil the requirements of the regulations and are adequate. Therefore, no one need be in much doubt as to what is proposed. Whether it is deliverable (PPS 3, para. 54) is another matter, which I consider below (see Other Matters).

634. While each appellant at the inquiry was criticised by others for providing incomplete and/or inaccurate or inconsistent information about their proposal, there is in my view sufficient material in each case to arrive at decisions on the appeals. In some instances (e.g. on landscape, and some aspects of ecology) there is almost too much! Therefore, when the sitting phase ended on 18th July, I precluded any further evidence on any matters other than housing land requirements and policies in the newly-published Proposed Changes to the SE Plan.

**Secretary of State matters**

635. I set out the Secretary of State matters near the beginning of this report. These relate closely to the structure of the inquiry and to these conclusions.

**Policy: the Development Plan and other policies**

636. [51-60; 81-94; 179-188; 369-387; 513-531]. When this inquiry opened in January 2008, the development plan comprised RPG 9, and the saved policies in the SP and the adopted Wealden LP. At the time of final editing (late October 2008), that remains the case.

637. Other relevant policies - agreed by all parties at that stage to be material considerations - were in the emerging SE Plan, which had then reached the stage of the Panel Report, and the NSLP.

638. However, the weight to be accorded to these latter plans was a matter of dispute between the appellants and the Council. The Council argued that both the emerging SE Plan and the NSLP should be given significant weight. The 3 appellants, on the other hand, said the opposite, i.e. that neither should be given much weight, and in the case of the NSLP (including its housing allocations), almost no weight.

639. At the time of final editing of this report, an important change to this position was imminent. The Secretary of State's Proposed Changes to the SE Plan were published in July 2008, and the 12-week further consultation stage expired on 24 October 2008.

640. I have assumed, because I have no evidence or knowledge to the contrary, that the SE Plan will be approved quite soon after the 24 October deadline, and possibly before the Secretary of State's decisions on these appeals. I have no knowledge of how the final, approved version may differ from the Proposed Changes. But I can say that when this occurs, both RPG 9 and the SP will be superseded and their policies will have no bearing on, or relevance to these appeals.

641. As far as strategic policy is concerned, it would not therefore be sensible for me to recommend the Secretary of State to determine the appeals in accordance with RPG 9 and the SP. Instead I recommend that they be determined in accordance with the SE Plan: that is, the approved version, or, if for any reason that is still not available when the decisions are issued, in accordance with the Proposed Changes.

642. I would however make one comment on the SP. The appellants all rely on its saved policy S22, which proposes "major peripheral expansion" at Uckfield during 2006-2011. 2 points arise: first, the policy states that the scale, nature and location of any such allocation will be determined in the local plan, and (second) that it is subject to the availability of appropriate transport infrastructure etc, to ensure it would not add to transport problems. In my view, the NSLP (whose status I consider further below) makes those allocations, in accordance with policy S22, with its 3 sites totalling 400 dwellings – all of which now have planning permission. I consider that this represents major peripheral expansion at Uckfield. Further, policy S22 recognises that growth at Uckfield is constrained by transport problems - in particular, town centre congestion - which I also discuss further below. In short, even if it were to be relied upon in this inquiry, SP policy S22 includes important caveats which, to my mind, do not support the 3 appeal schemes.

643. This leads me to consider how the SE Plan Proposed Changes deal with Wealden district, and its constituent parts. I agree with the Council's account of this. First, the Proposed Changes maintain the status of Wealden (within the emerging SE Plan) as a split district, partly within the Sussex Coast sub-region,

and partly within "the rest of Wealden" (outside any named sub-region). Second, while table H1b indicates a minimum annual average net additional dwelling requirement for the whole of Wealden at 550 dwellings - 70 more than the 480 recommended by the Panel - all of the increase is to be accommodated in the Sussex Coast sub-region, and not in the rest of Wealden, which includes Uckfield. Third, under policy AOSR5, the rest of Wealden is to make provision for just 200 d.p.a, compared with 350 for the Sussex Coast sub-region (policy SCT5).

644. The accompanying para. 25.27 to AOSR5 should be quoted in full: "The town of Uckfield will continue to play an important role as a small market town in supporting its wider hinterlands. Given its accessibility by rail and road and its lack of serious environmental constraints it is expected that the town will help meet wider housing needs through the provision of new dwellings". The following para. 25.28 goes on to say that "A 'balanced dispersal' strategy should be used in making LDF site allocations, which takes account of the role and accessibility of each rural settlement moderated by environmental designations".

645. The Proposed Changes contain no other direct references to Uckfield or the rest of Wealden.

646. Given the aforementioned figure of 200 d.p.a for the rest of Wealden as a whole, to be shared among its various settlements, I do not read these policy statements as proposing any major peripheral expansion of the town during the plan period. In my opinion, that contrasts with the previous strategic position under policy S22 of the SP.

647. On a separate point, I also assume that the 200 d.p.a. are expected to come forward through local plans - currently the NSLP, but subsequently the LDF – and not through ad hoc appeals.

648. In my view, therefore, for the reasons given by the Council the 3 applications at this inquiry are not in accordance with the emerging SE Plan strategy, either individually or collectively (but especially, not collectively).

649. As for the local plan, no one claims that the 1998 LP, being significantly out of date, is of much relevance to this inquiry. But I have assumed that the NSLP (which was approved for development control purposes in 2005, and runs to 2011) will remain extant, and a material consideration in determining planning applications, until it is superseded by the emerging LDF. Approval of the LDF is still some time away, and is agreed by all parties to have no significant bearing on these appeals; indeed, at the inquiry it was barely even mentioned.

650. Some of the appellants' (especially BIEN's) evidence rehearsed the early stages of the local plan process which led eventually to the NSLP. This included their view of the merits of the legal challenge (mounted by one of them), which eventually foundered in the Court of Appeal. I take no view on that. It is water under the bridge. I merely note that the plan was not quashed by the courts, but remains extant - albeit that as a non-statutory plan it is not (and never will be) a part of the development plan.

651. Turning, then, to the weight to be given to the NSLP, my view is that it should be given some weight in the determination of the appeals – perhaps even "significant" weight, although that is not a very precise term - even though it does not have the status and weight of a statutory development plan. This means that its housing allocations should not be ignored, or discounted, as the

appellants have sought to do, but should be recognised and accepted as a fact, and as a material consideration. Other Inspectors in decisions cited at this inquiry [in W2] (to be fair, not all) have thought likewise.

652. Therefore, I would remind the Secretary of State that all 3 applications are contrary to the NSLP strategy, its housing allocations, its development boundaries, and to certain other NSLP policies, as cited in the various reasons for refusal.

**Housing Land Requirements and Supply**

653. [97-111; 192-210]. On this, despite the volume and complexity of the submitted evidence, I give only a broad overview, in which I will be quite brief.

654. The evidence shows substantial and continuing differences between the (joint) appellants and the Council on both the relevant 5-year housing land requirement, and the housing land supply. For example, among the "first tranche" evidence in the early stages of the inquiry, Docs. [WDC8 and NORTH 2.1A] were both Statements of Differences between the parties. They arose from significant disagreements as to whether, for the requirement, the SP or the emerging SE Plan should take precedence; and for the supply, as to the deliverability of large and small sites with planning permission, and over the status of NSLP allocations without permissions. I make no attempt to "resolve" those differences retrospectively, and in any event both documents have been largely superseded.

655. I note that where housing requirements are concerned, PPS 3 (para 53) expressly allows emerging RSSs to be taken into account. As with any emerging development plan, the weight to be given to it depends largely upon the stage it has reached. As stated above, the Proposed Changes to the SE Plan were published in July 2008, representing a very advanced stage, and they thereby created both a new housing land requirement, and a new strategic policy context for the inquiry to consider. I have therefore based these conclusions on the Proposed Changes, but I recognise that in a very short time these will themselves be superseded (or perhaps confirmed) by the final approval of the SE Plan.

656. But there are still, so to speak, two parallel narratives on these matters – the joint appellants', and the Council's. Since they operate from different assumptions, on matters both of principle and of detail, there is little agreement between them, and I find that they cannot easily be reconciled. I do not attempt to trace these narratives' somewhat intricate course, but it can be found in the parties' closing submissions.

657. Soon after the Proposed Changes were published, the appellants and the Council submitted an agreed document [SCG10, also numbered WDC27]. This shows, in Table 3, a summary of the differences between the parties on the housing land requirement, based on the Proposed Changes, and supply. Whereas the Council calculates a total 5-year requirement of 3,194, the appellants' figure is (in the range) 3,822-3,909. The Council's calculation of supply is 3,835, compared with the appellants' (range) 2,193-2,563. On these bases, the Council finds a net surplus of 641 dwellings. The appellants, on the other hand, find a net shortfall of 1,259-1,716. The differences between these figures are based on the alternative calculations in proofs [W6 and Wo2].

658. Given these alternatives, I endorse the Council's approach and arguments - what I have called its narrative - in [W6]. This is because I think that in general

it takes full and proper account of, firstly, the SE Plan housing requirement and plan strategy, which, to repeat, will very soon become part of the strategic development plan; and secondly, the components of housing land supply. I consider these supply assessments both painstaking and acceptably robust. Thus, based on the Proposed Changes, I agree with the Council that the 5-year housing requirement 2007-2012 for Wealden district stood at 3,194 dwellings. The onus is primarily upon the Council as local planning authority to demonstrate the supply, and I am reasonably content that it has done so, following the relevant DCLG guidance, resulting in its figure of some 3,835 dwellings.

659. On that basis, it follows that there is at present a more than 5 years supply of housing in Wealden. In the rest of Wealden, where Uckfield is located, it is rather more than that. I conclude from this, and from the advice in paras. 69-71 of PPS 3 there is no good, much less a compelling case to allow any of the 3 appeals on the basis of general housing need, and certainly not 2 or 3 of them.

660. The appellants have cited, and appear to rely upon, a fairly recent (July 2008) Inspector's appeal decision (APP/C1435/A/07/2061628, re Land north of Dittons Road, Polegate [NORTH14]). I note that this concluded (in para. 75) that supply in Wealden stood somewhere between "just over 5 years…(to) less than 4 years". This, on the face of it, is a less comforting or supportive position for the Council at this inquiry. But I note that the evidence to that earlier inquiry was, inevitably, somewhat different, both on the prevailing policy context, and on the housing land assessments. And the Inspector's leading conclusion on housing land (cited above) seems to me somewhat equivocal about a 5 year supply. In addition, it should be noted that the Dittons Road site, unlike Uckfield, lies in the Sussex Coast part of Wealden district, where the SE Plan would concentrate housing growth, and not in the rest of Wealden. Moreover, from the Inspector's decision the Council accepted the site's general suitability for housing – which is certainly not the case with the sites in this inquiry.

661. The Secretary of State may wish to take a different view from mine, and to prefer the appellants' housing land narrative, lately exemplified in [SCG11, also numbered Wo2], with its overall conclusion that there is not a demonstrable 5 years' supply in Wealden. From the advice in PPS 3, that would provide a basis for allowing one or more of the appeals, even in the face of site specific objections (about which, see below).

662. In addition, the Secretary of State will not need reminding that the SE Plan requirements are (as stated in para. 7.7 of the Proposed Changes) to be treated as a minimum (and not a ceiling). In her decision para. 77, the Dittons Road Inspector emphasised that point. And there is also a further reason why the Secretary of State may wish to take a different view – i.e. in the event that the finally approved version of the SE Plan differs significantly (in its housing requirement for Wealden or its constituent parts) from the Proposed Changes.

**b) Site specific matters - landscape considerations**

663. [112-119; 211-221; 282-283; 292; 309; 389-392; 444-449; 472; 538-543; 581-583; 597]. I turn now to the first of the site specific matters. Since these are all greenfield sites, landscape considerations – the various proposals' impact on the landscape and countryside – are germane to all 3 appeals. Relevant development plan and other (NSLP) policies aim to ensure that development does

not harm the landscape, or the character and appearance of the countryside generally.

664. There was discussion at the inquiry not only about the nature and magnitude of these impacts, but also about the methodology used by landscape specialists to assess them. I do not enter into the details or technicalities of the latter debate, but concentrate instead on my own perceptions and understanding of landscape impact, as informed by the views of all parties.

665. I begin with 2 simple points. First, none of the 3 sites is, or (as far as I am aware) has ever been formally designated for its landscape character and/or quality. Uckfield lies to the south of the High Weald AONB, the nearest nationally-important landscape designation, although its environs are visible from it. And no land around Uckfield is subject to any extant local landscape or countryside gap-type designations.

666. However, I am in little doubt that if any of these sites were at any time considered as a candidate for inclusion in a local landscape quality designation (a category not in general favoured by the advice in PPS 7), then that site would be Downlands. To my mind and eye, the rural landscape character and quality of Downlands are different from, and qualitatively superior to, those of the other 2 sites.

667. In terms of its character, Downlands seems everywhere more "rural" - more a part of the countryside proper – than either BIEN or BIES. This is apparent, I think, regardless of the season, when one walks over any part of it, whether the arable fields in the higher southern and eastern parts (in general, the area proposed for development), or the ancient woodlands in the lower-lying, more western parts, or the more open areas around Budletts Common. And, while its tranquillity is undoubtedly affected by the proximity of the busy A22 Uckfield bypass, Downlands feels comparatively remote from any town; as I have said, it is more a part of the countryside than of the urban fringe.

668. As for its landscape quality, it seems to me that the combination of topography (the overall height AOD, and the subtle variations in level caused by the minor valleys which traverse it) together with the visually-pleasing interlacing of gently rolling fields and their wooded fringes, and the relative absence of any eyesores or jarring elements, make Downlands intrinsically the best of these 3 sites (and therefore the least suitable for development). In simple terms, it is a more attractive and more unspoilt swathe of countryside, and therefore more sensitive and worthy of protection from development, than BIEN or BIES.

669. Nothing in the Downlands evidence deflects me from that view; and where there were landscape-analytical differences between Downlands and the other landscape witnesses, I tend to agree with the common stance taken by the Council, BIEN, BIES and the Downlands Action Group.

670. Second among these preliminary points, the Downlands proposal is far larger in scale than either BIEN or BIES, or even the 2 combined (750 dwellings etc. compared with about 500 for both). Thus, even if one discounts the fact that the Downlands application site contains much woodland and open land which is not proposed for development, it still includes by far the largest area proposed for development (18.5 ha.). It follows that development here would have by far the greatest overall impact on the character and appearance of the site, and on the wider landscape.

671. BIEN and BIES are different from Downlands. They are each much smaller in size. They mainly comprise sloping farmland (both arable and pasture or grazing land), part-fringed by woodland, but in both cases the woodland is much less extensive than on the fringes of Downlands.

672. Most importantly, they are both unequivocally in the urban fringe, (BIES referred to the urban edge, possibly a better term) rather than in what I call the countryside proper. Thus, both BIEN and BIES are far more influenced - in terms of both character and quality - by the very immediate and highly visible proximity of the town. BIEN even contains - or, strictly speaking, surrounds – what could be considered a detached portion of the town in the form of The Yard with its mixed industrial uses.

673. That, as I see it, is the general context for the consideration of landscape impact. I now come briefly to consider the individual proposals.

674. *Downlands:* The Downlands appellants stress 3 points in particular as mitigating factors against any untoward landscape impact arising from their scheme.

675. Although this is an outline application, the first is the claimed quality of design. They say that the proposed housing areas would be i) well located and laid out, avoiding the most sensitive parts of the site, ii) adequately buffered from the adjacent ancient woodland, and iii) well integrated with the village centre, with iv) an appropriate height profile for all buildings. They add v) that the architectural design would borrow from high quality Arts and Crafts and/or Wealden precursors, and they claim that it would be superior to the more mundane or commonplace character of the rival BIE schemes.

676. Secondly, although development would be concentrated on the upper parts of the site near Snatts Road, it would not be at the highest levels, and much of it would be screened and contained by thick woodland - notably, from the A22 Uckfield Bypass.

677. Third, and very importantly, there are comparatively few publicly-accessible locations from which any of it would be clearly visible. It would hardly be seen from anywhere in the existing town, even from much of Snatts Road, and it would only be seen from a limited number of places in the heavily wooded and lightly-settled countryside to the north and west.

678. I find some truth in these assertions. But, as the Council and other parties to the inquiry have noticed, Downlands suffers from a major disadvantage, in terms of the landscape setting and urban morphology of Uckfield, compared with BIEN and BIES. I think this is readily apparent from even the most cursory look at a 1:50,000 or 1:25,000 OS map, especially when imagined in 3 dimensions. It is that the Downlands scheme would “spill out” into a new and relatively pristine area of countryside, over the long topographical ridge which follows approximately the line of Snatts Road, thereby breaching an important natural (and defensible) boundary to Uckfield. Instead of facing the town, it would look towards the adjacent countryside and the more distant AONB.

679. Indeed, because of its scale it would appear as a separate and self-contained new settlement which, because of its location and topography, would be ill-related - indeed, almost unrelated - to the existing town. This in turn is why it

would not be visible from most parts of Uckfield. In my opinion, no amount of tree screening or high quality design would compensate for that.

680. Not so BIEN and BIES, which are both sites which - despite minor topographical complexities - face towards the existing town, and are visible from the nearby parts of it. This is because they both form part of a bowl-like landform which contains much of the east side of the town, a point which applies to BIEN in particular. In short, I think that they are both much better related to Uckfield, topographically, morphologically, and visually, and for that reason they both would appear, far more so than Downlands, to be "natural" or logical urban extensions. In my opinion, owing to its higher degree of containment by existing development BIEN might be preferred to BIES in this regard.

681. These general considerations obviate any need for a detailed analysis of individual view points, or the precise delineation of zones of visual influence. (One should not lose sight of the wood for the trees.) But I must record the fairly unanimous critique, from other parties, of the Downlands visual and landscape impact assessments. In general, this critique suggests that the Downlands scheme's visual impact from certain viewpoints has been seriously under-estimated by its proponents, leading to their excessively sanguine (some say wrong-headed) view of it.

682. For example, the Council and others said that the scheme's impact in views from the nearby Maresfield village recreation ground, and from the much more distant Marlpits car park in the AONB - as well as from certain other public viewpoints - had been wholly misrepresented.

683. Having visited all the viewpoints at issue, and at different lights and seasons, I tend to agree; in my opinion, the landscape impact of the Downlands scheme would be significantly greater, and more harmful to the countryside, than its proponents admit.

684. I should also mention the effect of the Snatts Road link. This has proved controversial mainly because of its alleged impact (through selective tree-felling, lighting etc.) on ancient woodland, and owing to arguments over its deliverability. I refer to both those points below. But it would also have some adverse impact on the landscape, given that it would traverse a hitherto virtually-untouched swathe of woodland and scrub which contributes much to the existing rural character of Snatts Road.

685. The same applies to the proposed roundabout access to the A22. The effects of this on ancient woodland are disputed, but as a major engineering artefact its visual impact would be considerable, and all the more striking for being located along a long stretch of road (between the Black Down and Copwood roundabouts) from which, at present, Uckfield is so well-screened by trees as to be all but invisible.

686. *BIEN:* Unlike Downlands, I consider that the BIEN site is essentially a visually mundane collection of fields, separated by gappy hedges, whose character is much influenced by the somewhat scrappy, modern ribbon-development alongside Framfield Road, as well as by The Yard industrial exclave. In my opinion, it does not have the intrinsic quality of landscape to qualify - even if that were supported by PPS 7 or other policy – for a local landscape designation.

687. BIEN's landscape evidence, which I generally accept, indicates that development here would fit comfortably into the aforementioned bowl-like landform, and would relate satisfactorily to the nearby parts of the town north of the River Uck and west of the Framfield stream. Its outer edges would be contained within a woodland framework. And, if suitably laid-out and designed it could also help tie the aforementioned sporadic development better into the wider fabric of the town. The landscape proposals would serve that end, and would assist in the successful juxtaposition of the BIEN scheme with the adjacent countryside.

688. As mentioned at the outset of this report, the Council remains opposed in principle to the development of any of these unallocated greenfield sites. However, during the inquiry it changed its stance from one of initial opposition to BIEN on landscape grounds to one of acceptance. I consider that to be a reasonable evolution of its assessment. In my opinion, although it would lead to the loss of some unremarkable countryside on the urban edge, there are no good reasons to refuse the BIEN scheme purely on landscape grounds.

689. *BIES:* Much the same applies to BIES. Being located on quite a steep, town-facing grassy slope (mainly used for grazing horses), any development on BIES would be very visible from the Community Hospital and nearby existing and approved residential areas off the Framfield Road, but it would not breach the skyline when looking eastwards, and could be designed (as shown by the DAS) to protect existing views of the listed oast house building at Bird In Eye Farm. Like BIEN, but unlike Downlands, it would appear as a natural and logical extension to the town, and not significantly separated, much less divorced, from it by the Framfield stream. As with BIEN, I think that the landscape proposals would complement the form and layout of development shown in the DAS, and help provide a pleasing new urban edge to Uckfield. In sum, there are in my opinion no cogent reasons to resist the BIES proposals purely on landscape grounds.

690. To sum up, I consider that Downlands would have a far greater and more harmful impact on landscape than BIEN or BIES, or even the 2 combined. This would be contrary to relevant development plan and other policies. In my judgement, this amounts to a major planning objection to the Downlands scheme; sufficient, even on its own, to justify refusal. There is no such objection to BIEN or BIES. Between those 2 sites, BIEN is slightly preferable to BIES on landscape grounds.

**Site specific matters - ecology and nature conservation**

691. [120-143; 222-274; 284-288; 293-305; 314-319; 393-407; 450-455; 473-478; 544-557; 584-587; 598-603].

692. *i) General points – nature conservation designations, and PPS 9 (Biodiversity and Geological Conservation):* Given the amount of evidence and the time devoted to this topic at the inquiry, it is important to remember that none of the 3 appeal sites is subject to any international, national, or regionally important nature conservation designation, either in whole or in part.

693. Nor was there any evidence put to me that any of them is about to become so designated. While there was a firm suggestion from one authoritative 3rd party witness (Professor T. Beeby) that Downlands merits SSSI status for its reptile and amphibian assemblage, the fact remains that it is not a SSSI.

694. Downlands is immediately adjacent to a locally-designated site, Lake Wood (managed by The Woodland Trust), which is a county SNCI (site of nature conservation importance) but BIEN and BIES are not.

695. All 3 sites either contain, or are close to certain BAP priority habitats, and/or provide habitats for certain statutorily protected species, including badgers, dormice, bats, and great crested newts. All, but most especially Downlands, contain varied wildlife habitats and plant assemblages.

696. There is general agreement that Downlands (by far the largest and least homogeneous appeal site) contains a richer variety of species, and greater biodiversity in general, than the other 2 sites. However, that does not necessarily apply to the developable areas, which are not rich in plant or animal species, nor in biodiversity, however it is defined. PPS 9 para. 16 advises that planning permission should be refused where harm to protected species or their habitats would result, unless the need for, and the benefits of the development clearly outweigh the harm.

697. All 3 sites either contain, or are immediately adjacent to ancient woodland (AW). In the case of Downlands, there is a very substantial amount of AW within the application site boundary (albeit not within the areas proposed for development). In the case of BIEN and BIES, there is AW just outside the application site boundaries, with small areas inside BIEN. PPS 9 para. 10 advises that planning permission should not be granted for any development that would result in the loss or deterioration of AW, unless the need for, and benefits of the development in that location outweigh the loss of the woodland habitat.

698. PPS 9 also advises that good design may include opportunities for building-in beneficial biodiversity. Such opportunities should be maximised, using planning obligations where appropriate.

699. ODPM Circular 06/2005 contains further advice on statutory obligations (e.g. on non-designated sites and on protected species) as they affect planning decisions.

700. *ii) General points - stances of inquiry parties:* All 3 planning applications were refused, in part, on grounds of insufficient information about/probable harm to the respective sites' ecology/nature conservation interest. This was despite 2 of the sites - Downlands and BIEN – having a detailed ecology chapter in their environmental statements (no formal environmental statement was required for BIES). But by the end of the inquiry, there was much more information and evidence available on these aspects.

701. As a result, the Council in effect withdrew its objections to both BIEN and BIES on these grounds, as confirmed by SCG5 (BIEN) and SCG8 (BIES). The Council no longer considers that BIEN or BIES should be refused on ecological/nature conservation grounds.

702. However, as in the case of landscape considerations, the Council maintains a strong objection to Downlands on these grounds. It argues that the Downlands scheme would be contrary to the relevant SP, LP and NSLP nature conservation policies, and also to the advice in PPS 9, particularly in respect of ancient woodlands.

703. This was reinforced by similar objections to Downlands from BIEN and BIES, and also from The Woodland Trust (a Rule 6 party), the Downlands Action Group, and some individual objectors.

704. The Council, therefore, would be content with the various agreed draft conditions on ecology/nature conservation to be imposed on the BIEN and BIES schemes, should the Secretary of State decide to allow either of them. Relevant conditions have also been drafted for Downlands.

705. At the inquiry, all 3 appellants, the Council, and the Downlands Action Group were represented by very well qualified and experienced professional witnesses. I think it fair to report that Downlands was more generally on the defensive than the other appellants – in the sense of the numbers and weight of the opposition. Nevertheless, it maintained a very confident and assertive view not only that its proposals would not significantly harm any ecological/nature conservation interest (including that of AW), but that they would, on balance, bring far more ecological benefits than BIEN or BIES, as positively encouraged by PPS 9.

706. To anticipate, my overall view is that while all 3 schemes would entail ecological impacts (which probably goes without saying, given that these are all greenfield sites containing or fringed by freshwater streams and AW), none of them - and particularly not BIEN or BIES - should be refused on ecological grounds alone. That said, there is far more room for doubt (in my mind, at least) as to precisely what effects the Downlands scheme would have, and where to strike the ecological balance, between potentially adverse impacts and potential benefits.

707. *iii) General points - the ecological surveys:* One of the bones of contention at the inquiry concerned the extent to which the 3 appellants had produced adequately thorough and robust baseline ecological surveys, aimed at providing an accurate and up to date picture of their site's existing ecological resources and status, including resident and visiting species lists etc. It would be tedious and unnecessary to report the details of this debate.

708. Suffice it to say that I (admittedly, not a trained ecologist) am reasonably satisfied that enough sound and reliable ecological survey work has been done on all 3 appeal sites for the purposes of this inquiry. Whether it meets the latest professional best practice guidance in all particulars I am not qualified to say. The details are in the Downlands and BIEN environmental statements and the BIES comprehensive ecological assessment, supplemented by the inquiry proofs and appendices. Thus, in my view, while there may be residual doubts as to whether, for example, there are dormice on certain parts of the sites, whether the sites are ever visited by otters, or whether they are foraged by certain less common bat species, there are no glaring omissions, and no significant species or other ecological resources have been wholly overlooked.

709. *iv) The individual sites – Downlands:* Judging from the massed opposition to it at the inquiry, Downlands is by far the most controversial of the 3 sites in terms of ecology and nature conservation. And yet, paradoxically, it is Downlands which makes by far the largest claims for its own ecological merits, and nature conservation benefits.

710. This for 2 reasons. First, the Downlands proposals include a 55 ha. country park, which broadly speaking would take in much of the AW, Budletts Common and other land within the application site. About 16 ha. of this would be

accessible to the general public. The country park would have a full-time ranger, and an interpretation centre, funded by way of a S106 obligation. It would be managed for the dual purposes of public recreation, and nature conservation, and, I accept, would strive hard to reconcile the two.

711. Secondly, Downlands emphasises that much of the site at present (and for many years past) has been neglected - left to go its own way - and has not been managed positively in the interests of nature or woodland conservation. This, they say, would change with the development scheme, and new and beneficial management practices would be introduced, notably at Budletts Common, and maintained for the foreseeable future. Over time, they say, this would increase and enrich the biodiversity of the wider (undeveloped) site and its surroundings. Downlands says that neither BIEN nor BIES would or could offer remotely comparable benefits.

712. Both of these claims were challenged, but in my view not successfully refuted, by other parties. It was pointed out that the country park proposal is not included in any plan or policy, and is not backed up by any known or even latent demand for such a facility. It could not, they said, be reasonably required as part of the scheme, and should not influence the Secretary of State's decision on the appeal. In short, they feel it does not amount to much.

713. As for improved management, there was nothing to preclude that under existing arrangements and grant schemes, including DEFRA's countryside stewardship (such as a higher-level scheme already in operation at Downlands). The landowner did not need a planning permission for 750 houses to introduce better management practices for the land.

714. Despite much thought, I remain unsure what weight (or credence) the Secretary of State should give to these claimed benefits. They cannot readily be quantified. No party to the inquiry - other than Downlands - has endorsed or supported them, much less welcomed them. Certainly, they do not by themselves justify the grant of planning permission for what is by any standards a very large development scheme. Not even the Downlands appellants would claim that they do. But I do not think they should be ignored, or dismissed out of hand. It seems to me that they would contribute positively to the management of some of the undeveloped portions of the Downlands site, (especially Budletts Common) in the furtherance of worthwhile nature conservation objectives. That would be consistent with local nature conservation planning policies.

715. Turning to the matter of ecological impact, I come first to the vexed question of ancient woodland (AW). It may be recalled that one of the significant changes made to the scheme before the inquiry started was to move the main access from the Black Down roundabout to a position on the A22 1 km. to the south; this was done mainly in order to obviate or minimise any impact on AW, and, I think, demonstrates how conscious the Downlands appellants have been of AW (and ecological considerations in general). And they point out that following the scheme amendments, there are no longer any significant objections to the proposals from The Environment Agency, or Natural England.

716. There were claims and counter-claims about various areas of woodland on the Downlands site, as to whether they were, or were not AW according to conventional definition(s). "Hunters Way Shaw" (site of the proposed Snatts

Road link) was a case in point. As were certain other blocks of woodland. Some old maps were produced, dating back to the eighteenth century, and research theses were cited to see what light they could cast on the subject. There was discussion of ground plant indicator species, and of minor topographical irregularities and discontinuities. I became aware of the pitfalls of relying on these sometimes conflicting or inconclusive sources of information.

717. Indeed, I found some of this evidence contradictory and confusing, and being inexpert in the subject I have not been able to come to a definitive assessment as to precisely the extent of AW, properly so-called, at Downlands. However, I have formed the view that the most reliable plan showing the distribution of AW at Downlands is probably at App. SU13 to the Downlands proof CO4. This, I find, is adequately backed by the painstaking Downlands evidence, and I consider that no other site-wide plan is to be preferred.

718. On that basis, I agree with Downlands that very little AW would be directly lost as a result of the proposals. Thus, I am not persuaded by those who would have me and the Secretary of State believe that there would be significant losses in numerous locations. In fact, I think that the extent of any loss would be quite small, and almost insignificant. For example, contrary to some claims there would be none in the vicinity of the access from the A22. And, although some trees would be felled in Hunters Way Shaw to make way for the Snatts Road link, there is probably very little proven AW in this area. In sum, I do not think that the Downlands scheme should be refused on the basis of any direct loss of AW.

719. I find the indirect impact of the proposed development on AW at Downlands even more difficult to assess. This subject was one where the respective ecologists at the inquiry took almost diametrically opposed stances, (which at times seemed to me somewhat artificially exaggerated).

720. In brief, the charge was that you cannot place 750 houses, a school and other development in close proximity to AW, both on the application site and at Lake Wood, without entailing all manner of adverse human impacts, through both lawful access and trespass, ranging from the inadvertent to the downright malicious, or even criminal.

721. Such damage (or “deterioration”) is of course abhorred by PPS 9, and local policies alike. While Downlands cited examples from far and wide where ancient woodlands near large new housing areas had apparently not suffered any significant damage, or loss of biodiversity, other parties produced examples where they had, including at Lake Wood.

722. One can only come to the common sense conclusion that both situations (in every degree from the benign to the highly damaging) can and do arise. The question then is whether access and other management is an effective tool in preventing or mitigating any harmful effects. I think that is virtually impossible to predict, as it depends on so many variables. Downlands was accused of being far too sanguine, perhaps even disingenuous, not only about the local impact, but about human nature in general. For its part, it responded by saying that closer contact and involvement with nature (for example, through facilitating people’s access to AW) could only be a wholesome and educational process, and good for society as a whole, especially young people. This, it claimed, would induce a proper sense of responsibility and care for the natural environment, as promoted by Natural England.

723. For present purposes, I refuse to be drawn into any debate about human nature! But it seems to me that the Downlands scheme certainly has the potential to be quite damaging, in the long term, to the AW on the site, contrary to PPS 9 and local policies; however, this is by no means a foregone conclusion.

724. Much would depend upon the management regime in place during construction works and after occupation commenced, the extent of public access to the AW, its day to day monitoring and control, the type and effectiveness of fencing, staffing, the maintenance budget and other factors. But, having considered all the evidence and expert opinion, I do not think that Downlands should be refused outright on the basis of harm to AW; to my mind, any such harm is merely potential, rather than probable or demonstrable.

725. That said, I believe it is open to the Secretary of State to take what I can only call a precautionary view, which in this inquiry would mean not granting planning permission on a site if other, less potentially vulnerable sites were available. In respect of AW, I regard both BIEN and BIES and their wooded fringes as less potentially vulnerable than Downlands. All of the inquiry parties (except Downlands, of course) would agree.

726. As will be recalled, I reached a similar conclusion with respect to landscape considerations.

727. There was also debate about priority habitats and protected species. I do not consider any of these individually. The Council's and BIES' closing submissions address these matters at length, and express particular concerns about the protection (in terms of mitigation strategies, rather than avoidance) of amphibians (especially great crested newts), certain reptiles, dormice, and bats. Prof. Beeby thought that the reptile populations would be decimated by human interference. The opposition all suggest that protected species would suffer some loss of, and fragmentation of habitat, raising serious doubts as to whether the necessary licences for works could be obtained from Natural England. For BIES, citing legal precedents, the unlikelihood of obtaining licences, together with alleged shortcomings in the environmental statement, are sufficient in themselves to warrant the refusal of Downlands on nature conservation grounds.

728. The contending ecologists are divided about the effects on protected species, and their views not easily reconciled. Perhaps some objectors have exaggerated the threats. I do not go so far. But I too have doubts that some protected species (including bats, dormice and great crested newts) might suffer significant harm - in terms of damage to their habitats and losses of population (i.e. their "conservation status") - if the Downlands scheme were implemented. Thus I am far from being entirely reassured by the Downlands evidence on these matters, and I lean slightly towards the views of the other parties.

729. As for the oft-mentioned green bridge, I find the expert evidence inconclusive as to whether this would, or would not, facilitate the movement of protected species (especially the hazel dormouse) between parts of the site, thereby offsetting any risks from habitat fragmentation. But I am prepared to accept that in favourable circumstances it could prove a useful tool.

730. In sum, as I have already indicated I am not recommending the Secretary of State to refuse Downlands outright on the basis of harm to its ecology or biodiversity, or those of neighbouring land. However, from the evidence of several other parties I have quite serious reservations about the long term

integrity of the AW on and nearby the site, if for any reason any future protective management regime should prove insufficiently effective. And I also have general concerns about the future of protected species. Unless the Secretary of State is minded to place great credence, and weight, on the claimed conservation benefits of the scheme, she might conclude that these amount to unnecessary risks, which are not worth the taking.

731. *v) The individual sites – BIEN:* I can deal very briefly with the other 2 appeal sites, starting with BIEN. Unlike Downlands, the prospective ecological impacts of the BIEN scheme have not provoked much opposition, or even drawn much comment (except from Downlands). This site, which is much smaller and more dominated by arable land, exhibits a lower level of biodiversity, is not nearly so controversial.

732. It mainly comprises grassed fields of middling agricultural quality, separated by a partial network of somewhat degraded hedgerows. It does not contain very much AW, although there is some, and more extensive blocks of AW are adjacent to parts of the application site boundary. It is somewhat removed both from the River Uck, to the north, and the Framfield stream, to the west.

733. There is some evidence of the presence of protected species, but not in any notable concentrations. In short, this is very ordinary urban-fringe farmland in ecological terms, and not therefore very rich in biodiversity. It is also affected by the proximity of the housing alongside Framfield Road, and by the industrial exclave at The Yard, both of them giving rise (as I surmise from my own site visits) to some human and vehicular disturbance.

734. As previously mentioned, I am satisfied with the level and detail of the ecological surveys of BIEN which have been undertaken in connection with this inquiry. While reasonably comprehensive, they have not revealed any unexpected ecological treasures.

735. Following this work, the Council changed its stance during the course of the inquiry and no longer maintains an objection in principle to BIEN on ecological/nature conservation grounds. I understand that this followed site visits by the respective ecology witnesses for the parties.

736. The upshot is SCG5, which deals with such matters as buffer zones (between developable areas and nearby AW), long-term habitat management (including a draft management plan), long-term habitat monitoring, and hedgerow translocation. It also includes agreed suggested planning conditions. The Council agrees, as I do, that implementation of the conditions would obviate any significant ecological harm arising from development, and that the scheme would therefore be in accordance with the relevant national and local policies.

737. Although Downlands has claimed certain limitations in the BIEN baseline surveys, I do not think that this amounts to a case for rejecting the BIEN proposals. Nor are the other alleged impacts from the scheme. No other party has raised any significant objections to BIEN on ecological grounds, and I have no good reason to do so. I can report, therefore, that there is no sound case for rejecting the BIEN scheme on the grounds of any harm to ecological/nature conservation interests.

738. *vi) The individual sites – BIES:* My conclusions on BIEN, being couched in somewhat general terms, apply also and equally to BIES. Again, I consider that

there is no sound case for rejecting the BIES scheme on the grounds of any demonstrable harm to ecological/nature conservation interests.

**Site specific matters - highways and transport**

739. [144-177; 236-274; 289-291; 312-313; 408-433; 456-464; 479; 558-577; 588-595; 604-605]. All 3 applications were refused partly on highways and transport related grounds. At the inquiry ESCC put most of the evidence against the 3 appellants, supported by WDC. The 2 Councils therefore have a common case. But there is also a statement of common ground (SCG2, also numbered WDC16) between them and BIEN and BIES. This in effect withdraws some of the Councils' highways and transport related objections to BIEN and BIES.

740. The cases of the 3 appellants differ, since the sites, their locations, and the proposals themselves all differ. That said, there are in my view essentially 2 main issues raised by each appeal: i) the intrinsic accessibility and "sustainability" of each site/proposal in transport terms; and ii) its impact on local traffic conditions, in particular congestion and road safety in Uckfield town centre. I now consider each issue in turn, followed by some miscellaneous matters. I have concentrated far more on broad considerations of accessibility and traffic impact, than on the technical/statistical data in the related documents.

741. *i) Transport sustainability – brief overview:* All 3 sites are located on greenfield land on the edge of Uckfield. To provide a reminder of the context, Uckfield is a small market town, with a population of about 14,000. Therefore, none of the 3 locations is in any real sense remote, or very far from the town centre.

742. However, distance is relative, and there is disagreement over which site is, or could be the best connected with the town centre, and in general with the town's facilities and services. While BIEN and BIES are, for a reasonably fit person, within practicable walking distance of the town railway station and the bus station, Downlands is not. However, although the route to Downlands is also more hilly, it would be practicable to cycle from all 3 sites to those public transport facilities, for onward travel further afield.

743. All 3 appellants claim that their proposals would be highly sustainable in transport terms, in line with relevant national and local policies, because a) they would be well and conveniently located in relation to existing facilities and services, particularly in the town centre; and b) they would maximise opportunities to achieve modal shift away from car use, particularly by encouraging and facilitating the use of public transport, cycling and walking.

744. For their part, the 2 Councils say that while the respective proposals would each go some way towards this ideal, they would not fully attain it. They say that Downlands would be the least satisfactory in this respect. This is largely because it is, on the whole, the most peripheral of the 3 sites, being, on aggregate, located further away from key town centre facilities than BIEN or BIES.

745. But, they add, all 3 sites would fail to provide a high level of connectivity with the town: Downlands because of the non-deliverability of the Snatts Road link, the general unsuitability of other existing routes to the town centre, and the long and indirect route of the proposed A22 Uckfield bypass cycle route; BIEN because of its failure to provide a pedestrian/cycle link to the north, over the River Uck and the railway line; and BIEN/BIES because of their shared reliance on the

narrow and frequently congested Framfield Road for a connection to the town centre.

746. *Transport sustainability – Downlands:* All parties provide estimates of the distances from the Downlands "village centre" to various town centre and other services and facilities in Uckfield. Perhaps needless to say, these vary somewhat, being based on slightly different assumptions and types of measurement. There is no single agreed set of distances, and I do not attempt here to provide one. But from my examination of all of them, and from my own perambulations on foot, I find that Downlands would indeed be further away from many (but not all) town centre facilities and destinations than the other sites, requiring on aggregate longer journeys, often with steeper gradients. That places it at a disadvantage, in terms of crude accessibility, compared with BIEN and BIES.

747. I agree, too, with the 2 Councils that there are particular and significant difficulties with the Downlands pedestrian/cycle routes. While the proposed Snatts Road link would provide a reasonably direct, generally safe, and in places quite attractive route into the northern part of the town centre via Church Street, the evidence suggests that, for reasons of land ownership, it may well not be deliverable. An existing footpath link from Snatts Road to Pudding Cake Lane (off Church Street) is far from satisfactory, as it follows a rather tortuous route, incorporates steep steps or other obstacles in places, and is frequently too narrow, enclosed and ill-lit. It could not easily be made Disability and Discrimination Act compliant. And, from my own observations, (and probably for those reasons) it seems to be little frequented.

748. As for the proposed, 3.1 kms. long cycle route along the A22 etc, that would head away from the town centre before eventually doubling back along the line of the B2102 Bell Farm Road. While there is enough space for it within the highway verge alongside the Uckfield bypass, it would be in close proximity to heavy flows of fast traffic. On a wet day, or after dusk, that would be especially daunting. I therefore agree with the Downlands Action Group and others that for most Downlands residents it would not prove a very tempting or attractive route into the town centre, and, I suspect, would in practice be little used.

749. It seems to me, therefore, that Downlands would not be nearly so well connected with Uckfield town centre for pedestrians and cyclists, as its proponents claim. I think it self-evident that this would only tend to increase car-use at the expense of these other modes, whose use is in general strongly encouraged by relevant national and local policies. That tends to undermine Downlands' claim of not being excessively car-dependent.

750. The other main factor which, to my mind, tends to increase the likelihood of car-dependency at Downlands is its considerable ease of access by car onto the A22 Uckfield by-pass, and thence on to the wider road network, or into Uckfield town centre.

751. On the other hand, I accept that the Downlands proposals would (through a planning obligation) provide a good measure of support for local bus services, and that speaks in its favour. The travel plans, in which Downlands places much trust, would also assist in this, and encourage bus usage.

752. Downlands also claims that its own use-mix, particularly the village centre employment, the primary school, the playing fields, and country park, would provide a desirable level of "internalisation" of trips - up to 10% of all trips -

thereby reducing its residents' need to travel, and boosting the sustainability credentials of the development. Other parties point out that these, particularly the primary school, would also attract many daily trips from outside, thereby generating additional car journeys not experienced by BIEN or BIES. From this somewhat inconclusive debate, it seems to me that these pros and cons of internalisation at Downlands might in fact be fairly evenly balanced.

753. In sum, contrary to the claims made on its behalf, I do not find that Downlands would be particularly accessible, particularly by non-car modes of transport, compared with the other appeal sites. Instead, I think the scheme exhibits signs of a likely car-dependency. That would not be in line with current national or local transport policies.

754. *Transport sustainability – BIEN and BIES:* As already noted, BIEN and BIES would both be closer, on the whole, to existing town centre services and facilities than Downlands. There is very little to choose between them in this regard. Each site is of course slightly closer/further away than the other from a given destination; for example, BIES is further from the secondary college, but is closer to Harlands primary school and the community hospital. But there is no systematic advantage for one BIE site over the other.

755. Neither BIEN nor BIES would offer a choice of pedestrian/cycle routes into the town centre, as both would be dependent upon the narrow Framfield Road, which is frequently congested during peak hours. There is no public footpath along much of Bird In Eye Hill, and no proposal from either scheme of providing one, so it would not be advisable or safe to walk from the main site entrances towards the town. However, that is not actually necessary, as both sites would connect with Bird In Eye Hill from points further to the west, close to the Framfield stream, from where there are footpaths alongside Framfield Road leading towards the town centre.

756. BIEN would not provide a cycle/footpath link over the River Uck and the railway line, leading on towards the eastern part of the town centre and the college etc. in that part of town. I understand that such a link was long regarded by the Council as essential to the development of the site, although they seemed later to have relaxed their view on it. But I regard it as a significant failing in BIEN's wider connectivity with the town.

757. As part of their planning obligations, both sites would contribute to bus service improvements along Framfield Road, and the proposed Framfield Road parking scheme - although evidently not very popular with local residents - would at least ease traffic movements along that route to the town centre. While there was some criticism from Downlands over its safety for cyclists, and its convenience for the disabled, I consider this somewhat exaggerated, and that neither matter would frustrate the implementation of the scheme.

758. To conclude this section, I think that both BIEN and BIES have advantages, in terms of their intrinsic accessibility and sustainability, over Downlands. But there is not much to choose between BIEN and BIES, and both have drawbacks of their own.

759. *ii) The proposals' impact on Uckfield town centre:* This matter took up much inquiry time. However, I found the debate rather frustrating, since much of it was speculative, dealing as it did with the many uncertainties about a future town centre traffic management scheme for Uckfield. And the parties muddied

the waters further by accusing each other of failing to understand aspects of it. Rather than attempting to unravel these complexities, I give in the next few paragraphs a summary of the situation as I understand it.

760. All parties agree that Uckfield town centre - in particular, certain key traffic light junctions, notably Bell Lane/High Street and High Street/Framfield Road - suffers increasingly from traffic congestion, especially at the peak morning and afternoon periods. During the inquiry, I myself observed the lengthy traffic queues which often build up at these junctions. As accidents records show, this also compromises road safety.

761. It is also agreed that without radical interventions town centre congestion can only get worse, particularly when the new housing developments in Uckfield from the NSLP (some 400 units) are built and occupied.

762. The 2 Councils say that some kind of "town centre scheme" is needed, as soon as possible, to relieve this growing congestion. But while traffic modelling and other studies have been done, "a town centre solution" remains at an early stage. Thus there is not even a preferred option as yet (whether of "hard" engineering measures, or "soft" demand management measures, or some combination of the two) to put out to public consultation. Even when there is, and if/when sufficient monies are available for it in the form of developer contributions, it might well be thwarted by public opposition.

763. The Councils strongly maintain that any further major housing development at Uckfield (over and above the committed NSLP sites) should only come through the LDF process, in tandem with a town centre scheme. That way, both matters can be comprehensively and systematically addressed, instead of ad hoc (as in this inquiry). However, as this very inquiry shows, housing schemes also come forward through the development control process, and their implications for town centre traffic cannot simply be ignored. Therefore, the Councils accept a responsibility to see whether there is any scope for permitting such proposals before a town centre scheme is in place.

764. This leads directly to the "headroom" concept. This would be an interim, or bridging solution in the period before the implementation - still some years away - of a town centre scheme. ESCC traffic studies indicate that up to 300 units could be built, from all or any of the 3 appeal schemes, in advance of a town centre scheme, provided there were in place a "retrofit package" of soft demand management measures to reduce car-usage among the existing resident population of the town. Details of such measures are in the ESCC proofs and appendices.

765. That would provide the so-called headroom. Both BIEN and BIES, who acknowledge their traffic impacts on the town centre, accept the logic of this; thus they have signed up to SCG2. Following on from this, they have developed proposals in S106 planning obligations both to conform with this headroom concept and quantum, and also to contribute monies to an eventual town centre solution. For its part, Downlands is prepared to contribute, through a planning obligation, to certain retrofit measures only.

766. Despite some reservations over the details, the Councils are broadly content with these BIE obligations, and on that basis they do not find the BIE schemes unacceptable on the grounds of traffic impact. Moreover, the Councils accept that their accessibility, enhanced by physical works (such as the Framfield Road

parking scheme) and commitment to demand management measures, are such that a trip rate of 0.66 car trips/unit/hour can be achieved.

767. For its part, Downlands has never agreed that it would have a significant (i.e. more than 2%) traffic impact on the town centre, and does not therefore accept any need or obligation to contribute towards a town centre solution. This, it says, is largely because, unlike the BIE sites, much traffic from Downlands would not have to pass through the town centre. It takes this 2% criterion from extant policies in the 1998 LP and the NSLP. However, citing national policy advice and current best practice, ESCC maintains that this inquiry should not be looking at a 2% impact criterion, but at "nil detriment", whereby a given scheme would in effect make no additional impact on the town centre over and above existing traffic levels.

768. This matter of traffic impact on the already congested town centre is complicated by the parties' disagreements on, in particular, the trip rates arising from the various schemes. 3 principal trip rates (0.4 trips/dwelling/peak hour; 0.66 and 0.8) were discussed at the inquiry, and various impact assessments based on them have been produced and are contained in the inquiry documents. At the risk of over-simplification, Downlands stands by its TRICS-derived, relatively low (0.4) trip rate, which the Councils do not accept, whereas they agree with BIEN and BIES a 0.66 trip rate for their schemes.

769. I tend to agree with the Councils that the trip rate claimed by Downlands may not be sufficiently robust, and that town centre traffic generated by the scheme would therefore be greater than they contend. That is consistent with my earlier conclusion, derived from the proposed transport infrastructure, about the relative car-dependence of Downlands. Indeed, the Council says that town centre traffic impact would be very much in excess even of 2%. While I do not go so far as that, I think that Downlands, like the BIE schemes, could reasonably be expected to contribute monies to the town centre scheme, in addition to any headroom measures.

770. That said, I tend overall to agree with the 2 Councils' preferred position on this matter of town centre traffic impact, which takes primacy over its "offer" of headroom capacity. It therefore seems to me that if the Secretary of State accepts that there is no compelling housing need at present to support and justify the appeal schemes, the best course of action would be to refuse them all, in part on the basis that they would all exacerbate town centre traffic congestion.

771. *iii) Other highways matters:* The first of these other matters is the policy justification for the aforementioned "nil detriment" traffic criterion. Downlands argues that there is nothing in existing national or local policy or practice to support or underpin it. ESCC, on the other hand, maintains it is based on advice in the DfT's 2007 Guidance on Transport Assessments and Travel Plans [PD1.21], which supersedes older, more permissive local policies (with their 2% impact criterion). Moreover, ESCC says it is justified by the actual situation at Uckfield, which is one of increasing traffic congestion that could only be exacerbated by the appeal schemes in advance of a town centre scheme.

772. I consider that Downlands may well be right on a strict reading of the cited policy guidance, but that there is also much force in the broader ESCC argument. In sum, I neither reject, nor fully endorse the 2 Councils' "nil-detriment" position.

773. The second matter is ESCC's objection in principle to a new roundabout junction on the A22 Uckfield bypass. Again, I agree with the Downlands appellants that there is no clear-cut policy objection, derived either from national or local policy, which would in principle preclude such a junction. In this context, I note in particular that the A22 is not a trunk road or motorway, nor part of a properly-defined strategic route.

774. Further, I understand that the main rationale for a new roundabout junction here was the unsuitability of access from the Black Down roundabout, as originally proposed, which would have necessitated an access road through ancient woodland on the site. This would have led to significant losses of the woodland. All parties agree that this would not have been desirable.

775. Finally under this heading, I should report that none of the 3rd party objectors who raised these matters favoured any of the appeal schemes on transport or traffic grounds. No one spoke in support of any of the transport measures proposed by the appellants. Instead, all were opposed to the applications, on the general grounds of increased traffic, and related congestion and pollution, coupled with additional parking difficulties and miscellaneous road safety hazards.

**c) Other Matters**

776. Various other matters were raised in evidence to the inquiry. I consider the most important to be: deliverability (Downlands and BIES); the allocated NSLP sites; noise (BIEN); affordable housing; effects on listed buildings; and flooding. I take them in that order, and report as follows.

777. *Deliverability(Downlands and BIES):* The Council says flatly that the Downlands scheme is not deliverable. Other parties agree. The Council casts particular doubt on the deliverability of i) the Snatts Road Link, owing mainly to land ownership constraints and uncertainties, and ii) the primary school – both acknowledged by Downlands as essential parts of the scheme. In addition, it says that the "6 Good Things" (its own ironic description), also claimed as scheme benefits, are far from certain of delivery, being frustrated by legal constraints or requirements upon the developers.

778. Downlands denies that there are any significant problems with the delivery of the scheme, or any part of it. The Snatts Road link could simply be dealt with by way of a Grampian-type condition; detailed design matters on the primary school could be dealt with at reserved matters stage; and nothing arising from legal, contractual obligations, including the fiduciary duties of the Downlands trustees, prevents the scheme from including features which might go beyond the normal requirements of policy.

779. I agree with the Council that there are reasonable concerns about these matters, and particularly the Snatts Road link, which, as all parties agree, is an essential component of the Downlands scheme. In part they relate to legal ownership and contractual matters - such as fiduciary duties - upon which I am not qualified to comment. However, I also note from the Downlands submissions that they may be capable of resolution at reserved matters stage, and are not therefore fatal to the scheme at this stage. I think that may well apply to the primary school. However, I cannot report that there is a reasonable prospect of delivery of the Snatts Road link; on the contrary, the evidence suggests that

there is virtually no prospect of that. Therefore I doubt the efficacy of the suggested Grampian condition.

780. In its closing submissions, the Council also raises a caveat about BIES' deliverability. This refers to the matter of the legal title to a piece of land needed for its main cycle/pedestrian route towards the town centre. I understand that title has not been properly established by the appellants or their vendors. The Council says that it should be secured, both immediately to allow development to commence, and in the long term against the possibility of a future claimant asserting ownership. If for this reason the link is not in fact deliverable, the BIES scheme should be refused. For its part, BIES accepts that there may be a previously-unsuspected problem with title, but it denies the existence of any other potential claimants.

781. I am unsure whether this matter could be satisfactorily resolved, perhaps by way of a Grampian condition in the event that the Secretary of State decides to allow the BIES appeal. In those circumstances, it might be necessary to investigate it further through correspondence with the parties.

782. *Allocated NSLP sites:* Some of the earlier proofs of evidence, in particular, address the relative planning merits of the 3 appeal sites and the 3 allocated (and now permitted) housing sites in the NSLP. In general, the Council defends the latter on the basis of due process (by which they were selected), landscape impact, and traffic and transport. For their part, the appellants all defend their own sites when compared with the NSLP sites, on much the same grounds.

783. I consider this debate rather sterile. Events have moved on, and it is now water under the bridge. I have already stated that I consider that the NSLP merits weight in this inquiry, for the reasons given in [W2]. Given that all 3 NSLP sites have planning permission, and are generally expected to be implemented in due course, there seems to me no useful purpose now in comparing them with the 3 inquiry sites. Especially as there is no choice to be made between them. Instead, this inquiry should and does focus upon whether there is a demonstrable need for any additional greenfield sites at Uckfield, and, if so, which of the appeal sites would be the most or least suitable.

784. *Noise (BIEN):* [434-440; 465-470]. A noise issue was raised initially because of the potential impact of the existing industrial uses at The Yard upon the nearest proposed dwellings in the BIEN scheme. Although noise evidence was commissioned by both BIEN and the Council, and is summarised in the body of this report, neither expert witness was called owing to the narrowing of differences resulting in SCG6.

785. In short, the Council does not claim that operations at The Yard would cause a noise impact that could not be mitigated, and an appropriate planning condition has been agreed in the event that the appeal is allowed. I agree with that approach.

786. However, the Council maintains a concern that it amounts to bad planning to place noise-sensitive development near a commercial site, which to some extent influences its residential layout. One effect of this is to bring commercial vehicles (associated with continuing operations at The Yard) into the heart of a mainly residential scheme.

787. In my view, these are sound points. I consider that the overall layout and design of the BIEN scheme is not entirely satisfactory, being to some degree compromised by the very existence and proximity of The Yard. On the other hand, further design work could be done at reserved matters stage to create an acceptable juxtaposition of, and relationship between the 2 sites. Moreover, BIEN would mitigate (through screening by buildings and landscaping) the visual impact of The Yard, which at present appears to me as an anomalous and unsightly intrusion upon the rural environment.

788. In sum, I do not find a significant noise objection to the BIEN scheme, and the design implications for BIEN of The Yard site are evenly balanced. To put it another way, BIEN should not be refused on any grounds related to the proximity of The Yard.

789. *Affordable housing:* There is no dispute that all 3 appeal schemes would supply affordable housing, as required by planning policy at all levels, to be delivered through planning obligations. All 3 appellants have submitted such obligations. Statistics on affordable housing need in Wealden district are usefully presented in the Downlands proof [G]. These, too, are not in dispute. As with so many other districts in South East England, they show a high level of need in Wealden.

790. BIEN and BIES undertake to provide a ratio of 30% affordable units in their schemes, while Downlands suggests that - depending on the availability of social housing subsidy - their proportion could rise to 40%. However, as mentioned above (under Deliverability) this is disputed by the Council, on the basis that it would not be conducive to best value, and would therefore be precluded by the terms of the Trust Deed.

791. I see no need to explore this matter in detail. The main point is that none of the schemes either claims, or is certain, to provide a higher proportion of affordable housing than current policies would normally require from any site granted planning permission. The allocated NSLP sites, both at Uckfield and throughout Wealden district, will produce affordable housing, as, in due course, will sites allocated in the LDF. Thus I see no grounds for allowing any of the 3 appeal schemes solely on the basis that it would provide affordable housing, especially where there are sound planning objections to them.

792. *Effects on listed buildings:* There are no listed buildings on or in close proximity to Downlands or BIEN. There is a grade 2 listed oast house immediately adjacent to the east of BIES, which would be close to the proposed housing. However, neither the Council nor any other party suggests that the setting of this building would be materially harmed by the BIES proposals, which have been developed with it in mind. I agree with that.

793. *Flooding:* There was a notable flood in Uckfield in 2000, when the River Uck burst its banks and many properties around the lower end of the High Street were inundated. Therefore it is not surprising that some local residents have referred in general terms to flood risk. However, none of the applications was refused on grounds of flood risk - essentially the sites are all well above any flood plains – and the inquiry heard no evidence on the matter. The parties' closing submissions do not refer to it. I am satisfied that it is not a significant issue in any of the appeals.

794. **Summary of Conclusions:** There is no compelling case, based on housing land requirements and supply and the advice in PPS 3, to allow any of the appeals, much less 2 or 3 of them. Moreover, all 3 sites and proposals suffer from significant site-specific objections, contrary to national and local planning policies. In general these are most acute in the case of Downlands. This, by far the largest of the schemes, set within an attractive rural landscape containing much ancient woodland, would entail the largest and least acceptable landscape impact, and would be most likely to compromise nature conservation and the biodiversity of its site and surroundings. This would not be adequately compensated by its claimed ecological benefits. In addition, it would be the least accessible of the 3 sites, and the least sustainable in transport terms. As for the BIE sites, their planning merits would be very similar, but BIEN would be better-integrated visually and physically with the town of Uckfield.

795. **Recommendations:** I recommend that all 3 appeals be dismissed. However, should the Secretary of State decide to allow one appeal, perhaps for reasons of increasing housing supply, I consider that on planning grounds BIEN is on balance the most suitable and acceptable of the 3 proposals in this inquiry.

*Paul Dobsen*

**Inspector**

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Appendix A – Inquiry documents (list)
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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY AND EAST SUSSEX COUNTY COUNCIL:

Mr. C. Boyle - instructed by Mr. V. Scarpa, Solicitor to Wealden District Council

He called:

Mr R. Walker DipTP MRTPI – planning consultant in private practice
Dr. P. Roper HonDBA FLS FRES MBES – ecological consultant, Patrick Roper Assocs.
Mr. J. Harris MRTPI CMILT MIHT – Owen Williams (Amey), traffic and transport consultants to ESCC

FOR THE 3 APPELLANTS:

i) DOWNLANDS

Mr. J. Clay – instructed by Broadway Malyan

He called:

Mr. R. Tustain BAHons DipTP DMS MRTPI – planning consultant, Broadway Malyan
Mr. P. Russell-Vick DipLA MLI – landscape consultant, enplan
Mr. P. Colebourn MA MSc MRTPI MIEEM – ecological consultant, Ecological Planning and Research Ltd.
Mr. A. Brown BA MCILT MIHT – transport and traffic consultant, Mayer Brown

ii) BIRD IN EYE NORTH (BIEN)

Peter Village QC and Mr. R. White – instructed by Woolf Bond Planning

They called:

Mr. J. Woolf MA DipTP MRTPI – planning consultant, Woolf Bond Planning
Mr. J. Cooper BSc DipLD FLI – landscape consultant, Cooper Partnership Ltd.
Ms. S. Wray BSc PhD FIEEM – ecological consultant, Cresswell Assocs.
Mr. A. Russell BTp MSc MRTPI MIHT – transport and traffic consultant, Peter Brett Assocs.

iii) BIRD IN EYE SOUTH (BIES)

Ian Dove QC – instructed by CMS Cameron McKenna, Solicitors

He called:

Mr. N. Groves DipTP MRTPI – Boyer Planning Ltd.
Mr. B. Duckett BSc MLI – landscape consultant, Hankinson Duckett Assocs.
Mr. A. Meurer BSc MIEEM – ecological consultant, Hankinson Duckett Assocs.

OTHER RULE 6 PARTY: THE WOODLAND TRUST

Mr. R. Walton – instructed by The Woodland Trust

He called:

Ms. A. Farr – The Woodland Trust

INTERESTED PERSONS (all objecting to one or more proposals)

For the Downlands Action Group:
Mr. D. Wade
Dr. M. Stenning
Mrs. B. Reed
Mr. F. Wallace
Mr. M. Pope

Others:
Mr. K. Riddle – Framfield Parish Council
Mr. L. Ashby
Mr. L. Keeley
Mrs. J. Eastwood
Mr. D. Godding
Mr. B. Kemp
Prof. T. Beeby
Mrs. J. Daly
Mr. N. Drew
Mr. N. Johnston
Ms. C. Handford

NB. See Appendix B (list of proofs/written statements) for alphabetical codes pertaining to each

Appendix A

Lists of core and inquiry documents

**Conjoined Appeals under s78 of the Town and Country Planning Act 1990**

**Clarence Preston Will Trust and Barham Estates Ltd (Appeal Reference: APP/C1435/A/07/2046982)**

**Taylor Wimpey (Appeal Reference: APP/C1435/A/07/2042597)**

**Heron Land Developments Ltd, Persimmon Homes South East Ltd and Gallagher Estates Limited (Appeal Reference: APP/C1435/A/07/2053422)**

**INQUIRY DOCUMENTS LIST**

**WEALDEN DISTRICT COUNCIL**

| | | |
|---|---|---|
| WDC | 1. | Opening |
| WDC | 2. | Various letters from GOSE |
| WDC | 3. | Cabinet Report dated 12th December 2007 |
| WDC | 4. | Print out from SEERA website – South East Plan timetable |
| ~~WDC~~ | ~~5.~~ | ~~Statement of differences~~ *SUPERSEDED by WDC 8* |
| WDC | 6. | Various planning permissions |
| WDC | 7. | Land Availability: updated information at 22.01.08 (Dwellings) |
| WDC | 8. | Land Availability: statement of differences |
| ~~WDC~~ | ~~9.~~ | ~~Joint statement between the Council and the Bird in Eye Sites on Highways~~ *SUPERSEDED by WDC 16* |
| WDC | 10. | Emails between Alan Cowling (East Sussex County Council) and Joanna Gliddon (Burges Salmon) relating to the proposed primary school at Downlands |
| WDC | 11. | Ecology documents to be referred to by Dr Roper in chief |
| WDC | 12. | Christopher Boyle's costs warning to Downlands Farm |
| WDC | 13. | Further documents to be referred to by Dr Roper |
| WDC | 14. | Estate Map of Downlands Farm from 1829 |
| WDC | 15. | Land availability – update on supply 10.06.08 |
| WDC | 16. | Statement of common ground between the Council and the Bird in Eye Sites on Highways |

| | | |
|---|---|---|
| WDC | 17. | Large map of Uckfield area |
| WDC | 18. | Briefing note from ESCC to County Council Members – email from Rupert Clubb |
| WDC | 19. | Briefing from ESCC to District Council Members – email from Kelvin Williams |
| WDC | 20. | Update sheet for the evidence of R Walker for Wealden District Council |
| WDC | 21. | Differences between the Council and the appellants on housing land supply |
| WDC | 22. | Extract from title of Downlands Farm |
| WDC | 23. | Letter from the Head of Planning for Schools regarding the proposed school at Downlands |
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| BIES2.12 | Consultation Response: East Sussex County Council Report dated 8th June 2007 |
| BIES2.13 | Wealden District Council delegated committee report |
| BIES2.14 | Wealden District Council decision notice dated 6th July 2007 |

## Appeal documents

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| BIES3.1 | Application form |
| BIES3.2 | Wealden District Council appeal questionnaire |
| BIES3.3 | Pre-inquiry statement |
| BIES3.4 | Statement of Case for the appellants |
| BIES3.5 | Statement of Case for Wealden District Council |
| BIES3.6 | Supplementary Pre-Inquiry Statement dated for Wealden District Council |
| BIES3.7 | Rule 6 Statement from Taylor Wimpey UK Ltd |
| BIES3.8 | Rule 6 Statement from Clarence Preston Will Trust and Barham Estates Ltd |
| BIES3.9 | Design and Access Statement (Revised December 2007) |

Appendix B

Inquiry Proofs of Evidence [and report text references]
(NB. Separately bound appendices to proofs not listed)

i) The LPA (Wealden District Council):

1 Mr Walker, Vol 1 – Land Availability [W1]
2 Mr Walker, Vol 2 – Policy [W2]
3 Mr Walker, Vol 3 – Downlands [W3]
4 Mr Walker, Vol 4 – Bird In Eye North [W4]
5 Mr Walker, Vol 5 – Bird In Eye South [W5]
6 Mr Walker, Vol 6 – Sec.of State's Proposed Changes to SE Plan etc. [W6]
7 Dr Roper – Ecology and Nature Conservation (Downlands) [R1]
8 Dr Roper – Ecology and Nature Conservation (Bird In Eye North) [R2]
9 Dr Roper – Ecology and Nature Conservation (Bird In Eye South) [R3]
10 Mr Leversedge – Noise (Bird In Eye North) [L]*
11 Mr Cowling – Development Contributions [C]*
12 Mr Harris – Highways, Transport and Access (all sites) [H1]
13 Mr Harris – Highways, Transport and Access (Bird In Eye North) [H2]
14 Mr Harris – rebuttal (Bird In Eye North) [H2A]
15 Mr Harris – Highways, Transport and Access (Bird In Eye South) [H3]
16 Mr Harris – rebuttal (Bird In Eye South) [H3A]
17 Mr Harris – Highways, Transport and Access (Downlands) [H4]
18 Mr Harris – rebuttal (Downlands) [H4A]
19 Mr Harris – supplementary [H5]

ii) Downlands Farm appellants:

1 Mr Tustain - Main proof [T1]
2 Mr Tustain - Housing Land Supply and Affordable Housing [T2]
3 Mr Tustain – Bird In Eye North [T3]
4 Mr Tustain – Bird In Eye South [T4]
5 Ms Grant – Affordable Housing [G]*
6 Mr Russell-Vick – Landscape and Design (Downlands) [RV1]
7 Mr Russell-Vick – Landscape and Design (Bird In Eye North) [RV2]
8 Mr Russell-Vick – Landscape and Design (Bird In Eye South) [RV3]
9 Mr Colebourn – Ecology and Nature Conservation (Downlands) [Co1]
10 Mr Colebourn – rebuttal (Downlands) [Co1A]
11 Mr Colebourn – Ecology and Nature Conservation (Bird In Eye North) [Co2]
12 Mr Colebourn – supplementary (Bird In Eye North) [Co2A]
13 Mr Colebourn – Ecology and Nature Conservation (Bird In Eye South) [Co3]
14 Mr Colebourn – supplementary (Bird In Eye South) [Co3A]
15 Mr Colebourn – supplementary response [Co4]
16 Mr Brown – highways and transport (Downlands) [B1]
17 Mr Brown – highways and transport (Bird In Eye North) [B2]
18 Mr Brown – highways and transport (Bird In Eye South) [B3]
19 Mr Brown - response to ESCC highways and transport evidence [B4]
20 Mr Melton – Education Contributions [M]*

iii) Bird In Eye North appellants:

1 Mr Woolf – Planning and Housing Land Supply [Wo1]
2 Mr Woolf – Joint appellants housing supply [Wo2]
3 Mr Cooper – Landscape (Bird In Eye North) [Coo1]
4 Mr Cooper – Landscape (Downlands) [Coo2]
5 Ms Wray – Ecology [Wr1]
6 Ms Wray – Ecology rebuttal (Downlands/BIEN) [Wr2]
7 Mr Forbes Laird – Trees [FL]*
8 Dr Cogger – Noise (Bird In Eye North) [Cog]*
9 Mr Russell – Transport (Bird In Eye North) [Ru1]
10 Mr Russell – Transport (Downlands) [Ru2]

iv) Bird In Eye South appellants:

1 Mr Groves – Planning and Housing Land [Gr]
2 Mr Thompson – Design [Th]*
3 Mr Duckett – Landscape [D]
4 Mr Meurer – Ecology and Nature Conservation [Me1]
5 Mr Meurer – Rebuttal and supplementary [Me2]
6 Mr Wiseman – Highways and Transport [Wi]*

v) Third Parties' written statements (Objectors)

1 Mr Wade (Downlands Action Group) [Wa]
2 Mr Wallace (Downlands Action Group) [Wal]
3 Mrs Reed (Downlands Action Group) [Re]
4 Dr Stenning (Downlands Action Group) [S]
5 Prof Beeby (re Downlands) [Be]
6 Ms Farr, The Woodland Trust (re Downlands) [WT]
7 Mr Kemp [K]
8 Mr Godding [Go]
9 Mrs Eastwood [E]
10 Mr Ashby [A]
11 Mr Keeley [Ke]
12 Mr Pope [Po]
13 Mr Johnston [Jo]
14 Miss Handford [Ha]

* Witness not called

Main parties – 55 proofs total
3rd parties – 14 written statements

(Revised 22/10/08)

Appendix C

List of Statements of Common Ground (SCGs) – relating to the following appeal sites:

Downlands

**SCG1** (DOWN25) [WDC/Downlands]

Bird In Eye North

**SCG2** (WDC16) - Joint Statement on Transport and Highways Issues [WDC/BIEN/BIES]
**SCG3** (BIEN15) – Planning policies etc. [WDC/BIEN]
**SCG4** (NORTH 9) – Landscape [WDC/BIEN]
**SCG5** (NORTH 12) – Ecology [WDC/BIEN]
**SCG6** Noise – WDC/BIEN

Bird In Eye South

**SCG2** (WDC16) - Joint Statement on Transport and Highways Issues [WDC/BIEN/BIES]
**SCG7** (SOUTH 2) - Planning [WDC/BIES]
**SCG8** (SOUTH 3) - Ecology [WDC/BIES]
**SCG9** (SOUTH 5) – Flooding and Drainage [WDC/BIES/Southern Water]

Downlands/Bird In Eye North/Bird In Eye South

**SCG10** (WDC27) - Joint statement on housing land and planning policy following Secretary of State's Proposed Changes to the South East Plan [WDC/Downlands/BIEN/BIES]
**SCG11** (WO2) - Joint appellants' Housing Land Supply Representation [Downlands/BIEN/BIES]

(Revised 15/9/08)

NB. Some earlier SCGs e.g. on housing land requirements/supply have been superseded by the above.

Appendix D

**Pre-Inquiry Meeting (P.I.M.), Wealden DC Offices, Crowborough: 8 November 2007.**
**Inspector's Notes.**

Re: 3 conjoined, recovered Section 78 appeals concerning outline proposals for sites at Downlands Farm, Bird in Eye (North) and Bird in Eye (South) – Uckfield. (Public Inquiry to commence 15 January 2008).
[PINS appeal refs: APP/C1435/A/07/2046982; 2042597 and 2053422.]

The P.I.M. was held between 1400 hrs. and 1625 hrs, with about 40 persons present. The Inspector, Paul Dobsen MA(Oxon), DipTP, MRTPI, FRGS introduced himself, and explained that the purpose of the meeting was to consider and agree upon certain procedural and administrative matters in advance of the inquiry.

The following represented the main parties:

Robert Walton, Barrister – Wealden DC (Christopher Boyle to appear at Inquiry)
Jonathan Clay, Barrister – instructed by Broadway Malyan Planning, for Downlands appellants.
Peter Village, QC – instructed by Woolf Bond Planning, for Bird in Eye (North) appellants.
Tony Kitson, Solicitor, Cameron McKenna, representing Bird in Eye (South) appellants.

The following 15 matters were agreed and/or notified to the parties by the Inspector:

1. The Inquiry venues will remain as previously notified. Ms. Karen Duke of Wealden DC will advise the public on appearances, timings etc.
2. The Inspector will make an accompanied inspection of all 3 appeal sites, together with other relevant land, highways, viewpoints etc. in Uckfield, starting at 1000 hrs. on Tuesday, 8 January. There may be a further accompanied inspection at the end of the inquiry. The normal protocols for accompanied visits will be observed; in particular, there will be no discussion of the merits of the appeals. The parties should agree upon a suitable itinerary, but the Inspector does not require prior notification of this.
3. The inquiry will commence on 15th January with opening statements by the 4 main parties, followed on 16th January by up to 2 days on housing land requirements and supply. The Council will be heard first.
4. The inquiry will then comprise 3 separate sessions, considering the Downlands appeal, then Bird in Eye (North), and finally Bird in Eye (South). The anticipated number of inquiry days is 8, 4 and 4 respectively – but this may well be reduced owing to the housing land opening session. In each session, the Council will be heard first, and any 3rd parties will be heard after the main parties.
5. There will be small gaps between the 3 appeals, with possibly a whole or half-day after Downlands.
6. Sittings will be from 1000 hrs. (to about 1700 hrs.) on Tuesdays, Wednesdays and Thursdays, and 1000 hrs. to 1300 hrs. on Fridays.

7. The main parties will collaborate on the production of Statements of Common Ground (SCGs). There may be 4 in all, on housing land requirements/supply, and on each appeal. The latter will contain full lists of agreed and (if applicable) not-agreed conditions, with reasons for their imposition.
8. The Inspector and the Secretary of State would be greatly assisted by broad agreement on the following: i) (what comprises) the development plan, and the relevant policies within it; ii) other relevant policies, and the status and weight to be attached to the adopted, non-statutory Wealden Local Plan, 2005; and iii) (in the light of the above, and PPS3) the number of dwellings, including affordable dwellings "required" at Uckfield on greenfield urban extension sites for completion by 2011. These matters should be included in the relevant SCG.
9. While the Inspector will need to assess the relative planning merits of the 3 appeal sites/proposals (and those in the non-statutory plan at Uckfield), he is not expecting to compare them with sites in other settlements in Wealden district, nor to visit any such sites.
10. S.106 obligations. The main parties will need to collaborate on the need for, and the detailed requirements of these. They should be mutually consistent. Any such obligations which the parties want taken into account by the Inspector and the Secretary of State must be in completed form by the end of the inquiry.
11. Revisions to Downlands application. The Inspector had seen correspondence on this on the appeal file, and heard Mr. Clay's submissions in favour of the inquiry accepting the revisions (which he briefly summarised). The Council strongly object, but indicated that it would live with them, albeit with considerable reluctance. The Inspector ruled that the revisions would be accepted for the purposes of the inquiry, and should be addressed by all parties in their evidence.
12. Lists of witnesses. The 3 appellants and WDC all provided draft lists of professional witnesses. However, these might change following the production of SCG.
13. Exchange of evidence. There was general agreement with Mr. Village's suggestion that all proofs of evidence should be exchanged (possibly at Uckfield) and distributed on 18 December. The Inspector urged all parties to comply with any deadlines notified to them by the Planning Inspectorate. In general, while recognising the essentially adversarial nature of the proceedings, he also urged a mutually collaborative and co-operative attitude upon all parties, as this would assist him in making his recommendations to the Secretary of State.
14. Hotels. The Inspector confirmed that he would endeavour to avoid staying at any hotel used by the main parties during the inquiry; or, at least, to avoid any contact with them.
15. The Inspector undertook to produce these P.I.M.notes for expeditious distribution (via PINS and Wealden DC) to interested parties.

P.E.D.
9th November 2007

Appendix E

Suggested Conditions

Appeal A – Downlands

**Reserved Matters and Time Limits**

1. Details of access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

   *Reason* *To meet the requirements of Article 4 of the Town and Country Planning General Development Procedure Order 1995 (as amended).*

2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

   *Reason* *To meet the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.*

3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

   *Reason* *To meet the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.*

4. The detailed plans and the development shall be substantially in accordance with the amended Design and Access Statement and illustrative materplan layout (October 2007).

   *Reason* *The layout of the proposed development is the subject of an Environmental Impact Assessment and any material alteration to the layout may have an impact which has not been assessed by that process, having regard to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.*

5. No work shall be carried out within any phase of development hereby approved, until detailed drawings for that phase have been submitted to and approved in writing by the Local Planning Authority showing existing and proposed levels and contours of the development site, finished floor levels of all the proposed buildings and the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall be carried out in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

   *Reason* *To enable satisfactory control of development on this sloping site and to ensure a satisfactory landform in the interests of visual and residential amenities in accordance with Policy EN27 of the adopted Wealden Local Plan.*

**Phasing**

6. Prior to the commencement of development, a Phasing Programme shall be submitted to and approved by the Local Planning Authority identifying the programme and sequence of works. The development shall be carried out in accordance with the approved Phasing Programme unless otherwise agreed with the Local Planning Authority.

*Reason* *To ensure a satisfactory phasing of development.*

**Operational**

7. No work shall be carried out on site until full written details for a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction and shall be implemented throughout the period of work on site.

*Reason* *In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties having regard to Policies EN27 and TR3 of the adopted Wealdon Local Plan.*

8. No work shall be carried out on the site until provision has been made available within the site, in accordance with details to be approved in writing by the Local Planning Authority, for all temporary contractors buildings, plant, vehicles and stacks of materials associated with the development and such provision shall be retained and used for those purposes throughout the period of work on the site.

*Reason* *In the interests of, and for the safety of, persons and vehicles using the premises and/or the adjoining road and in order to secure a satisfactory standard of development, having regard to Policy EN27 of the adopted Wealden Local Plan.*

**Optimising Use of Resources/Sustainability/Recycling**

9. No work shall be carried out on site until a detailed management plan for reducing construction waste during the building process in the form of site management, waste management and project design and planning has been submitted to and approved in writing by the Local Planning Authority. The approved waste management plan shall be implemented throughout the period of work on site.

*Reason* *In the interests of sustainability having regard to Policy EN1 of the adopted Wealden Local Plan.*

10. Before preparation of any groundworks or foundations for the development, hereby approved, written details of measures for energy and water conservation within the development shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

*Reason* *To promote sustainable building design having regard to Policy EN1 of the adopted Wealden Local Plan.*

11. No development approved by this permission shall be commenced until details of the siting and form of means for the disposal of refuse, which shall also include facilities for recycling to be provided on the site, shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented to the satisfaction of the Local Planning Authority and thereafter so retained.

*Reason* *To preserve the residential and visual amenities of the locality, having regard to Policy EN27 of the adopted Wealden Local Plan.*

12. Prior to the commencement of any development, details of predicted energy use of the development and the generation of on-site renewable energy shall be submitted to and approved in writing by the Local Planning Authority. These details will demonstrate how energy efficiency is being addressed, including benchmark data, and show the on-site measures to be taken to produce a minimum of 10% of the total energy requirements of the new development by means of renewable energy sources. Such details as may by approved shall be implemented prior to the occupation of the dwelling to which they relate.

*Reason* *In accordance with the principles of PPS1 and Policy EN1 of the Adopted Local Plan.*

**Drainage/Flood Protection/Contamination (EA denotes recommended by Environment Agency)**

13. No development approved by this permission shall be commenced until full details for the disposal of foul and surface water drainage from the development or within each phase of the development, have been submitted to and approved in writing by the Local Planning Authority. Details of surface water drainage should include a scheme for the provision of a sustainable surface water drainage system (SUDS) together with design calculations and construction details. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies or other appropriate SUDS feature with an overall capacity compatible with the site being drained. The approved drainage works within each phase shall be completed prior to the completion or occupation of any dwelling within the relevant phase whichever is the sooner.

*Reason* *In order to secure a satisfactory standard of development, and prevent pollution of controlled waters and the increased risk of flooding having regard to Policies EN4 and CS2 of the adopted Wealden Local Plan.*

*Note* *The storage volume provided will need to cater for the 1 in 100 year event plus a 20% allowance for climate change. The allowable rate of discharge will need to be agreed.*

14. No development approved by this permission shall take place, including land filling and/or land raising, within the 1 in 100 year flood outline (land below 24.69m AOD), as identified within Section 3 and Figure 7 of the applicant's Flood Risk Assessment dated 2007. (EA).

*Reason* *To reduce the risk of flooding to comply with the findings of the applicant's Flood Risk Assessment (FRA).*

15. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment and the following mitigation measures:

    1. Ensure that finished floor levels of the development are set no lower than 25.29m Above Ordnance Datum, (600mm above 24.69m AOD, the 1 in 100 year flood outline). (EA)

    *Reason* *To reduce the risk of flooding to comply with the findings of the applicant's Flood Risk Assessment (FRA).*

16. No development approved by this planning permission shall be commenced until:

    1. A site investigation has been designed for the site using the information obtained from the desktop study and Conceptual Model. This should be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable:

        a) A risk assessment to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected, and

        b) refinement of the Conceptual Model, and

        c) the development of a Method Statement detailing the remediation requirements.

    2. The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been undertaken.

    3. A Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the site investigation has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on site. (EA)

    *Reason* *To ensure that the proposed site investigations and remediation will not cause pollution of Controlled Waters.*

17. If during development any visibly contaminated or odorous material not previously identified is found to be present at the site, this must be investigated. The Planning Authority must be informed immediately of the nature and degree of contamination present. The developer shall submit a Method Statement, which must detail how this unsuspected contamination shall be dealt with. (EA)

    *Reason* *To ensure that the development complies with approved details in the interest of protection of Controlled Waters.*

**Highways / Parking / Garaging**

18. Detailed drawings of the internal access roads shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on any phase. The new main internal roads shall be constructed to a standard approved by the Local Planning Authority with a view to subsequent adoption as a maintainable highway and the works phased and completed with the progress of building construction to the written approval of the Local Planning Authority.

*Reason* *In the interests of and for the safety of persons and vehicles using the site and the adjoining roads, in accordance with policy TR3 of the Approved Local Plan.*

19. Before preparation of any groundworks or foundations for the development, the access from the A22 required to serve that development shall be completed to base course level, together with the surface water and foul sewers to the approval of the Local Planning Authority in consultation with the Highway Authority.

*Reason* *In the interests of highway safety and the amenity of the locality having regard to Policy TR3 of the adopted Wealden Local Plan.*

20. No development shall take place until details of parking facilities (and turning spaces where appropriate), to be provided within the site shall be submitted to and approved in writing by the Local Planning Authority; such details to show means of access, size, siting (indicating location of disabled person's parking), surface treatment, method of delineation of parking on site, construction details, levels and surface water drainage. The parking and turning areas shall be laid out in accordance with the approved details prior to the occupation of the associated dwellings and thereafter retained in accordance with the approved details.

*Reason* *To ensure adequate and satisfactory standard of parking provision within the development having regard to Policies EN27 and TR16 of the adopted Wealden Local Plan.*

21. The garage/parking areas shall be used solely for ancillary domestic storage and/or vehicle parking purposes incidental to the occupation and enjoyment of the dwelling units to which they serve and shall not be used for nor in connection with any commercial trade or business purposes and shall not be converted into habitable accommodation, including domestic workshop, study, games room and similar uses, without prior written consent of the Local Planning Authority.

*Reason* *To protect the visual and residential amenities of the site and ensure the retention of parking provision, having regard to Policies EN27 and TR16 of the adopted Wealden Local Plan.*

**Open Space and Play Areas**

22. Before preparation of any groundworks or foundations for the development, details of the amenity open space provision for each phase of the development, shall be submitted to and approved in writing by the Local Planning Authority for that phase. Such details shall include grass seeding/turfing, planting, construction of footpaths and installation of all necessary boundary treatments, equipment and street furniture. Unless

otherwise agreed with the Local Planning Authority, each phase of the approved scheme shall be fully implemented during the first planting season following the substantial completion of the relevant phase of development or occupation of the 25th dwelling in each phase, whichever is the sooner, and thereafter shall be so retained for the purpose of amenity open space only.

*Reason* *In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the development in a reasonably timely manner having regard to Policies LR1 and LR4 of the adopted Wealden Local Plan.*

23. Before preparation of any groundworks or foundations for the development, full details of play areas for each phase of the development (including grass seeding/turfing, planting, fencing, safety surfacing, play equipment, seats, litter bins and lighting), and details of the timing of implementation of such works, shall be submitted to and approved in writing by the Local Planning Authority for that phase. Unless otherwise agreed with the Local Planning Authority, each phase of the approved scheme shall be fully implemented following the substantial completion of the relevant phase of development or occupation of the 25th dwelling in each phase, whichever is the sooner and thereafter shall be so retained.

*Reason* *In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the development in a reasonably timely manner having regard to Policy LR3 of the adopted Wealden Local Plan.*

**Landscaping, Fences, Walls**

24. Before preparation of any groundworks and foundations on site for any phase of development hereby approved including the school site and commercial areas, full details of hard landscape works for that phase of the development, which shall include details of all fencing, walling and other boundary treatments, steps, retaining walls and surface finishes, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented prior to the occupation or first use of the building to which it relates.

*Reason* *To ensure a satisfactory appearance to the development having regard to Policy EN27 of the adopted Wealden Local Plan.*

25. Before preparation of any groundworks and foundations on site for the development hereby approved, a phased scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with British Standard 5837:2005, “Trees in Relation to Construction” in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants – noting species (which should be indigenous), planting sizes and proposed density.

All planting, seeding and/or turfing comprised in the approved (phased) details of landscaping (for each phase) shall be carried out in the first planting and seeding seasons following the first occupation of the building(s) or the substantial completion of the development (within each phase) whichever is the sooner. Any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others or similar size and species, unless the Local Planning Authority gives written consent to any variation.

*Reason* *To protect and enhance the visual amenities of the area and in order to secure a satisfactory standard of development, having regard to Policies EN14 and EN27 of the adopted Wealden Local Plan.*

26. For each phase of development a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for landscaped areas, other than small privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the development hereby permitted within that phase, and the landscape management shall be carried out in accordance with the approved plan over the period specified.

*Reason* *To ensure a satisfactory maintenance and management of the landscaped areas in accordance with Policies EN14 and EN27 of the adopted Wealden Local Plan.*

**Snatts Road Link**

27. Before preparation of any groundworks or foundations for the development (i) detailed plans of the proposed cycle and footpath links from Snatts Road to Rock Park Road "The Snatts Road Link" for the area covered by Plan 01-007-507 (Inquiry Document DOWN 8) including levels, sections, surface materials, ramps, stops and constructional details shall be submitted to and approved by the Local Planning Authority; and (ii) unless otherwise agreed in writing by the Local Planning Authority no development shall occur unless/until the details of the necessary interest in the land be required to carry out the Snatts Road link works have been secured by the developer submitted to and confirmed in writing by the Local Planning Authority.

*Reason* *In the interests of and for the safety of persons using the site in accordance with policy TR3 of the Approved Local Plan and in the interests of the appearance and ecology of the locality in accordance with policy EN27 of the Approved Local Plan and Policy NE14 of the Non-Statutory Wealden Local Plan.*

28. Unless otherwise agreed in writing with the Local Planning Authority, the detailed works approved for the Snatts Road Link shall be completed in accordance with the approved plans before the occupation of any dwellings hereby permitted.

*Reason* *To ensure the early availability of sustainable modes of travel in accordance with policy EN1 of the Approved Wealden Local Plan.*

29. Before preparation of any groundworks or foundations for the development, detailed plans of proposed bridges at Eleven Acre Wood and Rocks Road shall be submitted to the Local Planning Authority and be subject to their approval, and such work as approved to be carried out at the time of the development and thereafter so retained.

*Reason* *In the interests of and for the safety of persons and vehicles using the site and the adjoining roads, and in the ecological and amenity interests of the locality in accordance with policy TR3, EN27 and EN16 of the Approved Local Plan.*

**Floodlighting and Materials**

30. During the construction phase, no floodlighting or other external means of illumination of the site shall be provided, installed or operated at the site, except in accordance with a detailed scheme which shall have been submitted to and approved in writing by the Local Planning Authority.

*Reason* *To preserve the rural and residential amenities of this part of the Low Weald Countryside Area having regard to Policies EN8 and EN27 of the adopted Wealden Local Plan, and to safeguard the interests of wildlife.*

**Commercial Area**

31. No power driven machinery shall be used or operated within the commercial part of the development here by approved, before 08:00 hours or after 18:00 hours on weekdays, before 08:00 hours or after 13:00 hours on Saturdays, or at any time on Sundays or public holidays except with the prior written approval of the Local Planning Authority.

*Reason* *To protect the residential amenities of the locality, having regard to Policy EN27 of the Wealden Local Plan and Policy BE1 of the Non Statutory Wealden Local Plan.*

32. No deliveries related to the B1(a) uses hereby permitted shall be taken at or despatched from the site outside the following times: 0800 to 1800 on weekdays, nor at any time on Saturdays, Sundays, Bank or Public Holidays.

*Reason* *To preserve the residential amenities of the adjoining properties and to maintain the characteristics of the locality, having regard to PolicyEN27 of the Wealden Local Plan and Policy BE1 of Non Statutory Wealden Local Plan Interim Guide for Development Control (2005).*

**Ecology (EA denotes as recommended by Environment Agency)**

33. Prior to the commencement of development, details of all watercourse crossings (traffic and pedestrian) proposed on site shall be submitted to and approved in writing by the Local Planning Authority. These crossings should be clear span in design. Thereafter the bridges shall be constructed as set out in the approved scheme. (EA)

*Reason* *To ensure that crossings are of an acceptable clear-span type which will maintain the river corridor and the movement of both watercourse and associated wildlife.*

34. Prior to the commencement of development, a scheme for the provision and management of a buffer zone alongside the on site watercourses shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The scheme shall include:

a) plans showing the extent and layout of the buffer zone

b) details demonstrating how the buffer zone will be protected during development and managed/maintained over the long term

c) details of any footpaths and fencing. (EA)

*Reason* *To ensure that mitigation measures as set out in the Environmental Statement are implemented.*

35. Prior to the commencement of development, a plan for the protection and/or mitigation of damage to wet grassland and wet woodland, during construction works and once the development is complete, including management responsibilities, shall be submitted to and approved in writing by the Local Planning Authority. The wet grassland and wet woodland protection plan shall be carried out in accordance with a timetable for implementation as approved. (EA)

*Reason* *To protect the wet grassland and wet woodland within and adjacent to the development site and ensure the protection of existing habitats and watercourses during construction from potentially harmful activities such as soil compaction, trampling, sedimentation, run-off etc.*

36. Prior to the commencement of development, a scheme for the restoration of BAP wet grassland and wet woodland habitats shall be submitted to and approved in writing by the Local Planning Authority. The restoration scheme shall be carried out in accordance with a timetable for implementation as approved. (EA)

*Reason* *To ensure that the wet grassland and wet woodland habitats are restored and enhanced and that opportunities identified for habitat restoration and management requirements as set out in Section 6 of the Environmental Statement are implemented.*

37. Prior to the commencement of development, details of any amphibian under road tunnels and crossings proposed on site shall be submitted to and approved in writing to the Local Planning Authority. Thereafter, the tunnels and crossings shall be constructed as set out in the approved scheme. (EA)

*Reason* *To ensure that the movement of Great Crested Newts and other amphibians ecological connectivity between habitats is maintained and that mitigation measures set out in Section 6 of the Environment Statement are implemented.*

38. No disturbance of soil, and roots or vegetation shall take place until a Wildlife Protection Plan for Construction has been submitted to and agreed in writing by the Local Planning Authority. The plan shall include:

1. An appropriate scale plan showing 'wildlife protection zones' where all construction activities are restricted and where protective measures will be installed or implemented.

2. Details of wildlife features of importance such as ancient woodland, Sites of Nature Conservation importance and protected species.

3. Details of protective measures (both physical measures and sensitive working practices) to avoid impact during construction. These to include measures such as the covering of trenches and manholes, during construction; the safeguarding of badgers setts, runs and foraging areas, especially relating to the throughput of construction and other vehicular traffic, timing of operational activities; erection of protective fencing at agreed distances from sensitive habitats and wildlife areas.

4. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed, such as the bird nesting season and other wildlife breeding seasons.

5. Persons responsible for:

   a) compliance with legal consents relating to nature conservation;

   b) compliance with planning conditions relating to nature conservation;

   c) installation of physical protection measures during construction;

   d) regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;

   e) provision of training and information about the importance of wildlife protection zones to all personnel on site;

   f) species monitoring in accordance with condition 39 below.

   This list to be updated whenever necessary to keep the contact list current.

   All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the Local Planning Authority.

*Reason* *To protect features of recognised nature conservation importance, having regard to Policy NE14 of the Non-Statutory Wealden Local Plan.*

39. No disturbance of soil, roots or vegetation shall take place until there has been submitted to and agreed in writing by the Local Planning Authority a scheme of surveying and monitoring of all important and protected species found on site, such as badgers, bats, amphibians and reptiles, to show the effects of the scheme during construction and for a period of two years after the last house has been occupied. The scheme shall include:

    1. A clear statement of the proposed aims and objectives of monitoring;

    2. Details and justification for selection of baseline data and any changes or thresholds that, if occurring or reached, will trigger detailed remedial measures;

3. Details of positive conservation targets along with any associated standards or success criteria that will indicate that targets have been reached;

4. Details of the important and protected species and their places of shelter such as setts, hibernation sites that are to be monitored;

5. Methods for sampling and analysing, including the timetable and location for field survey;

6. Details of any legally required licences obtained from statutory agencies for the duration of the period of the construction and any changes to those licences which may be necessary during and post construction;

7. Submission of a report on the monitoring to the Local Planning Authority at intervals to be agreed after the commencement of construction works, or as otherwise approved in writing by the Local Planning Authority, including a report on actual or anticipated changes in communities or populations, the Reasons for the changes and any remedial measures considered to be necessary to modify the changes;

8. Procedures to be put in place to enable the monitoring reports to be considered by the Local Planning Authority in consultation with the developer.

Should the Local Planning Authority consider that remedial measures are necessary as a result of considering the monitoring report and any consultation responses under the above clause they shall give written notice to the developers. Within one month of receiving such written notice from the Local Planning Authority the developers shall submit a scheme of remedial measures which shall include (but should not be limited to) the further mitigation and/or changes to any approved mitigation schemes and/or changes to working practices and programme of implementation for the approval of the Local Planning Authority.

*Reason* *To identify and ensure the survival and protection of important species and those protected by legislation that could be affected adversely by the development, having regard to Policy NE14 of the Non-Statutory Wealden Local Plan.*

40. The approved remedial measures shall be implemented in accordance with the approved scheme and programme unless otherwise approved in writing by the Local Planning Authority.

*Reason* *To identify and ensure the survival and protection of important species and those protected by legislation that could be affected adversely by the development, having regard to Policy NE14 of the Non-Statutory Wealden Local Plan.*

41. No disturbance of soil, roots or vegetation shall take place until full details of a habitat creation/restoration scheme have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

i) Purpose, aims and objectives for the scheme;

ii) A review of the site's ecological potential and any constraints;

iii) Description of target habitats and range of species appropriate for the site;

iv) Selection of appropriate strategies for creating/restoring target habitats or introducing target species;

v) Selection of specific techniques and practices for establishing vegetation;

vi) Sources of habitat materials (eg plant stock) or species individuals;

vii) Method statement for site preparation and establishment of target features;

viii) Extent and location of proposed works;

ix) Aftercare and long-term management;

x) The personnel responsible for the work;

xi) Timing of the works;

xii) Monitoring

xiii) Disposal of wastes arising from the works.

All habitat creation works shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the program agreed with the Local Planning Authority.

*Reason* *To protect features of recognised nature conservation importance, having regard to Policy NE14 of the Non-Statutory Wealden Local Plan.*

42. A habitat management plan shall be submitted to and approved by the Local Planning Authority prior to the first occupation of the development. The plan shall include:

i) Description and evaluation of the features to be managed;

ii) Ecological trends and constraints on site that may influence management;

iii) Aims and objectives of management;

iv) Appropriate management options for achieving aims and objectives;

v) Prescriptions for management actions;

vi) Preparation of work schedule (including a five-year project register, an annual workplan and the means by which the plan will be rolled forward annually);

vii) Personnel responsible for implementation of the plan;

viii) Monitoring and remedial/contingencies measures triggered by monitoring.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

*Reason* *To protect features of recognised nature conservation importance having regard to Policy NE14 of the Non-Statutory Wealden Local Plan.*

**Tree Protection**

43. Before preparation of any ground levels on site, details of the form and position of fencing, which shall comply in full with British Standard 5837:2005 'Trees in Relation to Construction', for the protection of those trees, shrubs and natural features not scheduled for removal, shall be submitted to and be to the written approval of the Local Planning Authority, and such fencing shall be erected in the position as approved before the development is commenced and thereafter retained until such completion of the development, to the approval of the Local Planning Authority. Hereafter, the fencing shall be referred to as the 'approved protection zone'.

*Reason* *To preserve trees and hedges on the site in the interests of this dual amenity and the character of the area, having regard to Policy EN12 of the adopted Wealden Local Plan.*

44. No trees and/or hedgerows on the site unless dead or dangerous shall be felled, topped, lopped or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority.

A. Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

B. No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

C. No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

D. No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5m of the foliage, branches or trunk of the tree or hedgerow as per the requirements of British Standard 5837:2005 'Trees in Relation to Construction'.

E. No vehicles should be driven over the area within the approved protection zone of the tree or hedgerow.

F. No materials or equipment to be stored within a minimum distance of 10m from the tree or hedgerow or within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2005, 'Trees in Relation to Construction'.

*Reason* *To preserve trees on the site in the interests of visual amenity and the character of the area, having regard to Policy EN12 of the adopted Wealden Local Plan.*

45. No development shall take place until there has been submitted to, and approved by the Local Planning Authority in writing, a plan to show the location and/roots, depths and construction details of all services to be provided (including all utilities, drainage and any private connections) in relation to the existing trees on site having regard to the requirements of British Standard 5837:2005, 'Trees in Relation to Construction' and the National Joined Utilities Guidance Note No 10 (NJUG10).

*Reason* *To minimise any impact from service trenching existing trees, having regard to Policy EN12 of the adopted Wealden Local Plan.*

**Archaeology**

46. No development shall take place until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority.

*Reason* *The development is likely to disturb items of archaeological interest.*

Appeal B – Bird in Eye North

**Reserved Matters and Time Limits**

1. Details of the access, siting, appearance, landscaping, layout, scale, and phasing (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

*Reason*

*To meet the requirements of Article 4 of the Town and Country Planning General Development Procedure Order 1995 (as amended)*

2 Details of road access and pedestrian and cycle access connecting the first development phase to Bird-in-Eye Hill, to satisfy the above condition shall be substantially in accordance with Drawings 9630/103/001/B and 2008.954.073 at Annexe 4 of the Statement of Common Ground on Transport and Highway Issues dated 1st July 2008

*Reason*

*In the interests of highway safety and to ensure the optimum location for sustainable modes of transport in accordance with policies EN1 and TR3 of the Adopted Wealden Local Plan*

3 The pedestrian cycle and access routes referred to above shall be implemented in full in accordance with the approved plans before the occupation of the first dwelling

*Reason*

*To encourage the early use by residents of sustainable methods of transport*

4 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

*Reason*

*To meet the requirements of Section 92 of the Town and Country Planning act 1990, as amended by the Planning and Compulsory Purchase Act 2004.*

5 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

*Reason:*

*To meet the requirements of Section 92 of the Town and Country Planning act 1990, as amended by the Planning and Compulsory Purchase Act 2004.*

**Form of Development**

6 The detailed plans to be submitted shall provide for no more than 300 dwellings

*Reason*

*The Environmental Appraisal submitted with the outline application tested a proposal for 300 dwellings.*

7 The housing development shall be of no more than 3 storeys, and with no accommodation in the roofspace for 3 storey dwellings

*Reason*

*To enable the Local Planning Authority to control the development in relation to its surroundings and setting, and to comply with the terms of the Statement of Common Ground on Landscape ( paragraph 3.1(viii)) and policy EN 27 of the Approved Local Plan*

8 The details to be submitted shall have regard to the provisions of the Statement of Common Ground on Landscape signed on 31st January 2008 including paragraph 3.4 of the statement and revised master plan *No 1583/11K*

*Reason*

*To enable the Local Planning Authority to control the development in accordance with the terms of the Statement of Common Ground on Landscape which overcame the councils objections on the impact of the proposal, and in accordance with policy EN 27 of the Approved Local Plan*

9 No work shall be carried out on site for the development hereby approved, until detailed drawings for each phase of the development, have been submitted to and approved in writing by the Local Planning Authority showing existing and proposed levels and contours of the development site. The development shall be carried out in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

*Reason:*

*To enable satisfactory control of development on this sloping site and to ensure a satisfactory landform n the interests of visual and residential amenities in accordance with Policy EN27 of the adopted Wealden Local Plan*

**Operational**

10 No work shall be carried out on site until full written details for a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction and shall be implemented throughout the period of work on site.

*Reason:*

*In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties having regard to Policies EN27 and TR3 of the adopted Wealden Local Plan*.

11 No work shall be carried out on the site until provision has been made available within the site, in accordance with details to be approved in writing by the Local Planning Authority, for all temporary contractors buildings, plant, vehicles and stacks of materials associated with the development and such provision shall be retained and used for those purposes throughout the period of work on the site.

*Reason*

*In the interests of, and for the safety of, persons and vehicles using the premises and/or the adjoining road and in order to secure a satisfactory standard of development, having regard to Policy EN27 of the adopted Wealden Local Plan*.

12 All rights of way, way marking and furniture shall be retained both during and after the construction period, to the satisfaction of the Local Planning Authority.

*Reason:*

*For the protection of public amenity and safety, having regard to Policy EN27 of the adopted Wealden Local Plan.*

**Optimising Use of Resources / Sustainability / Recycling**

13 No work shall be carried out on site until a detailed management plan for reducing construction waste during the building process in the form of site management, waste management and project design and planning has been submitted to and approved in writing by the Local Planning Authority. The approved waste management plan shall be implemented throughout the period of work on site.

*Reason*

*In the interests of sustainability having regard to Policy EN1 of the adopted Wealden Local Plan.*

14 Before preparation of any groundworks or foundations for the development, hereby approved, written details of measures for energy and water conservation within the development shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

*Reason*

*To promote sustainable building design having regard to Policy EN1 of the adopted Wealden Local Plan*.

15 No development approved by this permission shall be commenced until details of the siting and form of means for the disposal of refuse, which shall also include facilities for recycling to be provided on the site, shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented to the satisfaction of the Local Planning Authority and that thereafter so retained.

*Reason:*

*To preserve the residential and visual amenities of the locality, having regard to Policy EN27 of the adopted Wealden Local Plan.*

16. Prior to the commencement of any development, details of predicted energy use of the development and the generation of on-site renewable energy shall be submitted and approved by the Local Planning Authority. These details will demonstrate how energy efficiency is being addressed, including benchmark data, and show the on-site measures to be taken to produce a minimum of 10% of the total energy requirements of the new development by means of renewable energy sources. Such details as may be approved shall be implemented prior to the first occupation of the dwelling to which it relates.

*Reason*

*In accordance with the principles of PPS1 and Policy EN1 of the Adopted Local Plan*.

**Drainage / Flood Protection / Contamination**

17 No development approved by this permission shall be commenced until a scheme, including design calculations and construction details, for the disposal of surface water which shall include the provision and implementation of a surface water regulation system and storage facility has been approved and implemented to the satisfaction of the Local Planning Authority in accordance with the details and timetable agreed.

*Reason*

*To prevent an increased risk of flooding, having regard to Policy CS2 of the adopted Wealden Local Plan and Policies CS3 and CS5 of the Non-Statutory Wealden Local Plan.*

Note: The storage volume provided will need to cater for the 1 in 100 year event plus a 20% allowance for climate change. The allowable rate of discharge will need to be agreed

18 No development approved by this permission shall be commenced until full details for the disposal of foul and surface water drainage from the

development or within each phase of the development, have been submitted to and approved in writing by the Local Planning Authority. The approved drainage works within each phase shall be completed prior to the completion of occupation of any dwelling within the relevant phase whichever is the sooner.

*Reason*

*In order to secure a satisfactory standard of development, and prevent pollution of controlled waters and the increased risk of flooding having regard to Policies EN4 and CS2 of the adopted Wealden Local Plan*.

19 Prior to the commencement of any development, a scheme for the provision and implementation of a sustainable surface water drainage system (Suds), shall be submitted to and agreed in writing with the Local Planning Authority unless it can be satisfactorily demonstrated that such a scheme cannot be provided on site. The works / scheme shall be constructed and completed in accordance with the plans and timetable approved by the Local Planning Authority.

*Reason:*

*To reduce the risk of flooding by ensuring a satisfactory drainage system, to comply with the recommendations of the applicant's Flood Risk Assessment, (FRA) and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal in accordance with Policy CS2 of the adopted Wealden Local Plan*

20 No development approved by this permission shall take place, including land filling and / or land raising, within the 1 in 100 year flood outline, (land below 24.5m AOD), as identified within Section 6 of the applicant's Flood Risk Assessment contained in Volume 2 of the Environmental Statement ( January 2006)

*Reason:*

*To reduce the risk of flooding and to comply with the findings of the applicant's Flood Risk Assessment* and in accordance with Policy CS2 of the adopted Wealden Local Plan

21 If during development any visibly contaminated or odorous material not previously identified is found to be present at the site, this must be investigated. The Local Planning Authority must be informed immediately of the nature and degree of contamination present. The developer shall submit a Method Statement, which must detail how this unsuspected contamination shall be dealt with.

*Reason:*

*To ensure that the development complies with approved details in the interest of protection of Controlled Waters.*

22 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and

hardstandings shall be passed through trapped gullies or appropriate SUDS treatment feature with an overall capacity compatible with the site being drained.

*Reason: To prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal.*

23 A naturally vegetated buffer strip of at least 8 metres from the top of the bank and incorporating bankside vegetation shall be retained on the site where it adjoins water courses. Before work commences on the site details of such buffers including any temporary protection fencing required should be submitted to and approved by the Local Planning Authority and implemented in accordance with approved details

*Reason*

*To maintain an undamaged undisturbed functioning watercourse*

**Highways / Parking / Garaging**

24 Before preparation of any groundworks or foundations for each phase of the development , detailed plans including levels, sections and constructional details of the proposed roads, footpaths, surface water drainage, foul sewers, outfall disposal and street lighting to be provided shall be submitted to the Local Planning Authority and be subject to their approval, and such work as approved to be carried out at the time of the development and thereafter so retained.

*Reason:*

*In the interests of and for the safety of persons and vehicles using the site and the adjoining roads, in accordance with policy TR3 of the Approved Local Plan*

25 Before preparation of any groundworks or foundations for each phase of the development , the access required to serve that development shall be completed to base course level, together with the surface water and foul sewers to the approval of the Local Planning Authority.

*Reason:*

*In the interests of highway safety and the amenity of the locality having regard to Policy TR3 of the adopted Wealden Local Plan.*

26 No development shall take place for each phase of the development until details of parking facilities (and turning spaces where appropriate), to be provided within the site shall be submitted and approved in writing by the Local Planning Authority; such details to show means of access, size, siting (indicating location of disabled person's parking), surface treatment, method of delineation of parking on site, construction details, levels and surface water drainage. The parking and turning areas shall be laid out in accordance with

the approved details prior to the occupation of the associated dwellings and thereafter retained in accordance with the approved details.

*Reason*

*To ensure adequate and satisfactory standard of parking provision within the development having regard to Policies EN27 and TR16 of the adopted Wealden Local Plan.*

27 The garage/parking areas shall be used solely for ancillary domestic storage and/or vehicle parking purposes incidental to the occupation and enjoyment of the dwelling units to which they serve and shall not be used for nor in connection with any commercial trade or business purposes and shall not be converted into habitable accommodation, including domestic workshop, study, games room and similar uses, without the prior written consent of the Local Planning Authority.

*Reason*

*To protect the visual and residential amenities of the site and insure the retention of parking provision, having regard to Policies EN27 and TR16 of the adopted Wealden Local Plan.*

**Open Space and Play Areas**

28 Before preparation of any groundworks or foundations for each phase of the development, details of the amenity open space provision (including the areas between the proposed development and existing watercourses), shall be submitted to and approved in writing by the Local Planning Authority for that phase. Such details shall include grass seeding/turfing, planting, construction of footpaths and installation of all necessary boundary treatments, equipment and street furniture. The approved scheme shall be fully implemented during the first planting season following the substantial completion of the relevant phase of development or occupation of the 25th dwelling in each phase, unless otherwise agreed in writing with the Local Planning Authority, whichever is the sooner and thereafter shall be so retained for the purpose of amenity open space only.

*Reason*

*In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the development in a reasonably timely manner having regard to Policies LR1 and LR4 of the adopted Wealden Local Plan.*

29 Before preparation of any groundworks or foundations for each phase of the development , full details of play areas (including grass seeding/turfing, planting, fencing, safety surfacing, play equipment, seats, litter bins and lighting), and details of the timing of implementation of such works, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented following the substantial

completion of the relevant phase of development or occupation of the 25th dwelling in each phase, unless otherwise agreed in writing with the Local Planning Authority, whichever is the sooner and thereafter shall be so retained

*Reason:*

*In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the development in a reasonably timely manner having regard to Policy LR3 of the adopted Wealden Local Plan.*

**Landscaping, Fences , Walls and Trees**

30 Before preparation of any groundworks and foundations on site for any phase of development hereby approved, full details of hard landscape works for that phase of the development, which shall include details of all fencing, walling and other boundary treatments, steps, retaining walls and surface finishes, together with the timing for implementation of such works, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented following the substantial completion of the relevant phase of development or occupation of the 25th dwelling in each phase, unless otherwise agreed in writing with the Local Planning Authority, whichever is the sooner and thereafter shall be so retained

*Reason* *To ensure a satisfactory appearance to the development having regard to Policy EN27 of the adopted Wealden Local Plan*.

31 Before preparation of any groundworks and foundations on site for the development hereby approved, a phased scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, including those to be retained together with measures for their protection which shall comply in full with British Standard 5837:2005, "Trees in Relation to Construction" in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted or translocated as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.

All planting, seeding and/or turfing comprised in the approved details of landscaping for each phase shall be carried out in the first planting and seeding seasons following the first occupation of the building(s) or the substantial completion of the development within each phase whichever is the sooner. Any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

*Reason*

*To protect and enhance the visual amenities of the area and in order to secure a satisfactory standard of development, and preserve trees and hedges on the*

*site in the interests of this dual amenity and the character of the area having regard to Policies EN14, EN12 and EN27 of the adopted Wealden Local Plan*

32 No trees and/or hedgerows on the site unless dead, dying or dangerous shall be felled, topped, lopped or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:

A. Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.
B. No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.
C. No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.
D. No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 m of the foliage, branches or trunk of the tree or hedgerow as per the requirements of British Standard 5837:2005, 'Trees in Relation to Construction'.
E. No vehicles should be driven over the area within the approved protection zone of the tree or hedgerow.
F. No materials or equipment to be stored within a minimum distance of 10 m from the tree or hedgerow or within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2005, 'Trees in Relation to Construction'.

*Reason* *To preserve trees on the site in the interests of visual amenity and the character of the area, having regard to Policy EN12 of the adopted Wealden Local Plan.*

33 No development shall take place until there has been submitted to, and approved by the Local Planning Authority in writing, a plan to show the location and/roots, depths and construction details of all services to be provided (including all utilities, drainage and any private connections) in relation to the existing trees on site having regard to the requirements of British Standard 5837:2005, 'Trees in Relation to Construction' and the National Joined Utilities Guidance Note No. 10 (NJUG10).

*Reason*

*To minimise any impact from service trenching existing trees, having regard to Policy EN12 of the adopted Wealden Local Plan.*

34 No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall be carried out in accordance with the approved details.

*Reason*

*To ensure a satisfactory landform on the interests of visual amenity within the locality in accordance with Policies EN14 and EN27 of the adopted Wealden Local Plan*

35 For each phase of development, a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for landscaped areas, other than small privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the development hereby permitted within that phase and the landscape management shall be carried out in accordance with the approved plan over the period specified.

*Reason*

*To ensure a satisfactory maintenance and management of the landscaped areas in accordance with Policies EN14 and EN27 of the adopted Wealden Local Plan*.

**Floodlighting and Materials**

36 During the construction phases no floodlighting or other external means of illumination of the site shall be provided, installed or operated at the site, except in accordance with a detailed scheme which shall have been submitted to and approved in writing by the Local Planning Authority.

*Reason*

*To preserve the rural and residential amenities of this part of the Low Weald Countryside Area having regard to Policies EN8 and EN27 of the adopted Wealden Local Plan and to safeguard the interests of wildlife*

**Commercial Area**

37 No power driven machinery shall be used or operated within the commercial part of the development here by approved, before 08:00 hours or after 18:00 hours on weekdays, before 08:00 hours or after 13:00 hours on Saturdays, or at any time on Sundays or public holidays except with the prior written approval of the Local Planning Authority.

*Reason:*

*To protect the residential amenities of the locality, having regard to Policy EN27 of the Wealden Local Plan and Policy BE1 of the Non Statutory Wealden Local Plan.*

38 No deliveries related to the B1(a) uses hereby permitted shall be taken at or despatched from the site outside the following times: 0700 to 1800 on weekdays and 0700 to 1300 on Saturdays, nor at any time on Sundays, Bank or Public Holidays.

*Reason:*

*To preserve the residential amenities of the adjoining properties and to maintain the characteristics of the locality, having regard to Policy EN27 of the Wealden Local Plan and Policy BE1 of Non Statutory Wealden Local Plan Interim Guide for Development Control (2005)*

**Ecology**

39 No development shall commence for each phase of the development until details of ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1) appropriate ecological enhancements;
2) compensatory habitat creation;
3) measures specifically to address retention and enhancement of the site's ecological connectivity through ecological corridors and networks;
4) a scheme for human access restrictions to the retained and created habitats to include access control measures;
5) a detailed Landscape and Biodiversity Management Plan for ongoing habitat/landscape management of the site.

Thereafter, the scheme shall be completed in accordance with the approved plans.

*Reason*

*To protect features of recognised nature conservation importance having regard to Policy NE 14 of the Non -statutory Wealden Local Plan, and in accordance with the Statement of Common Ground on Ecology dated January 2008*.

40 No development shall commence until details of the alignment and construction methods of the proposed footpath and cycleway has been submitted to and approved in writing by the Local Planning Authority. These details shall include appropriate scale maps of vegetation (tree, shrub and ground flora), and other features of ecological value, within the woodland in the western part of the site. Thereafter, the scheme shall be completed in accordance with the approved plans.

*Reason*

*To enable direct sustainable access links without unduly disturbing wildlife having regard to Policy NE 14 of the Non -statutory Wealden Local Plan,*

41 No development shall commence until a detailed ecological monitoring strategy has been submitted to and approved in writing by the Local Planning Authority. Thereafter, ecological monitoring shall be undertaken in accordance with the approved strategy.

*Reason*

*To protect features of recognised nature conservation importance having regard to Policy NE 14 of the Non -statutory Wealden Local Plan, and in accordance with the Statement of Common Ground on Ecology dated January 2008.*

**Archaeology**

42 No development shall take place until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

*Reason* *The development is likely to disturb items of archaeological interests*

**Noise**

43 Before the first occupation of any of the dwellings hereby permitted a scheme for the sound insulation of all dwellings to be sited within 100 metres from boundary of the existing commercial area, which is surrounded by the application site, shall be submitted to and approved in writing by the Local Planning Authority and the works completed in accordance with the approved details and thereafter so retained.

*Reason:*

*In the interests of the residential amenities of future occupants of the development and to enable the Local Planning Authority to exercise control within the area where the Statement of Common Ground on Noise indicates that "complaints would be likely from time to time" due to activities within the commercial area.*

Appeal C – Bird in Eye South

**Reserved Matters and Time Limits**

1. Details of the access, siting, appearance, landscaping, layout, scale, and phasing (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

*Reason*

*To meet the requirements of Article 4 of the Town and Country Planning General Development Procedure Order 1995 (as amended)*

2 Details of road access and pedestrian and cycle access connecting the first development phase to Bird-in-Eye Hill, to satisfy the above condition shall be substantially in accordance with Drawing 2008.954.032 Revision H at Annexe 4 of the Statement of Common Ground on Transport and Highway Issues dated 1st July 2008

Note: in the event of both Bird in Eye sites being consented, reference should also be made to Drawing 2008.954.073 Revision B

*Reason*

*In the interests of highway safety and to ensure the optimum location for sustainable modes of transport in accordance with policies EN1 and TR3 of the Adopted Wealden Local Plan*

3 Unless otherwise agreed in writing by the Local Planning Authority, the pedestrian cycle and access routes referred to above shall be implemented in full in accordance with the approved plans before the occupation of the first dwelling

*Reason*

*To encourage the early use by residents of sustainable methods of transport*

4 Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

*Reason*

*To meet the requirements of Section 92 of the Town and Country Planning act 1990, as amended by the Planning and Compulsory Purchase Act 2004*.

5 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

*Reason:*

*To meet the requirements of Section 92 of the Town and Country Planning act 1990, as amended by the Planning and Compulsory Purchase Act 2004.*

**Form of Development**

6 The details referred to in the above conditions shall have due regard to the Master Plan (JJG.U2SK04.) submitted with the outline application.

*Reason*

*To ensure reasonable levels of consistency with the scheme subject to environmental analysis*

7 No work shall be carried out on site for the development hereby approved, until detailed drawings for each phase of the development, have been submitted to and approved in writing by the Local Planning Authority showing existing and proposed levels and contours of the development site. The development shall be carried out in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

*Reason:*

*To enable satisfactory control of development on this sloping site and to ensure a satisfactory landform n the interests of visual and residential amenities in accordance with Policy EN27 of the adopted Wealden Local Plan*

**Operational**

8 No work shall be carried out on site until full written details for a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction and shall be implemented throughout the period of work on site.

*Reason:*

*In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties having regard to Policies EN27 and TR3 of the adopted Wealden Local Plan.*

9 No work shall be carried out on the site until provision has been made available within the site, in accordance with details to be approved in writing by the Local Planning Authority, for all temporary contractors buildings, plant, vehicles and stacks of materials associated with the development and such provision shall be retained and used for those purposes throughout the period of work on the site.

*Reason*

*In the interests of, and for the safety of, persons and vehicles using the premises and/or the adjoining road and in order to secure a satisfactory standard of development, having regard to Policy EN27 of the adopted Wealden Local Plan.*

10 All rights of way, way marking and furniture shall be retained both during and after the construction period, to the satisfaction of the Local Planning Authority.

*Reason:*

*For the protection of public amenity and safety, having regard to Policy EN27 of the adopted Wealden Local Plan*.

**Optimising Use of Resources / Sustainability / Recycling**

11 No work shall be carried out on site until a detailed management plan for reducing construction waste during the building process in the form of site management, waste management and project design and planning has been submitted to and approved in writing by the Local Planning Authority. The approved waste management plan shall be implemented throughout the period of work on site.

*Reason*

*In the interests of sustainability having regard to Policy EN1 of the adopted Wealden Local Plan.*

12 Before preparation of any groundworks or foundations for the development, hereby approved, written details of measures for energy and water conservation within the development shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

*Reason*

*To promote sustainable building design having regard to Policy EN1 of the adopted Wealden Local Plan.*

13 No development approved by this permission shall be commenced until details of the siting and form of means for the disposal of refuse, which shall also include facilities for recycling to be provided on the site, shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented to the satisfaction of the Local Planning Authority and that thereafter so retained.

*Reason:*

*To preserve the residential and visual amenities of the locality, having regard to Policy EN27 of the adopted Wealden Local Plan*.

14. Prior to commencement of each phase of the development, details of predicted energy use of the development and the generation of on-site renewable energy shall be submitted and approved by the Local Planning Authority.

These details will demonstrate how energy efficiency is being addressed, including benchmark data, and show the on-site measures to be taken to produce a minimum of 10% of the total energy requirements of the new development by means of renewable energy sources. Such details as may be approved shall be implemented prior to the first occupation of the dwelling to which it relates.

*Reason*

*In accordance with the principles of PPS1 and Policy EN1 of the Adopted Local Plan.*

**Drainage / Flood Protection / Contamination**

15 No development approved by this permission shall be commenced until details of proposed flood risk mitigation works have been submitted to and approved by the Local Planning Authority. The scheme shall be constructed in accordance with the approved details.

*Reason*

*To ensure that the development is subject to minimum risk of flooding ,and to comply with the recommendations in the Flood Risk Assessment ( FRA) paragraph 9.24 and having regard to Policy CS2 of the adopted Wealden Local*

16 No development approved by this permission shall be commenced until full details for the disposal of foul and surface water drainage from the development or within each phase of the development, have been submitted to and approved in writing by the Local Planning Authority. The approved drainage works within each phase shall be completed prior to the completion of occupation of any dwelling within the relevant phase whichever is the sooner.

*Reason*

*In order to secure a satisfactory standard of development, and prevent pollution of controlled waters and the increased risk of flooding having regard to Policies EN4 and CS2 of the adopted Wealden Local Plan.*

17 Prior to the commencement of any development, a scheme for the provision and implementation of a sustainable surface water drainage system (Suds), shall be submitted to and agreed in writing with the Local Planning Authority. Unless it can be satisfactorily demonstrated that such a scheme cannot be provided on site. The works / scheme shall be constructed and completed in accordance with the plans and timetable approved by the Local Planning Authority.

*Reason:*

*To reduce the risk of flooding by ensuring a satisfactory drainage system, to comply with the recommendations of the applicant's Flood Risk Assessment, (FRA) and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal in accordance with Policy CS2 of the adopted Wealden Local Plan*

18 If during development any visibly contaminated or odorous material not previously identified is found to be present at the site, this must be investigated. Local Planning Authority must be informed immediately of the nature and degree of contamination present. The developer shall submit a Method Statement, which must detail how this unsuspected contamination shall be dealt with.

*Reason:*

*To ensure that the development complies with approved details in the interest of protection of Controlled Waters*.

19 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies or appropriate SUDS treatment feature with an overall capacity compatible with the site being drained.

*Reason: To prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal.*

**Highways / Parking / Garaging**

20 Before preparation of any groundworks or foundations for each phase of the development , detailed plans including levels, sections and constructional details of the proposed roads, footpaths , surface water drainage, foul sewers, outfall disposal and street lighting to be provided shall be submitted to the Local Planning Authority and be subject to their approval, and such work as approved to be carried out at the time of the development and thereafter so retained.

*Reason:*

*In the interests of and for the safety of persons and vehicles using the site and the adjoining roads, in accordance with policy TR3 of the Approved Local Plan*

21 Before preparation of any groundworks or foundations for each phase of the development , the access required to serve that development shall be completed to base course level, together with the surface water and foul sewers to the approval of the Local Planning Authority in consultation with the Highway Authority.

*Reason:*

*In the interests of highway safety and the amenity of the locality having regard to Policy TR3 of the adopted Wealden Local Plan.*

22 No development shall take place for each phase of the development, until details of parking facilities (and turning spaces where appropriate), to be provided within the site have been submitted and approved in writing by the Local Planning Authority; such details to show means of access, size, siting (indicating location of disabled person's parking), surface treatment, method of delineation of parking on site, construction details, levels and surface water drainage. The parking and turning areas shall be laid out in accordance with the approved details prior to the occupation of the associated dwellings and thereafter retained in accordance with the approved details.

*Reason*

*To ensure adequate and satisfactory standard of parking provision within the development having regard to Policies EN27 and TR16 of the adopted Wealden Local Plan*.

23 The garage/parking areas shall be used solely for ancillary domestic storage and/or vehicle parking purposes incidental to the occupation and enjoyment of the dwelling units to which they serve and shall not be used for nor in connection with any commercial trade or business purposes and shall not be converted into habitable accommodation, including domestic workshop, study, games room and similar uses, without the prior written consent of the Local Planning Authority.

*Reason*

*To protect the visual and residential amenities of the site and insure the retention of parking provision, having regard to Policies EN27 and TR16 of the adopted Wealden Local Plan.*

**Open Space and Play Areas**

24 Before preparation of any groundworks or foundations for each phase of the development, details of the amenity open space provision (including the open area west of Bird in Eye Farm and land adjoining site boundaries ), shall be submitted to and approved in writing by the Local Planning Authority for that phase. Such details shall include grass seeding/turfing, planting, construction of footpaths and installation of all necessary boundary treatments, equipment and street furniture. The approved scheme shall be fully implemented during the first planting season following the substantial completion of the relevant phase of development or occupation of the 25th dwelling in each phase, whichever is the sooner, unless otherwise agreed in writing with the Local Planning Authority, and thereafter shall be so retained for the purpose of amenity open space only.

*Reason*

*In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the development in a reasonably timely manner having regard to Policies LR1 and LR4 of the adopted Wealden Local Plan.*

25 Before preparation of any groundworks or foundations for each phase of the development , full details of play areas (including grass seeding/turfing, planting, fencing, safety surfacing, play equipment, seats, litter bins and lighting), and details of the timing of implementation of such works, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented following the substantial completion of the relevant phase of development or occupation of the 25th dwelling in each phase, unless otherwise agreed in writing with the Local Planning Authority, whichever is the sooner and thereafter shall be so retained

*Reason:*

*In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the development in a reasonably timely manner having regard to Policy LR3 of the adopted Wealden Local Plan*.

**Landscaping, Fences , Walls and Trees**

26 Before preparation of any groundworks and foundations on site for any phase of development hereby approved, full details of hard landscape works for that phase of the development, which shall include details of all fencing, walling and other boundary treatments, steps, retaining walls and surface finishes, together with the timing for implementation of such works, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented following the substantial completion of the relevant phase of development or occupation of the 25th dwelling in each phase, unless otherwise agreed in writing with the Local Planning Authority, whichever is the sooner and thereafter shall be so retained

*Reason* *To ensure a satisfactory appearance to the development having regard to Policy EN27 of the adopted Wealden Local Plan*.

27 Before preparation of any groundworks and foundations on site for the development, a phased scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with British Standard 5837:2005, "Trees in Relation to Construction" in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted, or translocated as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.

All planting, seeding and/or turfing comprised in the approved, details of landscaping for each phase shall be carried out in the first planting and seeding

seasons following the first occupation of the building(s) or the substantial completion of the development within each phase whichever is the sooner. Any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

*Reason*

*To protect and enhance the visual amenities of the area and in order to secure a satisfactory standard of development, and preserve trees and hedges on the site in the interests of this dual amenity and the character of the area having regard to Policies EN14, EN12 and EN27 of the adopted Wealden Local Plan*

28 No trees and/or hedgerows on the site unless dead or dangerous shall be felled, topped, lopped or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:

G. Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.
H. No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.
I. No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.
J. No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 m of the foliage, branches or trunk of the tree or hedgerow as per the requirements of British Standard 5837:2005, 'Trees in Relation to Construction'.
K. No vehicles should be driven over the area within the approved protection zone of the tree or hedgerow.
L. No materials or equipment to be stored within a minimum distance of 10 m from the tree or hedgerow or within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2005, 'Trees in Relation to Construction'.

*Reason* *To preserve trees on the site in the interests of visual amenity and the character of the area, having regard to Policy EN12 of the adopted Wealden Local Plan.*

29 No development shall take place until there has been submitted to, and approved by the Local Planning Authority in writing, at plan to show the location and/roots, depths and construction details of all services to be provided (including all utilities, drainage and any private connections) in relation to the existing trees on site having regard to the requirements of British Standard 5837:2005, 'Trees in Relation to Construction' and the National Joined Utilities Guidance Note No. 10 (NJUG10).

*Reason* *To minimise any impact from service trenching existing trees, having regard to Policy EN12 of the adopted Wealden Local Plan.*

30 No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall be carried out in accordance with the approved details.

*Reason*

*To ensure a satisfactory landform on the interests of visual amenity within the locality in accordance with Policies EN14 and EN27 of the adopted Wealden Local Plan*

31 For each phase of development, a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for landscaped areas, other than small privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the development hereby permitted within that phase and the landscape management shall be carried out in accordance with the approved plan over the period specified.

*Reason*

*To ensure a satisfactory maintenance and management of the landscaped areas in accordance with Policies EN14 and EN27 of the adopted Wealden Local Plan.*

**Floodlighting and Materials**

32 During the construction phases, no floodlighting or other external means of illumination of the site shall be provided, installed or operated at the site, except in accordance with a detailed scheme which shall have been submitted to and approved in writing by the Local Planning Authority.

*Reason*

*To preserve the rural and residential amenities of this part of the Low Weald Countryside Area having regard to Policies EN8 and EN27 of the adopted Wealden Local Plan and to safeguard the interests of wildlife*

**Ecology**

33 No phase of the development shall take place until up-dated surveys, and where appropriate mitigation strategies prepared, for bats, badgers, dormice, water voles, amphibians, reptiles have been carried out and submitted to and approved by the Local Planning Authority. The mitigation strategies shall be carried out in accordance with approved plans.

*Reason*

*To enable mitigation strategies in response to up to date survey information and in accordance with policy NE14 of the non-statutory Wealden Local Plan*

34 No development shall commence until details of ecological enhancements have been submitted and approved in writing by the Local Planning Authority. These details shall include

(i) Ecological enhancements incorporated into any SUDS scheme which is included within the details

(ii) Measures to facilitate the migration of toads across the site

(iii) Compensatory Habitat creation and landscape planting

(iv) Measures to address connectivity through ecological corridors and networks

(v) A scheme for human access control measures

(vi) A detailed management plan for the ongoing habitat/landscape management of the site.

Thereafter the scheme shall be completed in accordance with the approved plans

*Reason*

*In the interests of the ecology of the area in accordance with policy NE14 of the non-statutory Wealden Local Plan*

35 No phase of the development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include :

(i) Method statements detailing how environmental impacts will be prevented during construction ( eg temporary fencing around retained habitats, presence of qualified ecologist when working in sensitive areas)

(ii) Full details of construction site drainage and treatment and attenuation of run-off, designed to prevent pollution and sedimentation of any watercourse or wetland during construction.

Thereafter the scheme shall be completed in accordance with the approved plans.

*Reason*

*In the ecological interests of the locality and in accordance with policy NE14 of the non-statutory Wealden Local Plan*

36 No development shall commence until the buffer zones for all areas of woodland and retained hedgerows both within and adjacent to site boundaries have been submitted to and approved in writing by the Local Planning Authority. These details shall include

(i) planting and seeding details

(ii) measures to protect these features during construction

(iii) a plan showing the width of buffer zones

The width of the buffer zones shall be in general accordance with the Illustrative Master Plan submitted with the planning application

*Reason:*

To protect Ancient Woodland and species–rich hedgerow which are of recognised nature conservation importance having regard to Policy NE 14 of the Non -statutory Wealden Local Plan,.

**Archaeology**

37 No development shall take place until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Reason The development is likely to disturb items of archaeological interest.