
STATEMENT OF CASE

LAND AT BIRD IN EYE FARM, SOUTH OF BIRD
IN EYE HILL (FRAMFIELD PARISH), UCKFIELD

Appeal against failure of Wealden District Council to determine an outline planning application within the statutory period for up to 290 dwellings, associated landscaping, informal open space and strategic SANG, with access from the B2102.

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LPA Ref: WD/2021/2198/O

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1.0 Introduction

Context

- 1.1. This Appeal is made against the failure of Wealden District Council to determine an outline planning application within the statutory period for up to 290 residential dwellings, associated landscaping, informal open space and strategic SANG, with access from the B2102 (all matters reserved except for access) (LPA Ref: LW/21/0937).
- 1.2. The development plan is out of date in terms of the spatial application of its housing policies, whilst, in addition, the Council is not able to demonstrate a five year supply of deliverable housing land. In the circumstances, the presumption in favour of sustainable development (the tilted balance) at paragraph 11(d) of the NPPF is clearly engaged. This requires planning applications to be approved unless footnote 7 considerations provide a clear reason for refusing development (which they do not in this case); or any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Again, they do not.
- 1.3. This is demonstrably a case where the weight to be attached to conflict with the development plan (on account of the location of the site beyond the defined settlement boundary for Uckfield) must be reduced given the need to breach the settlement boundaries identified in the development plan to meet development needs. The particularly weighty material considerations in favour of this Appeal are clearly sufficient to outweigh the limited conflict with the out-of-date development plan.

S.38(6) the Development Plan

- 1.4. The development plan consists of the saved policies of the Wealden Local Plan (1998) (policies saved 2007), Wealden Core Strategy (2013) and the Affordable Housing Delivery Local Plan (2013).

- 1.5. The Core Strategy is a strategic level plan for the whole District, providing a strategic policy framework to guide development in the period to 2027. Its housing requirement was based on the 2007 Strategic Housing Market Assessment and consequently pre-dates the standard method required by the current NPPF (or indeed any methodology calculated to meet the post-2012 policy requirement to “boost significantly” the supply of new homes).
- 1.6. Policy WCS1 (Provision of Homes and Jobs 2006 – 2027) makes provision for some 4,525 net additional dwellings within the district reflecting the findings of the 2007 Strategic Housing Market Assessment. Policy WCS2 (Distribution of Housing Growth 2006 – 2027) seeks to allocate those additional dwellings throughout the district with Uckfield earmarked for 1000 new allocations in addition to the 742 already committed or built.
- 1.7. Policies WCS1 and WCS2 Policy WVS4 set out a number of strategic development areas; with SD1 (Land at West Uckfield) seeking to allocate the 1000 dwellings in one strategic area.
- 1.8. It is nevertheless highly material that the housing provision figure within Policy WCS2, and subsequently WCS4, do not represent full objectively assessed need when assessed against the annual requirement set by the standard methodology which is in excess of 1,200 dwellings a year as confirmed in the Council’s assessment of housing land supply for April 2021¹.
- 1.9. It is evident therefore that Policies WCS1, WCS2 and WCS4 are out of date and that significant additional housing is required on greenfield sites, an issue accepted by the Council in the Core Strategy. This is confirmed in paragraph 5.8 which states “**it is inevitable that there will**

¹ Page 5 of the Council’s April 2021 assessment indicates that the District’s capped annual need is 1,221dpa

have to be a substantial use of greenfield land to meet existing and future housing needs....” This has been further accepted in the decisions by the Council and through appeals on subsequent applications.

- 1.10. As accepted by the Council, the development plan is not based upon a NPPF compliant assessment of housing need and cannot be said to be up to date in respect of its housing requirement or in relation to policies that seek to restrict development within the defined settlement boundaries.
- 1.11. Its content pre-dates the publication of the NPPF and the NPPG together with the Hunston and Solihull High Court Judgments; which require LPA to undertake an assessment of the objectively assessed housing need. Accordingly, and even at the point of adoption, the Core Strategy did not meet the objectively assessed need for housing during the plan period, which represents a clear conflict with paragraph 60 of the NPPF to significantly boost the supply of homes.
- 1.12. By operation of paragraph 219 of the NPPF, it is the Appellant's case that the weight to be attached to the development plan must be reduced on account of its inconsistency with the approach in the NPPF to meeting identified housing needs.
- 1.13. As to five year housing land supply, paragraph 74 of the NPPF requires local planning authorities to demonstrate a five year supply of deliverable housing land against the housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
- 1.14. In so far as the Core Strategy was adopted in February 2013 and is more than five years old, and has not been reviewed, the five year housing land supply position falls to be determined against the local housing need, derived from the standard method.

- 1.15. The Council's Five Year Housing Land Supply Statement for 1st April 2021 only shows a 3.66 year supply of deliverable housing land supply, representing a substantial shortfall of 1,964 dwellings. This represents a material consideration of significant weight in support of the Appeal Scheme.
- 1.16. As confirmed by the Council in numerous Officer Reports to Planning Committee, this means the local plan policies that are most important for determining planning applications for housing carry less weight, and the NPPF's presumption in favour of sustainable development will apply to decision making².
- 1.17. This position was explored in the recent (4 Aug 2022) appeal decision relating to the erection of 38 dwellings on land beyond the settlement policy boundary at Horam (footnote 2 below refers), with paragraphs 19 and 20 concluding as follows:

"It is common ground that the CS is out of date and does not meet Wealden's local housing needs. The plan provides for only 450 homes per annum as opposed to a requirement for 1,225, as calculated under the standard method set out in national planning guidance. Paragraph 74 of the Framework requires Councils identify and update annually a minimum five-year housing land supply (5YHLS) against their local housing need. Wealden can currently demonstrate a 3.66-year housing land supply. I consider this to be a substantial shortfall in meeting current Government policy requirements.

A lack of a 5YHLS has endured in Wealden for over six years. In this situation the Council has granted permission for housing in a number of sites outside the Horam settlement boundary, as detailed in the appellant's evidence. Unlike this proposal, these sites appear to have all been within a development boundary proposed in a Submission Local Plan. However, this was later withdrawn and the Council is now preparing a new Local Plan, due for Regulation 18 consultation later this year."

² Examples include but are not limited to WD/2021/1637/MAO, WD/2021/2356/MAO (PINS Ref: APP/C1435/W/22/3297371); and WD/2020/2509/MAO (PINS Ref: APP/C1435/W/22/3296579)

- 1.18. Against the above background, the Council published its Housing Action Plan (June 2022), which sets out a number of actions that the Council will progress to boost housing delivery. A key action is continuing to progress a Local Plan and which a draft (Regulation 18) version of the Local Plan was to be consulted upon in Spring 2022, now delayed to later this year. This delay impacts upon the ability of the Council to resolve the significant shortfall in supply within the short to medium term.
- 1.19. Although there is a conflict between the Appeal Scheme and Development Plan, the Appellant has gone on to assess whether there are material considerations which justify the grant of planning permission. The Site is not identified within the development plan as forming any part of a valued landscape.
- 1.20. As to the footnote 7 considerations set out in the NPPF, the heritage assessment of the Appeal Scheme, finding less than substantial harm within the lowest level of the less than substantial scale, engages the 'heritage balance' at paragraph 202 of the NPPF. This requires any harm to be weighed against the public benefits of the proposal.
- 1.21. It is the case for the Appellant that the many public benefits (economic, social and environmental), demonstrably outweigh that harm.
- 1.22. Overall, in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the witnesses for the Appellant have paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. This will be explained in evidence.
- 1.23. As to the benefits, the material considerations are considerable in number and include the requirement to determine the scheme within the prism of the titled balance, along with the substantial social, economic and environmental benefits, that justify the grant of planning permission.

- 1.24. The Appeal Scheme is promoted in the context of the Council's failure to demonstrate a five year supply of deliverable housing land and also in the context of the Council's own positive assessment of the Site through the SHELAA (2019) (site Ref 002/1410) which notes that the site is potentially suitable in principle for housing development.

Overarching Summary

- 1.25. Having regard to the relevant planning policy and material considerations, the acceptability of the Appeal Scheme may be summarised as follows:
- i. The development of the Appeal Site for a sustainable form of development should now be considered favourably in accordance with the approach at paragraph 8 of the NPPF, having regard to the economic, social and environmental objectives of the planning system.
 - ii. The Council's spatial strategy is out of date and cannot meet its identified housing need without breaching the settlement boundaries identified in the development plan.
 - iii. In addition, the Council accepts it cannot demonstrate an up-to-date five year supply of deliverable sites for housing. It claims a maximum 3.66 year supply³ (a shortfall of 1,964 dwellings).
 - iv. As such, and in accordance with paragraph 11(d) NPPF, the most important policies (including those relating to settlement boundaries) are to be regarded as out of date and the presumption in paragraph 11(d) of the NPPF applies (subject to paragraph 182 of the NPPF).

³ Wealden District Council Five Year Housing Land Supply Statement – as of 1st April 2021 (Dec 2021)

- v. The Scheme represents a sustainable form of development and the Appeal Scheme involves the provision of significant benefits, including the delivery of the sports and recreation facilities.
- vi. Not only are there no adverse impacts which significantly and demonstrably outweigh the benefits, but there are in fact significant benefits which justify the grant of planning permission.
- vii. The Appeal Scheme is submitted in accordance with the NPPF and the Scheme should be allowed so as to permit a sustainable form of much needed new market and affordable housing in helping to meet the District's housing needs and to provide the additional benefits which have been identified, including the delivery of a strategic SANG.

2.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

The Appeal Site

- 2.1. The Appeal Site and surrounding area will be described in evidence.
- 2.2. The Site extends to approximately 41ha and is located to the south of south of Bird in Eye Hill, on the eastern side of Uckfield.
- 2.3. The Site comprises a series of paddocks in the northern western part, with further paddocks and some plantation woodland to the east and south. Ancient Woodland lies along parts of the western, southern and south eastern boundaries as well as bisecting the site.
- 2.4. The southern parcel of land is separated from rest of the site by a strip of Ancient Woodland known as Bird in Eye Shaw, which has a stream running through it and a pond. Ancient Woodland also extends along part of the western boundary.
- 2.5. The Site surrounds Bird in Eye Farm, which lies to the south of the current access into the farm, approximately 90m from the B2102, Bird in Eye Hill. The farmyard contains a number of barns currently occupied by several small business units, areas of hard standing, a number of stable blocks, a manège and a dwelling.
- 2.6. There is a public right of way that protrudes along the southern edge of the Site, footpath Framfield 65b.
- 2.7. The Site is bound by Bird in Eye Hill to the north, to the east lie open agricultural fields with the village of Framfield beyond. To the south of the main section proposed for development lies a band of ancient woodland with open land proposed for the strategic SANG beyond. To the west lies the River Uck tributary with the Uckfield community hospital and residential development on the other side of the valley.

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- 2.8. The Site is split into two distinct parts with the flatter area to the north of the ancient woodland comprising the area where the proposed built form elements of the scheme would be located with an area of SANG proposed to the east. The area to the south of the ancient woodland belt forms the larger area of SANG land.
- 2.9. No part of the site forms part of a Conservation Area and nor is it identified for any landscape 'value'.
- 2.10. The Multi Agency Geographic Information for the Countryside Map ('MAGIC') and the Proposals Map (adopted March 2014) indicates that the site is not covered by any statutory or non-statutory designations for landscape character or quality.
- 2.11. The Oast (Grade II listed building) at Bird in Eye Farm is located on the western side of the farmyard, around which the Site is wrapped. It occupies an elevated aspect that affords a visual link between the building and the eastern edge of Uckfield.
- 2.12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the masterplan approach has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. Overall, there are no environmental or statutory designations that would otherwise serve to limit the development potential of the site.
- 2.13. As set out in the LVIA views of the proposed houses would be contained to the near vicinity. The new housing will be overlooked at the edge of Uckfield to the west, which has an urbanising influence on this part of the site. Development in this location would relate to existing housing in the settlement, and would be consistent with the settlement pattern on the valley sides to the west, northwest and southwest of the Site. As such the scheme represents a logical extension of Uckfield into largely unconstrained land.

- 2.14. As detailed in the Flood Risk Assessment that accompanied the application, the area where the development is proposed is classified as falling within Flood Zone 1. There are no further environmental constraints which would preclude the proposed development.

Context

- 2.15. Uckfield is one of the three designated District Centres listed in the Adopted Core Strategy. This is the highest settlement tier located within Wealden District. It is described as *“an accessible settlement by road and public transport containing a range of shops, employment opportunities and facilities including secondary school. Not reliant upon other centres within the District to meet day to day needs, but requires support from other secondary or primary centres to meet the needs of residents”*.
- 2.16. Uckfield provides a variety of shops (including several supermarkets), restaurants and employment areas. As well as the cinema, Uckfield has community facilities including children’s nursery, community hospital, health centre and a library.
- 2.17. Uckfield supports primary and secondary schools, as well as a leisure centre which includes a swimming pool. These extensive facilities are an illustration of its sustainability.
- 2.18. The Site is approximately 1.2km from the centre of Uckfield where there are a number of shops, employment opportunities and a train station.
- 2.19. The Appellant will explain the sustainability merits of the site in evidence, including with reference to the walking and cycling distances set out in the Transport Assessment submitted with the Appeal Scheme.

3.0 APPEAL SCHEME DESCRIPTION

General and Plans

- 3.1. The Appeal Scheme will be described in evidence and it will be explained that the Framework Layout has been developed and informed following a thorough review of the opportunities and constraints afforded by the Site, including a collaborative pre-application process with the local organisations (including community groups) and local residents.
- 3.2. As noted in section 1 of the Planning Statement, extensive pre-application discussions took place with Wealden District Council, although this related to a larger scheme for up to 400 dwellings. The application scheme was refined through the collaborative approach to place-making.
- 3.3. The Appeal Scheme description is as follows:
- “Outline application for up 290 residential dwellings, associated landscaping, informal open space and strategic SANG, with access from B2102 (all matters reserved except for access)”**
- 3.4. Only the principle of developing the Site for up to 290 dwellings, the proposed informal and strategic open space and the means of access are to be determined as part of this outline application.
- 3.5. Appearance, landscaping, layout and scale are reserved for subsequent determination.
- 3.6. The Appeal Scheme is set out on the following plans:

The Scheme

- i. Site Location Plan No. PRB/BIE/PA1L
- ii. Proposed Access Plan No. 5330/021 Rev H⁴

Supporting Plans

- iii. Illustrative Site Layout PRB/BIE/PA2S
- iv. Indicative Parameter/ Land Use Plan PRB/BIE/PA4E
- v. Landscape Strategy and SANG Design Plan No. CSA/2646/114M

3.7. Plans (iii) to (v) are submitted for illustrative purposes only, with permission sought for the principle of up to 290 dwellings along with the proposed land uses listed in the application description and the means of access.

3.8. For the avoidance of doubt, and if desired, a separate condition could be imposed requiring the reserved matters to be submitted in general conformity with the Indicative Parameter Plan (iv).

⁴ Appendix 3 to the Transport Assessment Second Addendum (Bellamy Roberts) (Sept 2022)

4.0 THE DEVELOPMENT PLAN AND MATERIAL CONSIDERATIONS

General

- 4.1. Whilst the detailed policy position will be set out in evidence, this section summarises the planning policy position, against which the acceptability of the Appeal Scheme falls to be determined.
- 4.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. This represents the s.38(6) 'balance'.
- 4.3. The first test, and the statutory starting point is whether the application is *'in accordance with the plan as a whole*.
- 4.4. It is the Appellant's case that the Appeal Scheme accords with the spatial and development management policies of the development plan, save for the location of the site beyond the out of date adopted settlement/development boundary for Uckfield. However, and in so far as the settlement/development boundary relates to an out of date housing need, the weight to be attached to this policy conflict is significantly reduced.
- 4.5. In the circumstances, where the only development plan conflict is the location of the site adjacent to but beyond the settlement policy for Uckfield, in a scenario where the Council is unable to demonstrate a five-year supply of deliverable housing land, the most important policies for determining the application are out of date.
- 4.6. The Appellant's case is the heritage assessment undertaken pursuant to the requirement at paragraph 202 of the NPPF does not provide a clear reason for refusing the development. In addition, and as explained, the adverse impacts of granting permission comprising the loss of countryside and minor degree of heritage harm, cannot be said to

demonstrably, let alone significantly, outweigh the many benefits. In the circumstances, planning permission should be granted.

- 4.7. The Council also acknowledges it is unable to demonstrate a five-year supply of deliverable housing land, and whilst the Site is beyond the settlement policy boundary for Uckfield, as defined in the development plan, the Council nevertheless assess the Site as being potentially suitable in its HELAA. This no doubt informed the LPA's advice for the Appellant to advance a planning application for development of the Site.
- 4.8. For the reasons explained, the material considerations clearly tilt the balance in support of the grant of planning permission, including the Council's acceptance that they cannot demonstrate a five year supply of deliverable housing land, the significant need for housing, the grant of planning permission by the Council and at appeal for housing on land beyond the settlement boundaries as defined in the Development Plan, the proposed review of the settlement boundaries as per of the emerging Local Plan Review; and the content of the NPPF (2021).
- 4.9. Section 39 of the 2004 Act identifies the requirement for decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development. These requirements must be considered in light of the NPPF, including the 3 roles of sustainability set out at paragraph 8 (economic, social and environmental). However, and as set out at paragraph 9 of the NPPF, the three roles are not a checklist and their values are considered in light of that context.

The Development Plan

General

- 4.10. The Development Plan comprises the following:

- Wealden Local Plan Saved Policies (1998) (saved 2007)
- Wealden Core Strategy Local Plan (2013)
- Affordable Housing Delivery Local Plan (2013)

- 4.11. The settlement boundaries as set out within the Proposals Map for the Wealden District were identified to meet the housing needs from Policy WCS1 of the Core Strategy.
- 4.12. The boundaries were drawn at that time to meet a need for at least 9,440 dwellings over the period 2006 to 2027. This equates to 450dpa within that part of the District outside of the SDNP. This was the level of growth set for the district in policy H1 of the former South East Plan (2009).
- 4.13. In so far as the Core Strategy is more than five years old, and in accordance with the requirements in paragraph 74 and footnote 39 of the NPPF, the housing requirement falls to be determined by the local housing need derived from the application of the standard method.
- 4.14. The Council's Five-Year Housing Land Supply Statement for April 2021 identifies that the district's local housing need figure is 1,221dpa. This represents a significant uplift on the 450dpa figure in the adopted Core Strategy. In addition to this substantial increase in the District's housing requirement, the Council, pursuant to the latest Housing Delivery Test results,⁵ is required to include a 20% buffer.
- 4.15. In so far as the settlement boundaries were not identified in relation to the current housing need, they operate as a constraint to development. Moreover, and in so far as the housing requirement on which the settlement boundaries were defined cannot be said to be consistent with the NPPF, the weight to be attached to any conflict with them can and should be reduced. Indeed, as Lord Gill observed in *Hopkins Homes Ltd v SSCLG* [2017] UKSC 37 at [83]:

"If a planning authority that was in default of the requirement of a five-years supply were to continue to apply its environmental and amenity policies with full rigour, the objective of the Framework could be frustrated"

⁵ Published 14th January 2022

Core Strategy

- 4.16. The Core Strategy was adopted in February 2013 and covers the period 2006 to 2027.
- 4.17. Policy WCS1 (Provision of Homes and Jobs 2006 – 2027) makes provision for some 4,525 net additional dwellings within the district reflecting the findings of the 2007 Strategic Housing Market Assessment alongside the requirements of policy H1 of the former South East Plan⁶. Policy WCS2 (Distribution of Housing Growth 2006 – 2027) seeks to allocate those additional dwellings throughout the district with Uckfield earmarked for 1000 new allocations in addition to the 742 already committed or built).
- 4.18. Policy WCS4 set out a number of strategy development areas with SD1 (Land at West Uckfield) seeking to allocate the 1,000 dwellings in one strategic area.
- 4.19. It is nevertheless highly material that the housing provision figure within Policy WCS2, and subsequently WCS4, do not represent full objectively assessed need when assessed against the annual requirement set by the standard methodology which is in excess of 1,200 dwellings a year as confirmed in the Council's assessment of housing land supply for April 2021⁷.
- 4.20. It is evident therefore that Policies WCS1, WCS2 and WCS4 are out of date and that significant additional housing is required on greenfield sites. This is confirmed in paragraph 5.8 which states **“it is inevitable that there will have to be a substantial use of greenfield land to meet existing and future housing needs....”** This has been further accepted in the decisions by the Council and through appeals on subsequent applications.

⁶ This required 450dpa within the district from 2006 to 2026

⁷ Paragraph 2.3 of the April 2021 assessment indicates that the District's capped annual need is at least 1,221dpa

- 4.21. In so far as the housing requirement of Core Strategy Policy WCS1 is expressed as a minimum, the appeal scheme is in accordance with it.
- 4.22. Policy WCS2 sets out the spatial approach to the distribution of the housing requirement identified in WCS1. It indicates that at least 1,742 dwellings are to be delivered at Uckfield, including 1,000 dwellings on allocations. The allocations are set by policy WCS4.
- 4.23. Other applicable policy considerations from the Core Strategy which evidence for the Appellant will explain the scheme is in accordance with, include Policies WCS8 (Affordable Housing), WCS12 (Biodiversity), WCS13 (Green Infrastructure) and WCS14 (Presumption in Favour of Sustainable Development).
- 4.24. At this outline stage, it is considered that the Appeal Scheme accords with all of the relevant Core Strategy policies so far as they can be considered at this stage:
- **WCS1 – Provision of Homes and Jobs**
 - **WCS2 – Distribution of Housing Growth**
 - WCS4 – Strategic Development Areas
 - WCS5 – Managing the Release of Housing Land
 - WCS8 – Affordable Housing
 - WCS12 – Biodiversity
 - WCS13 – Green Infrastructure
 - WCS14 – Presumption in Favour of Sustainable Development
- 4.25. The policies in bold represent those considered by the Appellant to be the most important for determining the application, and which are considered to be out of date.
- 4.26. In ***Hopkins Homes Ltd v SSCLG*** [2017] UKSC 37 Lord Carnwath said [63] the inspector was “clearly entitled” to reduce the weight to be attached to restrictive policies, such as countryside and landscape policies, can be reduced where they are derived from settlement boundaries that in turn reflect out of date housing requirements. There are obvious parallels with Wealden District.

- 4.27. In addition, the Council cannot demonstrate an up-to-date five year supply of deliverable sites for housing. As such, and in accordance with paragraph 11(d) and footnote 8 of the NPPF, the most important policies (including those relating to settlement boundaries) are to be regarded as out of date.
- 4.28. In the case of Wealden District, the Council has been granting planning permissions for housing development outside of settlement areas that are in breach of countryside and landscape policies to meet market and affordable housing needs and maintain a rolling five-year land supply⁸. Schemes have also been allowed at appeal. In **Wokingham BC v SSCLG** [2019] EWHC 3158 (Admin) Lang J held at [60] that the fact that a settlement boundary had been set to an out of date housing requirement figure was a relevant consideration when determining the weight to attach to a conflict with it, even if there were a temporary five-year land supply by virtue of breaching those boundaries.
- 4.29. Consequently, the countryside and landscape policies are not meeting current housing needs based on the definition of built-up areas as defined in the development plan.
- 4.30. On this basis, and as accepted by the Council, reduced weight applies to any conflict with saved policies GD2 and DC17 of the Wealden Local Plan.
- 4.31. As an overarching assessment, it is worth pausing to note the following considerations:
1. The spatial policies for the supply of housing do not meet current housing needs; and the Council has been granting planning permissions for the development of sites for housing beyond the settlement boundaries as defined in the Core Strategy.

⁸ Including since January 2020, resolutions of the Council with respect of applications off Walshes Road, Crowborough (WD/2020/0743/MAO and WC/2020/0596/MAO), At Straight Half Mile, Maresfield (WD/2017/0694/MAO), east of Benhall Mill Road, Tunbridge Wells (WD/2017/0143/MAJ) and Friday Street Farm, Oak Tree Lane, Eastbourne (WD/2020/1391/MAO).

2. Accordingly, the settlement boundaries defined under GD1 and GD2 are not sufficient to meet current housing need and the weight to be given to the conflict with this policy is reduced.
 3. Although the Application Site is within the countryside, it is not a valued landscape nor are there any other constraints on site that would preclude such a development as proposed.
 4. The Scheme provides a safe means of access.
 5. The Site is in a sustainable location.
 6. The loss of subgrade 3b agricultural land should be afforded no more than limited weight.
 7. Although the Appeal Scheme results in negligible heritage harm, a consideration of great weight, the public benefits are overriding.
 8. The requisite mitigation measures are secured by condition and/or through the planning obligation such that the impacts of the scheme can be adequately mitigated.
- 4.32. It is therefore concluded that the proposal is consistent with the aims of the development plan and that development would be in accordance with Saved Local Plan Policies and Core Strategy policies when considered on the whole, having regard to the Council's accepted approach that limited weight applies to the conflict with policies GD2 and DC17.
- 4.33. As with Saved Policies GD2 and DC17 of the Local Plan Policies WCS2 and WCS4 of the Core Strategy are also inconsistent with the requirement in the Framework to boost significantly the supply of housing land as they are based on housing projections which are out of date. As such, the weight given to these policies in the overall planning balance must logically be significantly reduced, reflecting the approach endorsed at paragraphs 63 and 83 of the **Hopkins** judgment (above).

Wealden Local Plan 1998 Saved Policies

- 4.34. Policy GD2 of the Local Plan states development outside the settlement boundaries will be resisted unless it accords with specific policies in the

Plan. It has been set out above, and as acknowledged by the Council this policy is to be afforded limited weight as it inconsistent with the NPPF. As Garnham J held in ***Eastleigh BC v SSCLG*** [2019] EWHC 1862 (Admin) at [62], the NPPF adopts a more nuanced approach to the countryside than such policies. Where a local plan policy which pre-dates the NPPF does not reflect that more nuanced approach, the inspector is **“fully entitled to conclude that ... reduced weight [should be] attributed to the retained policies”**.

- 4.35. However, as summarised below the appeal proposal does accord with certain policies in the plan.
- 4.36. Policy EN1 ensures the Council will pursue sustainable development with regard to the location, layout and design of development.
- 4.37. As set out in the reports submitted with the Appeal Scheme, the proposal will bring about a sustainable form of development in relation to the location, layout and design of the proposal and when considered against the definition in paragraph 8 of the NPPF.
- 4.38. Policy EN7 refers to the specific requirements for protecting the Ashdown Forest.
- 4.39. The table below summarises the main Core Strategy policies of relevance to the application proposal.

	Most important policies for the determination	Consistent with NPPF	Weight to be afforded	Scheme accords with policy
Wealden Core Strategy (2013)				
WCS1 – Provision of Homes and Jobs 2006 - 2027	✓	×	Limited	×
WCS2 – Distribution of Housing Growth	✓	×	Limited	×
WCS4 – Strategic Development Areas	✓	×	Limited	×
WCS5 – Managing the Release of Housing Land		×	Limited	×
WCS8 – Affordable Housing		✓	Full	✓
WCS12 - Biodiversity		✓	Full	✓
WCS13 – Green Infrastructure		✓	Full	✓
WCS14 – Presumption in Favour of Sustainable Development	✓	✓	Full	✓
Wealden Local Plan (Saved Policies)				
GD2 - Development Proposals Outside Development Boundaries	✓	×	Limited	×
EN1 - Sustainable Development	✓	✓	Limited	✓
EN2 - Sustainable Locations	✓	✓	Full	✓
EN7 - Ashdown Forest	✓	✓	Full	✓
EN12 - Trees and Woodlands	✓	✓	Full	✓
EN13 - Ancient Woodland		✓	Full	✓
EN27 - Design		✓	Full	✓
HG5 - Dwelling Mix		✓	Full	✓
HG6 - Crime Prevention		✓	Full	✓
UC1 - Uckfield		×	Limited	×

Summary

- 4.40. As set out in the above table, the Appeal Scheme is in conflict with saved Local Plan policies GD2 and UC1. It is also in conflict with Core Strategy policies WCS1, WCS2, WCS4 and WCS5.
- 4.41. However, the conclusions drawn from recent committee reports, and from a review of the current development plan policies are set out below:
- Countryside policy (GD2) of the Local Plan is too restrictive when considered against the requirements of the NPPF and as such should be afforded significantly less weight;
 - The Core Strategy Policies related to housing provision do not provide for an NPPF consistent objectively assessed housing need and as such the settlement limits set in the Saved Local Plan Policies are out of date.
 - The corresponding weight to be attached to such policies is therefore reduced.
 - The Council cannot currently demonstrate an up to date 5 year housing land supply; the effect of this is even more acute following the need to prepare a Housing Action Plan as the Council have failed the Housing Delivery Test.
 - The Council's own Core Strategy accepts the need to use greenfield sites to accommodate additional housing needs; which is exacerbated as since the Core Strategy was adopted the need for housing has increased further still.
- 4.42. The Council has accepted that limited weight applies to the conflict proposals with Development Plan policies GD2 and DC17. Furthermore, it has been established above that the basket of most important policies is to be considered out of date as they are inconsistent with the NPPF, in conjunction with the lack of a deliverable five-year supply of housing land.
- 4.43. It is considered that whilst the scheme does not strictly accord with certain countryside policies these are out of date and attract limited weight. As such, the numerous benefits, particularly in increasing the

supply of market and affordable houses and enhancing the setting of the unique Oasthouse heritage asset, clearly outweigh any minor dis-benefit.

Material Considerations

National Planning Policy Framework

4.44. The National Planning Policy Framework (NPPF) was most recently updated in July 2021. It is a material consideration of particular standing in the determination of planning applications.

4.45. The content of the NPPF as it relates to the proposed development of the application site is addressed in the order set below:

- The presumption in favour of sustainable development
- Decision making
- Delivering a sufficient supply of homes
- Promoting sustainable transport
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

4.46. Paragraph 8 of the NPPF identifies that there are three dimensions to sustainable development, comprising (i) economic, (ii) social; and (iii) environmental.

Economic Role

4.47. The economic role requires the planning system to, inter alia, ensure that sufficient land of the right type is available in the right places and at the right time to support growth. This is achieved with the application scheme on the basis that it is located within a sustainable location, within walking and cycle distance to local services and facilities.

4.48. The Scheme also provides for housing development of the type and mix required to meet identified needs.

- 4.49. The Scheme further addresses the economic role in terms of increased LPA Revenues, Construction impacts (increased GVA, jobs etc.) and increased expenditure in the local area.

Social Role

- 4.50. The social role requires the planning system to provide the supply of housing required, creating a high-quality built environment, accessible to local services and reflecting the community's needs. All these requirements can be achieved with the Appeal Scheme. This includes the provision of 35% affordable housing, together with a significant and publicly accessible SANG.

Environmental Role

- 4.51. The environmental role requires the planning system to protect and enhance the natural, built and historic environment. This can be achieved with the proposal in a location that will not result in any significant adverse effects upon the character of the surrounding area, including in landscape terms.

Decision Taking

- 4.52. In setting out the presumption in favour of sustainable development, paragraph 11 of the NPPF adds at paragraph 11(d) that where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless (i) policies in the NPPF provide a clear reason for refusing the development; or (ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits.
- 4.53. It has been discussed earlier in this Statement, why it is considered that the policies for the supply of housing (both in terms of the housing requirement and the associated settlement boundaries) are materially out of date.

4.54. Section 4 of the NPPF sets out the approach to decision-taking. Paragraph 38 makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.

4.55. The Site is located in a sustainable location and will improve the economic and social conditions of the area. It will also help to provide an enhanced landscaped edge to the settlement and new biodiversity habitats.

Delivering a Sufficient Supply of Homes

4.56. Paragraph 60 sets out the Government's objective of significantly boosting the supply of homes.

4.57. Paragraph 61 sets out the approach to determining the minimum number of homes needed, which should be informed by a local housing need assessment conducted using the standard method in national planning guidance – unless an alternative approach is justified.

4.58. It is also added that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

4.59. Paragraph 68 sets out the need to provide a five year supply of deliverable sites for housing. It also requires sites for years 6-10 and beyond.

4.60. Paragraph 74 requires LPAs to demonstrate a five year supply of deliverable housing land. Pursuant to footnote 8, the lack of a five year supply triggers the presumption at paragraph 11(d).

- 4.61. This Appeal Scheme for up to 290 dwellings would make a notable contribution towards the shortfall in supply, including the provision of 35% affordable housing.

Open Space and Recreation

- 4.62. Paragraph 98 sets out support for enabling access to a network of high-quality open spaces and opportunities for sport and recreation.
- 4.63. Paragraph 100 also requires planning policies and decisions to protect and enhance public rights of way and access including taking opportunities to provide better facilities for users.
- 4.64. These requirements are met by the Appeal Scheme.

Promoting Sustainable Transport

- 4.65. Section 9 sets out the approach to providing for sustainable growth.
- 4.66. Paragraph 105 states as follows:

‘The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making’.

- 4.67. The Appeal Site is located adjoining an identified settlement, within safe and convenient walking distance to local services and facilities.

4.68. The supporting Transport Assessment demonstrates the acceptability of the scheme in sustainability terms. Accordingly, the Scheme is consistent with paragraph 105. It is also consistent with paragraph 111.

4.69. Furthermore, the Transport Assessment also sets out highway improvements through the proposed linking of the traffic light controlled town centre junctions which will bring about a betterment to the existing highways condition.

Achieving Well-Designed Places

4.70. Section 12 sets out the approach to achieving well-designed places.

4.71. Paragraph 126 states that the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It is added that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

4.72. Paragraph 131 adds that trees make an important contribution to the character and quality of urban environments, with planning policies and decisions to ensure opportunities are taken to incorporate trees within developments.

4.73. The outline scheme incorporates a number of trees whilst the detailed design is a matter that can be controlled at the reserved matters stage.

Natural Environment

4.74. Section 15 sets out the approach to conserving and enhancing the natural environment.

4.75. The Scheme is located within the wider zone of influence and as such proposes a substantial SANG that will ensure there are no direct effects

on the Ashdown Forest. In addition, the scale of the SANG will facilitate the provision of further housing in the locality.

- 4.76. As to landscape considerations, the site is not located within any formal designations for the most valued landscapes. The accompanying LVIA confirms that the proposal would be similar in character to the existing residential development to the west, and the retention of the existing woodlands and trees will further mitigate the appearance of the scheme.
- 4.77. The proposal retains and enhances the majority of the existing landscape features including the thick band of ancient woodland planting to the south and west. The strategic SANG will act to contain development on the eastern side of the town, while providing a significant recreation resource for the town, and opportunities for new planting and habitat creation.
- 4.78. The Scheme is also expected to result in a substantial biodiversity net gain of circa 50% through on-site habitat creation and enhancement measures.

Historic Environment

- 4.79. Section 16 sets out the approach to conserving and enhancing the historic environment.
- 4.80. The red line site itself wraps around the cluster of farm buildings associated with Bird in Eye Farm. Within this is the Grade II Listed Oasthouse, a particularly unique Oasthouse. There are two other listed buildings beyond to the east which lie to the west of Framfield. These are hidden from view from the Site owing to extensive landscaping.
- 4.81. The submitted Heritage Statement (RPS) (March 2022) considers that the Appeal Scheme would result in no harm to the setting and therefore significance of Framfield Place and the Stables to the North West of Framfield Place and no harm to the setting to the Framfield Conservation Area. However, it is concluded that the proposals would result in less

than substantial harm to the setting and therefore significance of The Oast. That harm is recorded as falling within the lowest end of the less than substantial scale, resulting in negligible harm.

4.82. As set out above, this engages the heritage balance at paragraph 202 of the NPPF.

4.83. It is the case for the Appellant that the many public benefits (economic, social and environmental), demonstrably outweigh that harm, even when affording great weight to the negligible level of harm in accordance with paragraph 199 NPPF.

4.84. Overall, in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the experts for the Appellant have paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. This will be explained in evidence.

Government Announcements

4.85. The NPPF should also be read in the context of a number of Government and Ministerial Statements which have emphasised the importance on the timely delivery of housing development.

4.86. These announcements are of some vintage, demonstrating the emphasis placed upon the need to significantly boost the supply of homes. They include, but are not limited to, 'Laying the Foundations: A Housing Strategy for England' (Nov 2011); the Ministerial Statement 'Planning for Growth' (March 2011); and the Ministerial Statement 'Housing and Growth' (6 September 2012) with the latter confirming that the need for new homes is 'acute', that supply remains constrained and that a proactive approach was required to support growth.

- 4.87. Government announcements have repeatedly confirmed the need to increase the supply of housing.
- 4.88. As far back as 2013 the Government referred to the existence of a nationally identified housing crisis⁹. This further supports the need to significantly increase the supply of housing.
- 4.89. The message relating to the need to boost the supply of housing and the associated economic benefits that arise have been carried forward in the more recent Statement produced in July 2015 by HM Treasury “Fixing the Foundations: Creating a More Prosperous Nation.”
- 4.90. Paragraph 9.1 states in relation to house building as follows:

“The UK has been incapable of building enough homes to keep up with growing demand. This harms productivity and restricts labour market flexibility, and it frustrates the ambitions of thousands of people who would like to own their own home.”

- 4.91. Paragraph 9.7 adds in relation to the planning system and the need for increased house building:

“There remains more to do. As the London School of Economics (LSE) Growth Commission found, ‘under-supply of housing, especially in high-growth areas of the country has pushed up house prices. The UK has been incapable of building enough homes to keep up with growing demand’¹⁰.”

- 4.92. Most recently, The House of Commons Committee of Public Accounts (19th June 2019) (paragraph 1 of summary) concluded:

⁹ In the House of Commons Debate on 24 October 2013, the Planning Minister, Nick Boles, reaffirmed that there is a national housing crisis.

¹⁰ Investing for Prosperity, London School of Economics Growth Commission, September 2013

*“The Department has a highly ambitious target to deliver 300,000 new homes per year by the mid-2020s but does not have detailed projections or plans on how it will achieve this. Meeting the target of 300,000 new homes a year will need **a significant step-up in the level of house building**. Current levels are not promising: the number of new homes has increased every year since 2012–13, with 222,000 new homes in 2017–18, but the average number in the period 2005–06 to 2017–18 was still only 177,000 a year. The Department accepts that it will need to transform the housing market to get more new homes built and says that achieving the target would be “very challenging”. Despite having introduced some projects to help, including encouraging small builders through the small builders guarantee scheme and reforming the planning system, the Department simply does not have the mechanisms in place to achieve the 300,000 target. This is compounded by lack of detailed rationale as to why this target was chosen in the first place. It also lacks year-on-year projections on how it will ramp up house building, only illustrative projections which are not in the public domain. **To make this even more concerning, the target does not align with the Department’s new method for calculating the need for new homes which shows that just 265,000 new homes a year are needed.**”*

- 4.93. The Committee of Public Accounts also noted with respect of affordable housing (paragraph 5), that:

“The Department acknowledges that it will need to sustain and increase the numbers of affordable housing built to help it achieve the target of 300,000 new homes but cannot say how many and what types of affordable homes are needed. The Department has not detailed its expectations for numbers of these types of homes to be built as part of its 300,000 target for new homes. It is encouraging greater numbers of affordable homes to be built through the Affordable Homes Programme; and its reforms to the planning system aim to deliver more homes in areas of high unaffordability, such as London and the South East. At local level, local authorities detail the numbers of types of affordable housing needed in their local plans including social housing, affordable rent, built to rent, and that provided by Housing Associations. However, these planned numbers can be undermined as developers renegotiate section 106 agreements to provide less affordable housing than originally agreed with local authorities. The Department

believes that its reforms to section 106 agreements would help the provision of affordable homes.”

- 4.94. The announcements explain the importance of the need to support the *Government’s objective of significantly boosting the supply of homes* (NPPF paragraph 60) which matter is a material consideration in relation to the assessment of housing supply. Within this boosting of the supply of housing is a clear recognition of the importance of providing affordable homes (NPPF paragraph 62) as this will help meet the needs of specific groups (paragraph 60).

Housing White Paper (Aug 2020)

- 4.95. The content of the White Paper is a further material consideration relevant to the assessment and determination of the Appeal proposal.
- 4.96. It expands upon certain of the above publications, highlighting the fact that the country does not have enough homes and that the housing market is broken. The introduction identifies the cause as being very simple: the lack of supply. Accordingly, the proposals set out how the Government intends to boost housing supply.
- 4.97. These recent publications and announcements highlight the importance and therefore weight to be given to increasing the supply of housing land.

Five Year Housing Land Supply Statement (Dec 2021)

- 4.98. Wealden District Council’s latest position is set out in their April 2021 Position Statement, and purports to be able to show 3.66 years supply of deliverable housing land for the period 1st April 2021 to 31st March 2026.
- 4.99. This results in a shortfall of 1,964 dwellings. As such, and on their own assessment, the Council is not able to demonstrate a five-year supply of deliverable housing land, thus engaging the presumption in favour of sustainable development at paragraph 11 of the NPPF.

4.100. The Council's position, taken from Table 4 of the December 2021 Five Year Housing Land Supply Statement may be summarised as follows:

Five year Req. (inc. 20% buffer)	7,326
The Council's Supply	5,362
Shortfall	-1,964
Yrs Supply	3.66yrs

4.101. However, and on our analysis, the actual shortfall is much greater. As confirmed in case law, the extent of the shortfall is relevant to the weight that can be given to out-of-date policies, as well as to the benefits of housing delivery. Accordingly, whilst the Council concedes that it is unable to demonstrate an up-to-date five-year housing land supply, the extent of the shortfall is material to assessing the merits of housing delivery from the Appeal Scheme.

4.102. As the Appeal Scheme will be determined on the basis of the housing land supply position as at the 2022 base-date, for which figures are yet to be published, the Appellant will liaise with the Council with a view to preparing a statement of common ground on housing land supply. This will include in relation to the five-year requirement and the deliverability or otherwise of the identified components of supply, hopefully narrowing the issues between the parties in this issue and saving time and resources at the inquiry. The Appellant also reserves the right to review the five-year housing land supply case on account of the publication of more recent information should that materialise from the Council prior to the exchange of evidence.

4.103. Even on the Council's figures, the shortfall is substantial. In this context, delivery of 290 dwellings from the appeal scheme attracts substantial weight in the overall planning balance.

Previous Appeal Decision (Feb 2009)

4.104. A previous scheme (considered some 13 years ago, and within a different planning policy context) proposing development of the Site for the erection of 197 dwellings, including affordable housing, with

associated access, structural landscaping and recreation space was dismissed at appeal by decision dated February 2009 (PINS Ref: PP/C135/A/07/2053422) (LPA Ref: WD/2006/3564/MAO). It is a material consideration in the determination of the current Appeal Scheme.

4.105. The previous scheme related to a smaller part of the appeal site and did not include the area proposed as strategic SANG.

4.106. The Secretary of State dismissed the earlier appeal (paragraph 52) on the basis “that there was more than a five-year supply of housing land and therefore no good case for releasing any of these greenfield sites on grounds of housing need at this time.”

4.107. As indicated, at the time of dismissing the earlier appeal, the development plan was found to be up to date, with the Council also being able to demonstrate a five-year supply of deliverable housing land. That is no longer the case. The planning policy context has changed substantially.

4.108. Paragraphs 18 and 19 of the SoS decision states as follows:

*“For the reasons given in IR655, the Secretary of State agrees with the Inspector that conclusions on housing land supply requirements should be based on the figures in the emerging SE Plan as this represents the most up to date position. For the reasons given in IR657-658, the Secretary of State agrees with the Inspector that the Council’s assessment of housing supply is robust. **She is satisfied that there is at present more than 5 year supply of housing in Wealden.** She is further satisfied that the supply is higher in ‘rest of Wealden’ than for the district as a whole. Notwithstanding the fact that emerging SE Plan requirements are to be treated as a minimum (IR682), she therefore considers there is no good case to allow any of the three appeals on the basis of housing need at this time.*

*The Secretary of State has considered the appeals in the light of paragraphs 69-72 of PPS3. In the light of her conclusion above, and the fact that these greenfield sites are not allocated in the overall land supply, she considers that they do not fall to be considered under paragraph 71. Paragraph 72 states that applications should not be refused solely on the grounds of prematurity; the Secretary of State's reasons for refusing all of the appeals are set out in this decision letter and summarized in the conclusions (paragraphs 51-55). **Given the existence of a 5 year housing and supply**, she considers that the damage to the plan-led system that would arise from granting permission for housing on any of these unallocated greenfield sites weights against all the schemes, and that it would be preferable for housing sites to come forward via the LDF process, and in tandem with a town centre traffic scheme. [Our emphasis]*

4.109. At that time, it is clear that Wealden District could demonstrate the minimum five-year supply of housing land. As explained and accepted by the Council, this is no longer the case with a supply of 3.66 years.

4.110. Landscape considerations at the appeal site was considered in paragraph 27 where:

"She agrees with the Inspector, for the reasons given in IR689, that there are no cogent reasons to resist BIES [Bird in Eye South] proposals purely on landscape grounds."

4.111. This assessment of the Secretary of State on ecology and nature conservation is set out in paragraph 33, where:

"For the reasons given in IR731-738, the Secretary of State agrees with the Inspector that there is no sound case for rejecting BIEN or BIES schemes on the grounds of any harm to ecological/nature conservation interests."

4.112. With respect of harm to heritage assets, this is covered in paragraph 43 which concludes:

"The Secretary of State notes that there is a Grade II listed oast house immediately adjacent to BIES. Like the Inspector, the Secretary of State is satisfied that the setting of this building would not be materially harmed by the BIES proposals (IR792)."

4.113. The overall conclusions with respect of the Appeal Site was set out in paragraph 55. This states:

“The Secretary of State has taken into account that the landscape and ecology considerations do not make this proposal unacceptable, but that there are some site-specific drawbacks in terms of transport sustainability and the town centre linkage. While she notes that the traffic impact would fall within the 300-unit headroom figure, and considers that the provision of affordable housing carries some weight in its favour, the Secretary of State considers that, overall, in the light of her conclusions on housing need, there are not sufficient material considerations in favour of the scheme to outweigh the conflict with the development plan.”

4.114. As explained above the planning policy context has evolved and substantial change has occurred since that time, which position has triggered the presumption in favour of sustainable development.

4.115. The findings and relevance of the earlier appeal decision will be addressed in evidence.

5. ACCEPTABILITY OF THE APPEAL SCHEME: THE CASE FOR THE APPELLANT

5.1. This section of the Planning Statement summarises the Appellant's case in relation to the acceptability of the Appeal Scheme.

5.2. The main issues are considered to comprise the following:

1. Principle
2. Highways & Transport
3. Drainage
4. Housing Mix and Tenure
5. Character and Landscape
6. Heritage
7. Ashdown Forest, SANG Provision and Ecology
8. Agricultural Land Quality
9. Energy and Sustainability
10. Planning Obligations
11. Development Plan Compliance and Overall Planning Balance

5.3. At the time of writing, the Appellant expects to call a total of 5 no. witnesses to deal with these main issues (town planning (including five year housing land supply), drainage, heritage, highways and landscape).

5.4. The case for the Appellant in relation to these issues is summarised in turn below.

Principle (including five year housing land supply)

5.5. The presumption in favour of sustainable development (or 'tilted balance') is engaged on account of the inconsistency between the development plan and the NPPF. This includes in relation to the spatial application of its policies being out of date; and in relation to the lack of a five year supply of deliverable housing land. Either issue separately triggers the presumption in favour of sustainable development.

- 5.6. The Council acknowledges that planning settlement boundaries as defined in the development plan may need to be breached to satisfy the local housing need identified through the standard method.
- 5.7. As to five-year housing land supply, the Council's latest position is set out in their Supply Statement at 1st April 2021 purports to be able to show a 3.66 year supply of deliverable housing land for the period 1st April 2021 to 31st March 2026.
- 5.8. This results in a shortfall of 1,964 dwellings. As such, and on their own assessment, the Council is not able to demonstrate a five-year supply of deliverable housing land, thus engaging the presumption in favour of sustainable development at paragraph 11 of the NPPF.
- 5.9. However, and on our analysis, the actual shortfall is much greater. As confirmed in case law, the extent of the shortfall is relevant to the weight that can be given to out-of-date policies, as well as to the benefits of housing delivery. Accordingly, whilst the Council concedes that it is unable to demonstrate an up-to-date five-year housing land supply, the extent of the shortfall is material to assessing the merits of housing delivery from the Appeal Scheme.
- 5.10. In so far as the Appeal is likely to be determined on the basis of the housing land supply position as at the 2022 base-date, for which figures are yet to be published, the Appellant will liaise with the Council with a view to preparing a separate statement of common ground on housing land supply. This will include in relation to the five-year requirement and the deliverability or otherwise of the identified components of supply, hopefully narrowing the issues between the parties in this issue and saving time and resources at the inquiry.
- 5.11. The Appellant also reserves the right to review the five-year housing land supply case on account of the publication of more recent information should that materialise from the Council prior to the exchange of evidence.

- 5.12. In the circumstances, the weight to be attributed to the conflict between the location of the appeal site adjacent to, but beyond the settlement policy boundary for Uckfield is significantly reduced. This is the only development plan policy conflict that is said by the Appellant's to be occasioned by the appeal scheme. All other policy tests are satisfied.

Highways and Transport

- 5.13. The assessment of the scheme's highway impacts has been an integral aspect of the scheme from the outset, with pre-application meetings and discussions convened with the Highway Authority since September 2019.
- 5.14. In turning to the potential highway impacts, development of the site for up to 290 dwellings and a strategic SANG could generate in the region of 148 two-way movements during the morning peak hour, and 152 two-way movements during the evening peak hour.
- 5.15. Capacity assessments have been undertaken at the two critical town centre signalised junctions and at the site access.
- 5.16. In order to accommodate the increase in traffic from the proposed development in the town centre, it is proposed to improve the existing junctions by linking the two signalised junctions via a SCOOT type system.
- 5.17. The proposed improvements provide sufficient capacity at the two junctions to accommodate the proposed development traffic and will provide an overall highway benefit at the junctions within the centre of Uckfield.
- 5.18. The capacity assessment of the proposed site access demonstrates that it will operate comfortably, with very limited queuing and delay, and reveals that a right-turn lane is not required.

- 5.19. With the introduction of the proposed SCOOT system the application proposal can bring about real terms improvements to the highway conditions within Uckfield thereby representing a significant benefit arising from the scheme.
- 5.20. Both the NPPF and Policy EN2 seek to ensure new development is located where it will encourage sustainable transport.
- 5.21. National Travel Survey data reveals the majority of trips (80%) under one mile (1.6km) are undertaken on foot, and 15% of journeys between 1 and 5 miles (1.6 to 8km) are usually undertaken on foot.
- 5.22. Providing new homes on the Appeal Site, within 1.2km of the facilities available within Uckfield, gives a real opportunity for the majority of trips to be made on foot and by bicycle thereby contributing towards sustainable modes of transport and corresponding reduction in traffic emissions.
- 5.23. Access can be gained to local shopping facilities, health facilities, eating and drinking establishments, schools and nurseries.
- 5.24. A shared footway/cycleway link from the site will be provided to the existing footway on Bird in Eye Hill.
- 5.25. Bus stops and Uckfield railway station are located within easy walking distance from the site, providing access to frequent bus and rail services to the surrounding area.
- 5.26. A considerable package of measures is proposed to mitigate the impact of the development, which matters are summarised as follows:
- Extension to 30mph speed limit to enhance sustainable modes of transport;
 - Bus stop improvements;
 - Bus service improvements;
 - Improvements to the on-street parking regime along Framfield Road, to improve vehicle flow and safety.

- Install SCOOT system and two town centre junctions to increase capacity.
 - Provide shared footway/cycleway from the site to Bird in Eye Hill.
 - Car-club scheme
 - Framework Travel Plan
- 5.27. Numerous discussions and meetings have taken place with the County Highways Authority (“CHA”), which matters are summarised in the Transport Assessment Second Addendum (Sept 2022).
- 5.28. Preparation and submission of that document was in response to the consultation comments received from the CHA. And whilst it is not felt necessary by the Appellant’s, the Scheme access has nevertheless been revised to respond to CHA’s request for a right turn lane.
- 5.29. As such, the Site access will incorporate a right turn lane which meets all relevant design guidance and is not reliant on the proposed speed limit reduction at this location (Plan Ref: 5330/021 Rev. H).
- 5.30. With the proposed mitigation measures in place, the Scheme will not have a severe impact on highway safety and the flow of traffic along Bird in Eye Hill or within Uckfield town centre thereby complying with Policies EN2 and TR3 of the Local Plan and Section 9 of the NPPF.

Drainage

- 5.31. As set out in the submitted Flood Risk Assessment, a sequential approach has been applied to the development masterplan. The proposals for residential dwellings constitute a **More Vulnerable** land use, which is considered appropriate within Flood Zone 1 and 2 (reference PPG: Tables 2 in *Paragraph 066 Reference ID: 7-067-20140306* and Table 3 in *Paragraph: 067 Reference ID: 7-067-20140306*).

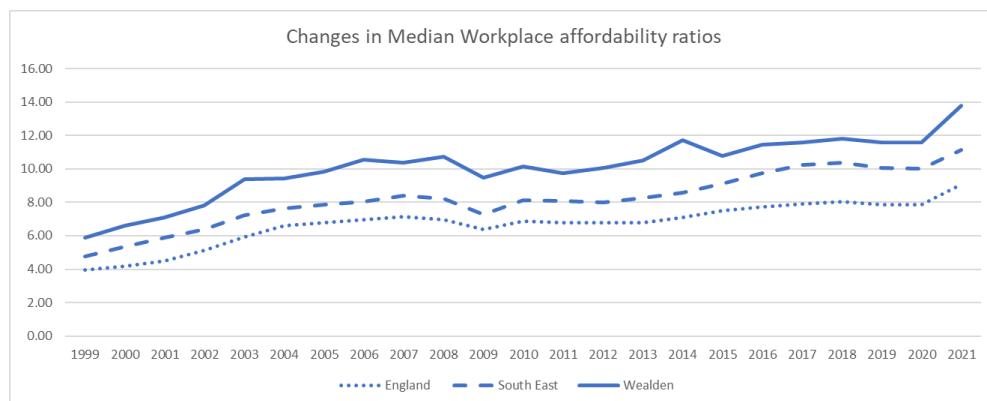
- 5.32. As all built development lies entirely within Flood Zone 1, the requirements of the Sequential and Exception tests are met.
- 5.33. The flood risk mitigation strategy for the development consists of the following elements:
- The proposed ground floor levels are set at a minimum of 300mm above the 1 in 100 annual probability plus allowance for climate change level; and
 - Continuous safe access from the site is provided at the 1 in 100 annual probability plus climate change flood level.
- 5.34. The Surface Water Drainage Strategy has been developed using best practice Sustainable Drainage System (SuDS) techniques. Guidance on suitable techniques and methods has been obtained from the EA, the Non-Statutory Technical Standards for Sustainable Drainage Systems, East Sussex County Council's Local Flood Risk Management Strategy and *'The SuDS Manual'* (CIRIA C753) amongst other sources.
- 5.35. As set out in the Updated Surface Water Drainage Strategy Following Infiltration Testing (Stantec) (Jan 2022), which content supersedes the submitted Flood Risk Assessment, the surface water drainage strategy ("SWDS") promotes the discharge of surface water via infiltration. As such, the SWDS will have no interaction or impact on designated woodland.
- 5.36. Foul water, or effluent, flows from the site will be managed in a new sewer network, which will connect into the existing public foul sewer network in Framfield Road/Bird in Eye Hill.
- 5.37. The foul and surface water drainage strategy is included at Appendix G to the FRA.
- 5.38. Overall, the drainage strategy demonstrates that the proposed development is safe and in accordance with the requirements of national and local planning policy.

Housing Mix and Tenure

- 5.39. Whilst submitted in outline, with only the principle of the development and means of access to be considered, it is nevertheless important to consider the underlying need to provide for a range of house size, mix and tenure.
- 5.40. Whilst the emerging Local Plan was withdrawn from examination following concerns raised by the Local Plan Inspector, the evident base behind it is still important in framing the latest up to date need for a range of house types within the District.
- 5.41. The Strategic Housing Market Assessment (2016) that helped inform the, now withdrawn, Local Plan states that the district needs predominantly 2 and 3 bedroom properties that together make up approximately 75% of total need. The breakdown is as shown below:
- 1 bedroom – 7.8%
 - 2 bedroom – 42.8%
 - 3 bedroom – 32.4%
 - 4 bedroom – 12.3%
 - 5 + bedrooms – 4.8%
- 5.42. The Appeal Site, and the corresponding quantum of development will provide for a range of dwelling size and type that reflects the findings of the latest up to date evidence to ensure it provides for dwellings that appeal to all members of the community.
- 5.43. The Appeal Scheme will also provide for a policy compliant quantum of affordable housing which is currently set at 35%. This would generate up to an additional 101 affordable houses, a significant benefit in its own right.
- 5.44. As with dwelling mix; the illustrative layout allows for a series of smaller blocks which incorporate design elements such as natural surveillance to ensure the scheme is designed to reduce crime. As such, development

of the Site can accord with Policies HG5 of the Local Plan and the overarching aims of the Core Strategy.

- 5.45. The future delivery of affordable housing in Wealden District is highly uncertain. This has the potential to make the situation even more severe, not just for Wealden District's vulnerable position on housing land supply, but for the significant number of households on the Council's Housing Register on 1st April 2021.
- 5.46. Paragraph 62 of the NPPF requires that the needs of groups with specific housing requirements are addressed, which includes those requiring affordable housing. There is no evidence that this will be achieved in Wealden District.
- 5.47. The failure to meet the identified needs of affordable housing is a dire situation indicating that the Council is not fulfilling the objectives at paragraph 61 of the NPPF.
- 5.48. The continued under delivery of affordable housing, has contributed to the worsening of the affordability ratios in the District as indicated in the chart below:



- 5.49. The chart also shows that affordability ratios in Wealden District have more than doubled between 1997 and 2021, and whilst they starting to increase in parallel with those of the South East region from 2015 to 2020, the most recent results indicate a significant divergence with a very substantial worsening.

- 5.50. This doubling in the affordability ratio has occurred because of a failure to deliver sufficient homes to meet market and affordable need in the District. This is illustrated by the divergence of the affordability ratio for the district from those for both England and the Region. Consequently, it is essential that further increases in house building occurs to improve affordability, especially given the continual under-delivery in supply.
- 5.51. A step change in the delivery of affordable housing is therefore required to begin to address the dysfunctions of the local housing market. Such a step change would be consistent with the thrust of paragraph 60 of the NPPF, to boost significantly the supply of homes.

Character and Landscape

- 5.52. The Appeal Site is split into two distinct parts, the northern, flatter area enclosed by the band of ancient woodland and the more undulating southern part where the proposed SANG land would be located.
- 5.53. The northern part of the site is currently used for horse-grazing, it is adjoined by existing housing along Bird in Eye Hill, and within it lies Bird in Eye Farm, which has a number of commercial enterprises. This part of the site overlooks Uckfield, from where the town can be seen rising up the opposite slope from Framfield Stream.
- 5.54. The southern part of the Site is predominantly bound by woodland, giving it an enclosed character, which separates it from the town.
- 5.55. A band of dense woodland separates the northern part of the Site from the southern part and also extends along part of the western boundary, it is this which is classified as 'Ancient Woodland'. The site has three trees identified as veteran, a Common Ash tree, on the edge of the ancient woodland and two English Oak trees, close to the eastern boundary. The ancient woodland and the veteran trees will be retained thereby respecting the existing characteristics of the landscape.

- 5.56. Importantly the landscape of the site is not designated for its landscape character or quality and as such the site is in this regard an unconstrained site. Views of the northern part of the site are available from parts of the town to the west and for a short section of Bird in Eye Hill when adjacent to the site. There are views of the southern part of the site along public footpath Framfield 65b as it follows the internal site boundary, but from here, there are no views of the northern part of the site, due to the intervening woodland.
- 5.57. The landscape-led design will provide housing in the northern part of the site only, while protecting and retaining the vast majority of the existing woodland, trees and hedgerows. The illustrative layout provides a wide viewing corridor to the Grade II Listed The Oast, with a children's play area and planting within it.
- 5.58. The new housing would be set away from the Ancient Woodland and veteran trees, beyond a buffer of at least 15m.
- 5.59. Open, landscaped areas are to be retained either side of the retained hedgerow and tree belt. These areas will be part of the extensive new public open space around the housing parcels. Trees are proposed to be planted, for amenity value as well as for biodiversity benefits, within the open space. Street trees will provide visual and wildlife connectivity between the streets and public open space.
- 5.60. In addition, the large area of SANG, discussed in detail below, will provide a significant resource for the community and the larger area, as well as biodiversity benefits whilst respecting the character of the landscape through the retention of existing landscape features.
- 5.61. It is evident from the above that the landscape has been an integral element of the design process with the findings of the accompanying LVIA demonstrating this. As such the Scheme complies with the aims of Saved Local Plan Policy EN12.

Heritage

- 5.62. There are no listed buildings or structures within the Application Site, but Bird in Eye Farm is located within the centre of the northern section of the Site, although outside the site boundary.
- 5.63. Within the farmyard there is a listed building, The Oast and to the east of the proposed SANG in the southern section of the site there are two listed buildings, Framfield Place and the Stables to the West of Framfield Place.
- 5.64. The proposed development has been designed to avoid any harmful impact on these listed buildings and to enhance the existing experience of The Oast.
- 5.65. The Oast is listed Grade II and is located in the centre of the group of buildings that comprise Bird in Eye Farm, facing the west half of the Appeal Site. It is the only listed building within the farm and sits within a cluster of older farm buildings and is the only building that has escaped significant alteration or adaption.
- 5.66. The Oast is a rare and unique example of a hop kiln which included internal flues, with a furnace below, to heat the drying floor where the hop blossoms were laid out to dry. This design is different to the vast majority of kilns built in the 18th and 19th centuries.
- 5.67. The building is listed because of what it tells us about the development of hop production at this time, not because of its age or its architectural qualities.
- 5.68. This means that unlike other rural or agricultural buildings, The Oast is not considered important because of the way it is seen within the landscape like other agricultural buildings such as historic barns or granaries.

- 5.69. The special interest of the building lies in its technical innovation, not the age of the building or its relationship to the landscape. However, the Appeal proposals provide an opportunity for the building to be seen and experienced within the landscape in a way that is not possible at present and in that way, to be better understood and appreciated.
- 5.70. To provide new and enhanced views of the listed building from within the Appeal Site, the illustrative layout includes an area of public open space alongside the western boundary of the farm. This area is of a sufficient size to allow The Oast to be seen and understood as a former agricultural building and the development proposals would therefore provide new opportunities to see and experience the listed building.
- 5.71. The way in which the proposed housing is laid out also provides new views from the south to the listed building where the top of the building would be visible, and its distinctive cowl seen and easily recognised.
- 5.72. The southern part of the site would be public open space and so the impact on the immediate area around these fields would be negligible. They would remain as open areas of pasture or grassland and would not result in any change to Framfield Place and the Stables to the West of Framfield Place, to the east of the application site.
- 5.73. The proposed layout provides for new, enhanced views of The Oast as part of the masterplan and these new views are considered a heritage benefit because they would open up and enhance the setting to the listed building within the south and east of the site. At present, there are no public views of The Oast from within the fields around the building and so the proposals would provide an opportunity for an increased appreciation and understanding of the listed building within the application site itself.
- 5.74. Paragraph 202 of the NPPF ensures that where there is less than substantial harm to a heritage asset, such harm should be weighed against the public benefits of the proposal. In this case, the enhancements to the public views of and understanding of The Oast it is

clear the Scheme is a positive and are to be considered alongside the less than substantial harm caused by the provision of housing development within the setting of The Oast. Overall, the Scheme would result in negligible harm, at the lowest end of the less than substantial scale.

- 5.75. As to the footnote 7 considerations set out in the NPPF, the heritage assessment of the Appeal Scheme, finding less than substantial harm within the lowest level of the less than substantial scale, engages the 'heritage balance' at paragraph 202 of the NPPF. This requires any harm to be weighed against the public benefits of the proposal.
- 5.76. It is the case for the Appellant that the many public benefits (economic, social and environmental), demonstrably outweigh the negligible heritage harm that has been identified (to which great weight is attached).
- 5.77. Overall, in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the witnesses for the Appellant have paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. This will be explained in evidence.

Ashdown Forest, SANG Provision and Ecology

- 5.78. A circa 26ha SANG is proposed as an integral part of the scheme design, and secures mitigation for potential recreational impacts to Ashdown Forest Special Protection Area (SPA).
- 5.79. Using the metric of 8ha of SANG per 1,000 population (which metric is applied by Natural England and Wealden District Council), the delivery of a 26.17ha SANG has the capacity to provide mitigation for c. 3,271 new residents or 1,363 dwellings (using a 2.4 residents / dwelling factor).
- 5.80. Predicted occupancy rates (based on 2.4 people per dwelling), will result in circa 5.57ha SANG land being required as mitigation for the proposed up 290 dwellings (696 new residents), leaving a headroom capacity of

circa 15.6ha which could potentially become available for mitigation of future local development of up to 1,073 dwellings or 2,575 new residents (using a 2.4 residents / unit factor).

- 5.81. The SANG proposals include areas of plantation woodland, ancient woodland and grassland. Residents will be able to use this area for walking and dog exercising, with visitors and their dogs having open access over SANG land at all times without restriction.
- 5.82. There will be direct access to the SANG from the proposed development, with a 30-space car park also in place. Direct access to existing footpaths, leading from the town of Uckfield, will allow residents to easily enjoy the SANG.
- 5.83. A circular walk of c. 2.7km will be created within the SANG, with additional shorter walking routes and access through woodland areas also being provided. Enhancement of existing habitats and creation of new areas of woodland and tree planting, wildflower meadows and new ponds will provide a varied walking experience as well as increasing habitat diversity and net gains for biodiversity. Two viewpoints at the highest elevations of the Site will provide open views of the countryside to the south and east with benches in these locations.
- 5.84. Interpretation boards will be incorporated containing information regarding habitats and species present as well as walking routes, in addition to pathway signage to guide users. Dog bins will also be provided at key access points and within the parking area.
- 5.85. In addition to the above, the accompanying ecology report acknowledges that it is best practice to avoid adverse impacts through the Mitigation by Design approach. Such an approach has been an integral aspect of the Scheme's design and evolution from the outset.
- 5.86. In this regard, the loss of trees and hedgerow has been kept to a minimum with only small sections being removed to facilitate vehicular access, the necessary 15m buffer zones to veteran trees and ancient woodland are in fact greater than the minimum required whilst such

buffers will be subject to appropriate planting to strengthen the edges of the woodland.

- 5.87. Whilst there would be adverse impacts on a range of species that are found largely within the areas of ancient woodland the ecological reports recommend a range of ecology mitigation measures.
- 5.88. Such mitigation measures include the use of plant species of wildlife value, provision of bat roost facilities, dormouse nesting opportunities and barn owl hunting opportunities.
- 5.89. The ecology report concludes that subject to such mitigation measures and others including construction management plans the proposal will, in ecological terms comply with local policies, particularly WCS12 and WCS13 of the Core Strategy and the overarching aims of the NPPF.

Agricultural Land Quality

- 5.90. Paragraph 174 of the NPPF ensures, inter alia, that planning policies and decisions recognise the benefits that the best and most versatile agricultural land can bring.
- 5.91. Whilst the site covers a large area, the accompanying Agricultural Land Classification Report concludes that the application site is comprised entirely of subgrade 3b agricultural land. As such the loss of such land would not compromise wider agricultural interests thereby complying with the aims of paragraph 174 of the NPPF.

Energy and Sustainability

- 5.92. The Energy Statement demonstrates how the Appeal Scheme accords with the requirements at Policy WCS14 of the Wealden District Core Strategy (2013). This is achieved by outlining the predicted energy demand and resultant carbon emissions of the development.
- 5.93. Energy efficiency measures informed by the requirements of the Wealden Design Guide Supplementary Planning Document Section 4 Sustainability, can be secured by condition.

- 5.94. Through energy efficient design and the specification of high efficiency building services a 1.0% reduction in Carbon emissions and a 1.10% reduction in energy demand has been achieved. In addition to the above the assessed dwellings fabric energy efficiency improves upon the target fabric energy efficiency by a margin of 9.53%.
- 5.95. Overall, the submitted information demonstrates compliance with Policy WCS14 and Part L1A of the Building Regulations; which matters can be secured by the imposition of appropriately worded conditions.
- 5.96. The Appeal Site is also in a sustainable location and will provide for a significant number of social public and environmental benefits. This includes providing development within walking distance from the town centre, accessible by bus whilst also creating recreational opportunities as well as enhancements to the sites biodiversity through habitat creation.

Planning Obligations

- 5.97. Matters of detail, including in relation to the likely financial contributions are to be agreed as part of the preparation of a legal agreement.
- 5.98. Subject to meeting the necessary tests at paragraph 57 of the NPPF, it is considered that the following may be provided for in a legal agreement:
- i. Affordable Housing (up 35%) (up to 101 dwellings)
 - ii. Provision and management of strategic SANG land
 - iii. A financial contribution towards the Ashdown Forest SAMM
 - iv. Off- site highway improvement works
 - v. On-site public open space provision
 - vi. Sustainable Transport/Travel Plan

- 5.99. Wealden District is a CIL Charging Authority and financial contributions will also be secured at the reserved matters stage once the amount of proposed floorspace is fixed.

Development Plan Compliance and Overall Planning Balance

- 5.100. In the circumstances, where the only development plan conflict is the location of the site adjacent to but beyond the settlement policy for Uckfield, thus conflicting with the Development Plan, in a scenario where the Council is unable to demonstrate a five year supply of deliverable housing land, the most important policies for determining the application are out of date and the adverse impacts of granting permission, comprising the loss of countryside cannot be said to demonstrably, let alone significantly, outweigh the many benefits, such that planning permission should be granted.

The Planning Balance: Assessing Sustainability

- 5.101. This section assesses the significant merits of the Scheme in relation to the three sustainability tests set out at paragraph 8 of the NPPF and clearly shows that whilst there are considered to be some slight adverse impacts, these considerations are plainly incapable of outweighing, let alone significantly and demonstrably outweighing, the many benefits of the Scheme.
- 5.102. Paragraph 9 of the NPPF states (amongst other things) the assessment of the sustainability roles should not be undertaken in isolation, because they are mutually dependent.
- 5.103. A planning balance exercise has been carried out in accordance with the guidance at paragraph 9 of the NPPF and sets out a combined analysis in relation to the sustainability roles (economic, social and environmental).

Economic

- 5.104. The Appeal Scheme satisfies the economic role of sustainability including through the provision of housing to support growth and the associated provision of infrastructure, to be secured through preparation of the S106 agreement and by on-site provision of affordable housing.
- 5.105. The Appeal Scheme generates a series of local and District-wide economic benefits including through (i) construction of the scheme and the range of employment generated as a result; and (ii) the on-going expenditure from the households purchasing and occupying the new homes.
- 5.106. The principal economic benefits arising from the scheme are summarised below:
- i. Increased house building in an area where there is an acute need for new housing that in turn drives economic growth further and faster than any industry. In this regard the proposals will contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is being made available in the right place and at the right time to support growth.
 - ii. The provision of up to 290 new homes in the district where there is an established need housing given the demonstrable shortfall in the five year housing land supply position.
 - iii. The application scheme will deliver much needed affordable homes that will meet identified needs that are otherwise not being met.
 - iv. Meeting general housing needs is a significant benefit, consistent with the Government's objective of significantly boosting the supply of housing.
 - v. In order for the economy to function, sufficient housing is required in the right locations and at the right time. This site represents a location where there would be no significant impact upon the landscape, historic environment nor on the amenity of neighbouring properties.

- vi. Based upon a multiplier of 2.3 jobs per new home¹¹, up to 290 dwelling Application Scheme is estimated to create approximately 667 new jobs.
- vii. Increased expenditure in the local area will support local FTE jobs.
- viii. Helping to deliver a significant boost to the local economy through 'first occupation' expenditure of £1.58m¹². This is expenditure on new furniture and other household goods that residents spend as 'one-offs' when moving into a new home.
- ix. Generating a further significant economic boost of £543,859 from residents moving into the District's existing housing stock which were vacated so that the owners could move into the new homes proposed on land south of Bird in Eye, Uckfield. This is a result of the spending on renovations, household goods, removals, surveys, estate and legal fees that are associated with the purchase of existing rather than new homes within the District's housing stock¹³.
- x. In terms of household expenditure, data from ONS Family Expenditure Survey 2019-20¹⁴ shows that the 'average UK household spend' is £585.20 per week (Table A33) (or £30,514 per year), whereas in South East England it is 19.4% higher than the UK average (Table A33). This means average weekly spend per household is £698.60 (or £36,427 per annum). For the application proposal at Bird in Eye providing up to 290 dwellings, the total gross expenditure is estimated to be £10.56m per year to the economy. A proportion of this household expenditure is anticipated to be spent in local shops and services and will help sustain the existing services in Wealden District including those in Uckfield. The expenditure will include that a proportion of that spent on areas including food & non-alcoholic drinks (£68.70 per week); alcoholic drinks (£12.70 per week); recreation and culture (£103.70 per week), household goods and services (£46.40) and miscellaneous goods and service i.e.

¹¹ See page 13 of the Homes Builders Federation "Economic Footprint of UK Housebuilding " (July 2018) - https://www.hbf.co.uk/documents/7876/The_Economic_Footprint_of_UK_House_Building_July_2018LR.pdf

¹² Research carried out by OnePoll on behalf of Barratt Homes (August 2014; <https://www.barratthomes.co.uk/the-buying-process/home-buying-advice/>) which shows an average of £5,462 per dwelling.

¹³ Research by HBF and Knight Frank on "Economic Benefits of housing market activity" which shows a contribution per house sale/purchase transaction of £9,560 - https://content.knightfrank.com/research/2121/documents/en/knight-frankhbf-economic-benefits-of-housing-market-activity-2020-7616.pdf?pk_campaign=newsletter_4034. The 2011 Census indicates that 30.1% of owner occupied or shared ownership households in Wealden District that had moved within previous year, had lived within the authority.

¹⁴ [Family spending workbook 3: expenditure by region - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk).

hairdressing & beauty treatments (£54.10 per week).¹⁵ Given the current economic challenges facing the UK these are significant economic benefits.

5.107. By providing land of the right type, in the right place, and at the right time to support economic growth, the development of up to 290 no. dwellings on the site satisfies the objectives at paragraph 8 of the NPPF and assists in the aims of the NPPF in helping to build a strong and competitive economy.

5.108. This is further emphasised in the Government's November 2011 Paper 'Laying the Foundations: A Housing Strategy for England' where paragraph 11 states *"getting house building moving again is crucial for economic growth – housing has a direct impact on economic output, averaging 3 per cent of GDP in the last decade. For every new home built up to two new jobs are created for a year"*.

5.109. In the Rectory Farm decision (APP/D0121/W/21/3286677), at DL,149-151, Inspector Stephens found that paragraph 81 NPPF required "significant weight" to be attached to the economic benefits of any development at a scale such as this.

5.110. The economic benefits are to be accorded **substantial weight** in the planning balance.

Social

5.111. The Appeal Scheme satisfies the social role, in helping to support strong, vibrant and healthy communities, including through providing the supply of housing required to meet identified needs in open market and affordable sectors. This is a significant benefit. In addition;

- 1) Future residents will be in an easy walking and cycling distance to a wide range of other uses including the shops and services in Uckfield town centre.

¹⁵ Figures based upon SE Regional data in Table A33

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- 2) The Appeal Scheme will, to be agreed at the reserved matters stage, provide a range of housing types and size.
 - 3) The Scheme secures high quality residential environment together with extensive SANG land, children's play park and other areas of open space consistent with development plan policy.
 - 4) The Scheme would deliver a policy compliant 35% affordable housing contribution.

5.112. The details of the layout and house type design are to be agreed through the determination of a subsequent reserved matters application, with the detailed scheme to reflect the particular need for housing at that time.

5.113. Any increased pressure upon local services will be mitigated through the planning obligation(s) and/or capital receipts secured through CIL.

5.114. In relation to education provision, research undertaken by EFM Ltd for the Applicant (March 2021) identifies spare capacity within the 6 no. primary schools that are within a two-mile walking distance from the Site, whilst the funding of any necessary additional capacity for the provision of secondary school places at Uckfield Community Technical College will be secured through CIL.

5.115. Overall, the social benefits of the scheme can be afforded **substantial weight** in the overall planning balance.

Environmental

5.116. In terms of the environmental role, the Application Site is not located on land designated for its landscape value. The accompanying reports demonstrate that the scheme will not have any material impact on existing ecology and will in fact significantly enhance the biodiversity characteristics of the site, resulting in a significant biodiversity net gain of circa 50%.

- 5.117. The retention of existing boundary trees and hedges, and the areas of ancient woodland, around the site and the sensitive set back of the development will ensure the proposed built form is subsumed positively into the landscape character of the area.
- 5.118. The improvement of the built environment in heritage terms, and the enhancement of the settlement edge through the introduction of a substantial woodland buffer is viewed as a significant benefit of the proposal.
- 5.119. The proposals would deliver sustainable homes allowing the fulfilment of this important objective whilst at the same time moving to a low carbon economy and securing an environmentally sustainable form of new residential development.
- 5.120. On the basis of the above, there are environmental benefits which would arise from the proposals, to which, on balance, **substantial positive weight** should be attached to in the overall planning balance.

Planning Balance: Harms and Benefits

- 5.121. The planning balance in so far as it relates to harms and benefits is summarised below.

Harms	Benefits
Outside settlement boundary – limited weight	Provision of 189 market homes – substantial weight
Loss of greenfield site in the countryside - limited weight	Provision of 101 affordable homes – substantial weight
Loss of Grade 3b agricultural land – limited weight	Provision of c.50% BNG – substantial weight
Negligible heritage harm – great weight	Creation of jobs during the construction phase and increased spend during the operational phase – substantial weight
	Provision of SANG beyond the capacity of the site, unlocking future development – substantial weight
	Provision of recreational open space – moderate weight

6. SUMMARY AND CONCLUSION

Development Plan Compliance

- 6.1. The Appeal Scheme proposes an outline application for up to 290 residential dwellings, associated landscaping, informal open space and strategic SANG, with access from the B2102 (all matters reserved except for access) (LPA Ref: WD/2021/2198/O).
- 6.2. Development of the site for 197 dwellings (including affordable housing), with associated access, structural landscaping and recreational space (including 4 LAPS and one LEAP) was previously dismissed by the Secretary of State in the call-in appeal decision dated 24th February 2009 (PINS Ref: APP/C1435/A/07/2053422) (LPA Ref: WD/2006/3564/MAO).
- 6.3. At the time of dismissing the earlier appeal, the development plan was found to be up to date, with the Council also being able to demonstrate a five year supply of deliverable housing land. That is no longer the case. The planning policy context has changed substantially.
- 6.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement for planning applications to be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 6.5. In this instance, the location of the Appeal Site beyond the settlement boundary for Uckfield as defined in the Local Plan, means the Appeal Scheme is in conflict with its policies.
- 6.6. However, and along with the publication of a revised NPPF in 2019 and 2021, the development plan is now out of date in terms of the spatial application of its housing policies, whilst, in addition, the Council is not able to demonstrate a five-year supply of deliverable housing land.

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- 6.7. As accepted by the Council, the development plan is not based upon a NPPF compliant assessment of housing need and cannot be said to be up to date in respect of its housing requirement or in relation to policies that seek to restrict development within the defined settlement boundaries.
- 6.8. In the circumstances, the presumption in favour of sustainable development (the tilted balance) at paragraph 11(d) of the NPPF is engaged. This requires planning applications to be approved unless footnote 7 considerations provide a clear reason for refusing development (which they do not); or any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Again, they do not.
- 6.9. This is demonstrably a case where the weight to be attached to conflict with the development plan (on account of the location of the site beyond the defined settlement boundary for Uckfield) can be reduced on account of the need to breach the settlement boundaries identified in the development plan to meet development needs. The weighty material considerations in favour of the Appeal Scheme are clearly sufficient to outweigh the identified conflict with a single development plan policy.
- 6.10. Either of (i) the lack of consistency between the housing requirement and settlement boundaries with the NPPF; or (ii) the lack of a deliverable five year supply of deliverable housing land triggers the presumption in favour of sustainable development at paragraph 11(d) of the NPPF.
- 6.11. On the basis of the foregoing, whilst under the application of 38(6), there is a *prima facie* conflict with development plan in terms of the location of the Appeal Site beyond the defined settlement policy boundary for Uckfield, the settlement boundaries upon which the spatial policies operate are out of date by virtue of having been drawn to accommodate non-NPPF compliant development needs, quite apart from issues of five-year land supply. All this goes to reduce the weight of any breach identified.

- 6.12. On the basis of the foregoing, the weight to be attached to the conflict between the Appeal Site and its location adjoining but ultimately beyond the settlement policy boundary for Uckfield is significantly reduced.

Summary

- 6.13. The benefits are many and manifest, not least the provision of housing and affordable housing when the Country and the District faces a housing crisis, which government policy is seeking to address. The Site is sustainably located and will also deliver qualitative and quantitative improvements to recreation and BNG within Uckfield and improve access into the town centre, which benefits both existing and future residents.
- 6.14. When carrying out the overall planning balance, in the context of the presumption in favour of sustainable development at paragraph 11(d) of the NPPF, the material considerations in favour of the Scheme (provision of market and affordable housing, economic benefits, social benefits and environmental benefits) outweigh the conflict with an out of date settlement boundary, negligible heritage harm (which carries great weight) loss of Grade 3b agricultural and localised change to the landscape.
- 6.15. For the reasons set out above, the Appellant will be requesting that the Appeal should be allowed.
