

## TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

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# PROOF OF EVIDENCE – PLANNING MATTERS Volume I

*Land at Hindsland, Eastbourne Road, Willingdon, East Sussex, BN20 9NU*

Planning Appeal Reference: APP/C1435/W/22/3293970  
Planning Application Reference: WD/2021/0594/MEA

*On behalf of:*  
*Danescroft (FREOF V Willingdon) LLP*

*Prepared by:*  
*David Neame BSc (Hons) MSc MRTPI*  
*Director*

June 2022

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Appeal on behalf of:  
Danescroft (FREOF V Willingdon) LLP

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### **PROOF OF EVIDENCE PLANNING MATTERS**

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### **PROOF OF EVIDENCE PLANNING MATTERS**

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## Executive Summary

I set out below a summary of the key points covered in my Evidence and that of my colleagues:

1. As a starting point we must have in mind S38(6) of the Planning and Compulsory Purchase Act 2004. This Appeal Site is allocated for housing in the Wealden Core Strategy 2013 and although the Plan is out-of-date for the purposes of Paragraph 11 of the Framework 2021 there is no material planning reason to depart from the Council's decision to allocate the site as endorsed by the Core Strategy Inspector. In other words the allocation of the site for housing and a medical centre should still be given weight in the planning balance;
2. The key question in this case is therefore whether there is any harm so substantial that the presumption in favour of the Development Plan should be set aside;
3. In considering the key question it is important to have regard to the fact that Paragraph 11 d) of the Framework 2021 is engaged in the determination of this Appeal, the so called 'tilted balance';
4. The Council has considered its position in the context of the non-determination appeal having been lodged by the Appellant and the formal resolution of the Members is that the Council does not wish to defend the Appeal i.e. had the Council still been in a position to determine the application it would have approved;
5. That is a matter that should be afforded significant weight given the number of instances where Members have resolved to refuse permission for schemes against Officer recommendation for approval. The Members' position in relation to this Appeal is a rarity;
6. This is an ideal site for the provision of housing because there is no development management issue that precludes its development;
7. The clear approach of Government as set out in the Framework 2021 is to significantly boost the supply of housing now, particularly in instances where the Council cannot currently demonstrate a 5-year supply of deliverable housing sites;
8. The clear approach of Government is also to grant consent for schemes, such as this, which accord with the Development without delay;

9. There is a clear and present need for housing and affordable housing in Wealden District now;
10. There is a pressing need for a new medical centre in Polegate and Willingdon;
11. The Appeal Site is located in a suitable location immediately adjacent to a sustainable settlement that accords with the Council's adopted development strategy;
12. The Appeal Scheme meets with the relevant requirements of Policy WCS4;
13. The Appellant (Danescroft (FREOF V Willingdon) LLP) is the freehold owner of the Appeal Site and has the necessary contracts in place to ensure the early delivery of housing and the medical centre (see **Appendices 10 & 12**). The only current bar to the delivery of the site for housing is the absence of a valid planning permission;
14. The delivery of this site will have material planning benefits in terms of market housing; affordable housing; economic benefits; social benefits; and, environmental benefits;
15. The benefits of this scheme are weighty and considerable;
16. The Evidence presented by my colleague Clare Brockhurst in relation to Landscape Matters and also the reports prepared by other members of the Appellant's team demonstrate that the concerns of third parties are not sufficient either individually or cumulatively to outweigh the benefits of the scheme and are certainly not sufficient to warrant the refusal of the scheme; and,
17. Therefore my informed professional judgement is that the planning balance is overwhelmingly in favour of the grant of consent particularly in circumstances, as is the case here, that Paragraph 11 d) of the Framework 2021 is engaged.

## 1.0 Instructions and Introduction

- 1.1 I am a Director of Neame Sutton Limited, Chartered Town Planners. I hold a BSc (Hons) in Land Management and an MSc in Urban Planning and Development. I was elected a Member of the Royal Town Planning Institute in November 2002.
- 1.2 Neame Sutton Limited was established in February 2010 by myself and my business partner and provides planning services to a diverse range of Clients across the country. The practice frequently advises Clients in relation to residential development proposals including matters relating to housing land supply.
- 1.3 Prior to this I was employed at Director level in another planning practice (Charles Planning Associates Limited), which I joined in August 2000 following employment as a Planning Policy Assistant within Rushmoor Borough Council.
- 1.4 During my career I have represented a wide range of public and private sector clients promoting a variety of developments across the country. I have appeared as Expert Witness at Regional Spatial Strategy, Structure Plan and Local Development Framework Examinations in Public, and numerous S.78 Informal Hearings and Inquiries, together with Local Plan Inquiries.
- 1.5 Comparable cases include:
- Landgate, Ashton-in-Makerfield – Outline Consent on Greenfield Land Allocation for circa 462 no. dwellings, 60,000 sq.ft A1 retail, 60,000 sq.ft B-Class uses and new distributor road – Consent granted in November 2015;
  - Long Copse Lane Westbourne – S78 Inquiry in relation to greenfield residential site in Chichester District – Appeal allowed for 16 dwellings in 2016 in circumstances where Council could demonstrate a 5-year HLS;
  - Minley Nursery, Tongham - S78 Hearing in relation to greenfield residential site in Guildford Borough – Appeal allowed for 55 dwellings in 2016 in light of 5-year HLS shortfall;
  - Albany Farm, Bishops Waltham – Greenfield residential land promotion through Winchester Local Plan – Site allocated for 120 dwellings and resolution to grant Outline Consent achieved in 2016;
  - Longhedge, Salisbury – Greenfield Urban Extension for circa 65 dwellings and 2ha of employment land – Consent granted October 2019 in light of acute housing need in Wiltshire at the time;

- Steers Lane, Crawley – Outline Consent for upto 180 no. dwellings allowed on appeal in February 2020 in circumstances where Council could demonstrate a 5-year HLS;
- Land at Sandhill, Boxford, Suffolk – Outline Consent to up to 64 no. dwellings granted in light of 5-year HLS shortfall in June 2020;
- Shopwyke, Chichester – Full Detailed application for 88 no. dwellings – Full Detailed Consent granted in June 2020;
- Land South of Loxwood Farm Place, Loxwood – Outline Application for up to 24 no. dwellings – Outline Consent granted on 15 October 2020 in light of 5-year HLS shortfall.
- Land at Rascals Farm, Southwater – Outline Application for up to 100 no. dwellings – Outline Consent allowed on appeal on 02 August 2021 in light of 5-year HLS shortfall confirmed in the appeal decision.

1.6 I was instructed by the Appellant to provide planning advice immediately prior to the Appellant purchasing the freehold interest in the Appeal Site in July 2020. I have acted for the Appellant in the progression of the Application now the subject of this Appeal from its inception. I have also acted on behalf of the Appellant in relation to the early stages of Wealden District's emerging Local Plan. I therefore have a good working knowledge of the site and its surrounding context and the policy context within Wealden District (Polegate and Willingdon in particular). I am therefore instructed to appear at this Inquiry on behalf of Danescroft (FREOF V Willingdon) ("the Appellant") to provide professional Planning Evidence.

1.7 I have inspected the site and the surrounding area on numerous occasions.

Declaration:

1.8 The evidence I have prepared represents my professional opinion regarding the planning matters relating to the determination of this Appeal. Based on my knowledge and experience, I believe the facts stated in this evidence are true and accurate and I have complied with the RTPI Code of Conduct.

(i) Scope of Evidence

1.9 This Proof of Evidence seeks to deal with the general planning matters that arise in relation to this case flowing from the Appellant's Statement of Case and informed by the Case Officer's report on the appealed application, the Council's Position Statement and the agreed Statements of Common Ground.

1.10 Set within the above context my Evidence will address the planning issues raised by the Appeal and is structured as follows:

- Section 2 Deals with the background to the Appeal including relevant history, key events relating to the Appeal, description of the Appeal site and the Appeal scheme
- Section 3 Sets out the planning policy framework of relevance to the determination of this Appeal
- Section 4 Provides the Appellant's Case and the Key Reasons Why Planning Permission Should be Granted
- Section 6 Summarises the matters addressed via Planning Conditions and Planning Obligations
- Section 7 Draws my Evidence to a Conclusion

1.11 In addition to my Evidence the following members of the Appellant's professional project team have also prepared separate Proofs of Evidence or Reports that are appended to my Evidence:

| Subject                         | Author                          | Proof of Evidence | Report |
|---------------------------------|---------------------------------|-------------------|--------|
| Landscape Matters               | Clare Brockhurst – Leyton Place | ✓                 |        |
| Transport Matters               | Neil Marshall – i-Transport     |                   | ✓      |
| Ecology Matters (including BNG) | Guy Newman - Greenspace         |                   | ✓      |
| Drainage Matters                | Mark Smyth - SMA                |                   | ✓      |
| Noise and Air Quality Matters   | Jason Mills - SMA               |                   | ✓      |
| Urban Design Matters            | Judith Livesey - Lichfields     |                   | ✓      |
| Sports Pitch Matters            | David and Sue O'Neil – Nortoft  |                   | ✓      |
| Updated sHRA*                   | Chris Walsh - Middlemarch       |                   | ✓      |

\*please note that the updated sHRA is not appended to my Evidence and is instead submitted as a separate report to assist the Inspector.

1.12 Alongside the Appellant's Evidence the following Statements of Common Ground have been prepared and are referred to in this Statement:

- SoCG Planning Matters with the Council (the main SOCG)
- SoCG Transport Matters with East Sussex County Council
- SoCG Transport Matters (SRN) with National Highways

## 2.0 Background to Appeal

- 2.1 This section of my Evidence should be read in conjunction with Sections 2, 3 and 4 of the Appellant's Statement of Case for this Appeal, which was provided as part of the Appeal submission pack.
- 2.2 In summary this Appeal arises from the failure of Wealden District Council ("**the Council**") to determine the Outline Planning Application that now comprises the Appeal proposal within the prescribed time period (allowing for the expiry of the agreed time extension).
- 2.3 The planning history, description of the Appeal Site and, the summary of the Appeal Proposal are all matters of common ground dealt with in Sections 2, 3 and 4 of the signed Statement of Common Ground Planning Matters ("**SoCG**") and are not therefore repeated in this Section. Furthermore Appendix 1 and Appendix 4 of the Appellant's Statement of Case include detail on the planning history and background to this Appeal.
- 2.4 The remainder of this Section therefore only seeks to provide updates where matters have progressed since the completion of the SoCG and the preparation of the Appellant's Statement of Case.

### (i) Planning History

- 2.5 Table 2 on Page 6 of the SoCG sets out the planning history of relevance to the Appeal Site. Commentary is also provided in Appendix 1 of the Appellant's Statement of Case.
- 2.6 Since the SoCG was prepared the applicants for the Morningsmill Farm Second Application have lodged an appeal against the refusal of the Council to grant outline consent on that site. At the time of preparing this evidence the timetable for that Appeal has not been formalised and an Inquiry date has not been set. As discussed at the Case Management Conference ("**CMC**") the appeal on the Morningsmill Farm site is not considered to affect this Appeal Application on the basis that this scheme has been prepared to come forward independently whilst still enabling development on the adjoining land to the north and south to be delivered in a manner that results in a comprehensive form of development across the whole Strategic Development Area.

2.7 In addition to the planning history of relevance on the Appeal Site I have undertaken an audit of other residential proposals coming forward within the District. The schedule attached at **Appendix 1** identifies a total of 10 applications, which have been presented to Members at Committee with a positive recommendation and permission has been refused against Officer recommendation. The exception to this general rule is this Appeal Scheme where Members resolved not to defend this Appeal on the basis that they would have approved the scheme had the application still been before the Council for determination.

(ii) Summary of Key Events Relating to the Appeal

2.8 Appendix 1 of the Appellant's Statement of Case sets out a summary of the key events relating to the Appeal.

2.9 It is important to highlight that Officers were supportive of the Appeal Scheme right up to the point that the adjacent Morningsmill Farm Application was refused at Committee against their recommendation on 09 December 2021. At that point Officers' approach to the Appeal Application changed and the Appellant was unable to gain any clarity from the Council as to how the application would proceed. Despite numerous requests for a meeting with the head of service (Stacey Robins) and the Case Officer made by both Neame Sutton and the Appellant directly, Officers declined to meet and discuss the application.

2.10 Officers advised by emails dated 05 and 18 January 2022 that they were unable to confirm the timetable for the determination of the Appeal Application. Officers also introduced a concern regarding piecemeal development in the absence of the adjacent Morningsmill Farm Second Application, which was entirely novel.

2.11 Given that lack of engagement from Officers and the uncertainty over the determination timetable, coupled with the recent trend in Members refusing applications against their Officer recommendation, the Appellant took the decision to serve a Pre-Notification of intention to Appeal proforma on the Council and PINS on 16 January 2022.

2.12 Further emails were sent to the Council in order to try again to engage. In response the Case Officer provided a summary of the Officer concerns with the Appeal Application in an email dated 26 January 2022. Given this clarity on the Council's concerns with the scheme the Appeal submission was progressed.

- 2.13 The Appeal was then lodged on 28 February 2022.
- 2.14 It was only after the Appeal was lodged that Officers then began to communicate with the Appellant and the Appeal Application was written up for presentation to Members at Committee. The Officer Report (**CD14.1**) confirmed a positive recommendation despite the clear direction to the contrary given to the Appellant in January 2022.
- 2.15 At Committee on 24 March 2022 Members resolved not to defend the Appeal on the basis that had the Appeal Application still been before them for determination it would have been approved.
- 2.16 Subsequently the Head of Planning wrote to PINS and the Appellant on 29 March 2022 setting out the Council's formal position in the context of this Appeal.
- 2.17 The key email correspondence exchanged during this time is attached at **Appendix 2** for the Inspector's information.

(iii) Description of Appeal Site

- 2.18 The Appeal Site description is set out in Section 3 of the SoCG and not repeated here.

(iv) The Appeal Scheme

- 2.19 The Appeal Scheme is summarised in Section 2 of the SoCG and not repeated here.

### 3.0 Planning Policy Framework

3.1 This section of my Evidence sets out the planning policy framework of relevance to the determination of this Appeal.

3.2 The key policies of relevance are set out in Section 5 of the SoCG with the Council. The tables below are included for the Inspector's ease of reference.

3.3 The key policy themes running throughout the relevant policy framework insofar as they relate to this Appeal are:

- The need to significantly boost the supply of housing nationally;
- The general presumption in favour of sustainable development;
- Provision of an appropriate mix and balance of dwellings to meet identified needs (particularly in relation to affordable housing need);
- Creation of a high standard of design and residential environment (including by reference to residential amenity);
- Making best use of land as a scarce resource;
- Meeting relevant development management requirements in relation to matters such as parking, separation distances, open space provision, private amenity space, internal space standards, etc;
- Ensuring the impacts arising from new residential development are adequately and appropriately mitigated;
- Providing a new medical centre to meet an identified need; and,
- Taking opportunities to enhance biodiversity (including in respect of biodiversity net gain), conserve protected species and trees of amenity value.

#### (i) The Development Plan

3.4 The current Development Plan comprises the saved policies from the old Wealden District Local Plan 1998, the Wealden District Core Strategy 2013 and, the Affordable Housing Delivery Local Plan May 2016 ("**the Development Plan**").

3.5 The policies considered to be of particular relevance to this Appeal are set out in the agreed SoCG with the Council and repeated in the table below for the Inspector's ease of reference:

Table 1: Development Plan Policies of Relevance to Appeal

| Wealden District Council Local Plan 1998 (Saved Policies) |                                                        |
|-----------------------------------------------------------|--------------------------------------------------------|
| Policy                                                    | Title                                                  |
| Policy CS1                                                | Provision of capital works and services                |
| Policy CS2                                                | Drainage                                               |
| Policy CS3                                                | Willingdon Levels drainage catchment area              |
| Policy EN1                                                | Sustainable Development (location, layout and design)  |
| Policy EN2                                                | Development Pattern                                    |
| Policy EN8                                                | Low Weald                                              |
| Policy EN12                                               | Protection of Trees and Woodland                       |
| Policy EN14                                               | Landscaping and Developments                           |
| Policy EN15                                               | Designated nature conservation sites                   |
| Policy EN27                                               | Layout and Design of development                       |
| Policy EN29                                               | Light pollution                                        |
| Policy TR3                                                | Traffic impact of new development                      |
| Policy HG5                                                | Dwelling mix within new development schemes            |
| Policy HG6                                                | Crime prevention in new housing developments           |
| Policy HG7                                                | Energy consideration in new developments               |
| Policy TR13                                               | Footpaths and bridleways                               |
| Policy TR160                                              | Car parking standards                                  |
| Policy LR1                                                | Provision of outdoor playing space                     |
| Policy LR3                                                | Children's play space in developments of 30+ dwellings |
| Policy LR5                                                | Informal amenity space in new residential developments |

| Wealden District Core Strategy 2013 (Saved Policies) |                                                  |
|------------------------------------------------------|--------------------------------------------------|
| Policy                                               | Title                                            |
| Policy WCS1                                          | Provision of homes and jobs 2006-2027            |
| Policy WCS2                                          | Distribution of housing growth 2006-2027         |
| Policy WCS4                                          | Strategic Development Areas                      |
| Policy WCS5                                          | Managing release of housing land                 |
| Policy WCS7                                          | Effective provision of infrastructure            |
| Policy WCS12                                         | Biodiversity                                     |
| Policy WCS13                                         | Green infrastructure                             |
| Policy WCS14                                         | Presumption in favour of sustainable development |

| Affordable Housing Delivery Local Plan May 2016 (Saved Policies) |                    |
|------------------------------------------------------------------|--------------------|
| Policy                                                           | Title              |
| Policy AFH1                                                      | Affordable Housing |

3.6 The matters raised by the above Development Plan policies are explored in Section 4 of my Evidence. Copies of the policies are included in the Core Documents.

(ii) Other Material Considerations - National Policy and Emerging Potential National Policy

3.7 At National level the National Planning Policy Framework has been published in an updated form on 20 July 2021 ("the Framework 2021") and sets out the Government's most up-to-date policies against which all Development Plans should be prepared<sup>1</sup> and planning applications/appeals assessed. It is a material consideration that carries substantial weight.

<sup>1</sup> Subject to relevant transitional provisions which are not engaged in this appeal.

3.8 The definition of sustainable development remains in a substantially unaltered format from the previous versions of the Framework at Paragraph 8, which identifies the three overarching objectives as follows:

- **An economic objective** - *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- **A social objective** – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and,*
- **An environmental objective** – *to protect and enhance our natural, built and historic environment; including making efficient use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'*

3.9 The same paragraph confirms that these objectives are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The paragraph does not however state that net gains must be achieved across all three objectives for a proposal to constitute sustainable development.

3.10 The presumption in favour of sustainable development remains at Paragraph 11, which the Government maintains is at the heart of the Framework.

3.11 For decision-taking the presumption in favour of sustainable development means:

- c) *'Approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. *The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. '*

3.12 Paragraph 60 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.

3.13 With regard to the delivery of new housing Paragraphs 74 and 75 deal with the requirement for Local Planning Authorities ("LPAs") to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement.

3.14 With regard to Design the Framework 2021 introduces further requirements including direct reference to the National Design Guide and National Model Design Code<sup>2</sup>. Paragraph 134 makes clear that development which is not well designed should be refused especially where it fails to reflect local design policies and government guidance on design.

3.15 In addition to the Framework 2021 the Government has updated the National Planning Practice Guidance ("PPG") and the relevant components are set out in the SoCG.

Emerging Government Policy:

3.16 In August 2020 the Government published a White Paper setting out its vision for the future of the planning system in England. The public consultation on the proposed changes to the planning system ran for 12 weeks from 06 August 2020 – 29 October 2020.

3.17 More recently the Government published the Levelling Up and Regeneration Bill, which was introduced to Parliament on 11 May 2022.

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<sup>2</sup> Paragraph 134 and footnote 52 of the Framework 2021

- 3.18 Whilst the proposed changes to the planning system are still at a relatively early stage<sup>3</sup> there is a key theme running throughout the consultation documents and the Bill that is directly relevant to the determination of this Appeal: housing need and delivery.
- 3.19 The importance of housing delivery is set out at the very beginning of the White Paper in the foreword from the Prime Minister that states<sup>4</sup>:

*'And, above all, that gives the people of this country the homes we need in the places we want to live at prices we can afford, so that all of us are free to live where we can connect our talents with opportunity.'*

*Getting homes built is always a controversial business. Any planning application, however modest, almost inevitably attracts objections and I am sure there will be those who say this paper represents too much change too fast, too much of a break from what has gone before.*

*But what we have now simply does not work.*

*So let's do better. Let's make the system work for all of us. Any let's take big, bold steps so that we in this country can finally build homes we all need and the future we all want to see.'*

- 3.20 More recently the newly renamed Department for Levelling Up, Housing and Communities published a press release on 12 October 2021 confirming (amongst other things) that:

*'Boosting housing supply is central to the levelling up agenda. Last year 244,000 homes were delivered – the highest number of new homes for over 30 years. The government aims to build up to 300,000 new homes a year by the mid-2020s to put home ownership within reach for more people across the country, making it a more mainstream, realistic and affordable option for people across the country.'*

- 3.21 The Government's objective is clear, we should be taking opportunities to deliver housing in sustainable locations, such as this Appeal site, now in order to significantly boost the supply of housing nationally.

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<sup>3</sup> Noting that the Framework has been updated in 2021 along with sections of the PPG

<sup>4</sup> Forward by Prime Minister on Page 7 of the White Paper: Planning for the Future – August 2020

(iii) Other Material Considerations – The Emerging Development Plan

- 3.22 The Council is currently in the very early stages of producing a new Local Plan with the first Regulation 18 consultation stage originally anticipated in Spring 2022. That consultation stage has not taken place and at the time of writing the Council has not updated its timetable.
- 3.23 The emerging Local Plan is therefore of no relevance to the determination of this Appeal at the current time.

## 4.0 The Appellant's Case – Reasons Why Planning Permission Should be Granted

4.1 This section of my Evidence sets out the main reasons why planning permission should be granted and focusses on the main issues identified by the Inspector arising from Third Party Representations as set out in the Pre-CMC Note.

4.2 My assessment in this Section in relation to the planning balance that must be drawn is set out in the following three stages:

- 4.2.1 **Stage 1:** Consideration to the Appeal Proposal's compliance with the Development Plan as a whole in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 (As Amended);
- 4.2.2 **Stage 2:** Consideration of any other Material Considerations that are relevant to the determination of this Appeal and in particular that may affect the weight to be given to any Development Plan Policy; and,
- 4.2.3 **Stage 3:** I then conclude my assessment by applying Paragraph 11 of the Framework 2021 to the overall Planning Balance.

(i) Stage 1: As a Matter of Principle the Development Accords with the Development Plan as a Whole

4.3 By way of introduction the adopted Development Plan is dated and all policies that are of relevance to this Appeal are consequently Saved. The Development Plan does not reflect the current needs of the District in terms of housing, which I explore in sub-section (ii) below, and the Plan Period for the most recent component of the Development Plan (the Core Strategy) has only 5 years left to run. The Development Plan was not prepared on the basis of the current Framework 2021 and the Local Plan 1998 predates even the first edition of the Framework 2012 by over a decade. It is also relevant to note that the Development Plan is incomplete on the basis that the Council has not produced a Site Allocations Development Plan Document as intended by the Core Strategy<sup>5</sup>.

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<sup>5</sup> Paragraph 5.2 on Page 9 of the SoCG confirms this.

4.4 Whilst it can be concluded that the Development Plan is out-of-date for all of these reasons, even before considering the Council's housing land supply position, it is still necessary to consider the level of compliance/conflict the Appeal Proposal may have with the relevant saved policies in order to inform the planning balance<sup>6</sup> (my Stage 3).

4.5 I return to the impact the dated nature of the Development Plan has on weighting when I consider the overall planning balance.

Policy WCS1 – Provision of Homes and Jobs 2006-2027

4.6 The adopted Core Strategy 2013 seeks to deliver a constrained level of housing (9,440 dwellings) over the period 2006 – 2027. The Council sets out its spatial portrait and settlement hierarchy within the supporting text of the Core Strategy 2013 primarily in Sections 2 and 3 (see **CD4.2**). I return to this in the context of the sustainability of Polegate/Willingdon and the suitability of the Appeal Site for housing and a medical centre in Stage 2 of my Assessment below.

Policy WCS2 – Distribution of Housing Growth 2006-2027

4.7 The constrained housing delivery set by Policy WCS1 is distributed according to the constraints affecting the District and to focus development in the most sustainable locations particularly by reference to the settlement hierarchy established in Table 1 of the Core Strategy<sup>7</sup>.

4.8 Policy WCS2 identifies the delivery of 700 no. dwellings on new allocations in Polegate and Willingdon (including the Appeal Site).

Policy WCS4 – Strategic Development Areas

4.9 A series of Strategic Development Areas are identified by Policy WCS4 that the Council considers 'critical to the delivery of the strategy'<sup>8</sup>. In Polegate and Willingdon Strategic Development Area SD4 is identified as:

*'Land at South Polegate and East Willingdon - provision of around 700 dwellings, 8600 square metres net employment floorspace, leisure, recreation and community facilities.'*

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<sup>6</sup> This is also the Statutory requirement via S38(6) of the Planning and Compulsory Purchase Act 2004 (As Amended)

<sup>7</sup> See Page 7 of **CD4.2**

<sup>8</sup> See Policy WCS4 on Page 30 of **CD4.2**

- 4.10 The intention within the Core Strategy 2013 was to identify the Strategic Development Areas on the Key Diagram with further detail to follow in a Strategic Sites Development Plan Document ("DPD"). The subsequent DPD was prepared but failed at Examination and the Council has never pursued a revised version.
- 4.11 The Key Diagram and supporting text both identify the Appeal Site as forming part of the Strategic Development Area (SD4)<sup>9</sup>.
- 4.12 Both the SoCG<sup>10</sup> and the Council's Statement of Case<sup>11</sup> confirm that the Appeal Site lies within the SD4 area wherein the principle of development is acceptable.
- 4.13 The matter of the principle of development was also considered by the Inspector in the context of the previous Appeal on the wider site (which included this Appeal Site) wherein she concluded that the Appeal scheme complied with Policy WCS4 in principle<sup>12</sup>.
- [Policy WCS14 – Presumption in Favour of Sustainable Development](#)
- 4.14 This Policy effectively imports the presumption in favour of sustainable development as set out originally in Paragraph 14 of the Framework 2012 into the Development Plan.
- 4.15 The Policy places a positive obligation on the Council to work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible. The Policy goes on to confirm that where a proposal accords with the policies in the Development Plan it will be approved without delay.
- 4.16 The Council's Statement of Case confirms that it considers the Appeal Proposal to comply with 'all relevant planning policies in the adopted development plan'. This is a conclusion that I agree with and I summarise the compliance of the Appeal Proposal with the Development in Table 3 below.
- 4.17 The Council has not however sought to approve the Appeal Proposal 'without delay' in accordance with Policy WCS14 having taken some 11 months to process the Application before providing negative feedback that led the Appellant to the decision to lodge this Appeal. It was only after the Appeal was lodged that the Council then sought to make a formal resolution via Members at Committee in March 2022.

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<sup>9</sup> In particular Figure 8 on Page 46 of **CD4.2**

<sup>10</sup> Paragraph 6.1 of the SoCG on Page 10

<sup>11</sup> Penultimate paragraph on Page 2 of the Council's Statement of Case

<sup>12</sup> Paragraph 34 on Pages 7-8 of the Decision – see **CD15.1**

4.18 The Council has not met its own policy requirement in this regard.

Table 2: Summary of Appeal Site's Compliance with Other Relevant Development Plan Policies

| Policy                                                    | Commentary                                                                                                                                                                                                                                                                                                                       | Compliance |
|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>Wealden District Local Plan 1998 (Saved Policies)</b>  |                                                                                                                                                                                                                                                                                                                                  |            |
| Policy CS1 – Provision of capital works and services      | All of the necessary capital works and services to enable the delivery of the development are capable of being provided and the necessary details are to be secured by condition                                                                                                                                                 | ✓          |
| Policy CS2 – Drainage                                     | The Appeal Proposal includes a full surface water drainage strategy, which is set out in the Flood Risk Assessment and Drainage Strategy documents along with the Statement prepared by SMA attached at <b>Appendix 3</b> . The scheme meets all required standards and both the Council and the Environment Agency are content. | ✓          |
| Policy CS3 – Willingdon Levels drainage catchment area    | As with Policy CS2 the requirements of this policy are met.                                                                                                                                                                                                                                                                      | ✓          |
| Policy EN1 – Sustainable Development                      | It is agreed in the SoCG that the Appeal Proposal will achieve a sustainable form of development in a suitable and sustainable location.                                                                                                                                                                                         | ✓          |
| Policy EN2 – Development Pattern                          | It is agreed in the SoCG that the Appeal Proposal is sustainably located and given that it forms part of the Strategic Development Area SD4 is considered to comply with this policy in relation to settlement pattern.                                                                                                          | ✓          |
| Policy EN8 – Low Weald                                    | The requirements of this policy are met as agreed in the SoCG. Further detail on landscape matters is set out in the Evidence of Mrs Brockhurst.                                                                                                                                                                                 | ✓          |
| Policy EN12 – Protection of Trees and Woodland            | The Appeal Proposal seeks to retain boundary trees and planting and proposes significant new tree planting through the development.                                                                                                                                                                                              | ✓          |
| Policy EN14 – Landscaping within developments             | The Appeal Proposal includes landscape proposals as an integral part of the overall scheme. Although presented in outline form only at this stage the Appeal Application includes details of the landscape intentions across the site, which will be dealt with in detail at the Reserved Matters stage.                         | ✓          |
| Policy EN15 – Designated nature conservation sites        | The information contained within the Appeal Application and in particular the shadow Habitats Regulations Assessment (“sHRA”) confirms that the Appeal Proposals will not give rise to unacceptable impact on any designated sites.                                                                                              | ✓          |
| Policy EN27 – Layout and Design of development            | This is a Reserved Matter but the Appeal Application includes illustrative material to demonstrate how an acceptable layout and design approach can be delivered on the site. Further details are contained in the Statement on Design Matters attached at <b>Appendix 4</b> .                                                   | ✓          |
| Policy EN29 – Light pollution                             | This is a matter to be dealt with at Reserved Matters stage. However, an appropriately worded planning condition is proposed to ensure lighting on the site does not give rise to impact in terms of light pollution.                                                                                                            | ✓          |
| Policy TR3 – Traffic Impact of new development            | The traffic impact of the Appeal Proposal has been thoroughly assessed by i-Transport – see Transport Assessment and draft Travel Plan and also the Statement on Transport Matters attached at <b>Appendix 5</b> . The Highway Authority and National Highways confirm the acceptability of the Appeal Proposals in this regard. | ✓          |
| Policy HG5 – Dwelling mix within new development schemes  | Although the exact dwelling mix will be dealt with at the Reserved Matters stage the Appeal Application includes sufficient illustrative material to demonstrate that an appropriate dwelling mix can be delivered. The Affordable Housing contribution onsite is however secured through a Planning Obligation.                 | ✓          |
| Policy HG6 – Crime prevention in new housing developments | This will be dealt with in detail at Reserved Matters stage. However, the illustrative layout prepared has had regard to the key principles of secured by design to demonstrate that a detailed layout can be provided that complies with this requirement.                                                                      | ✓          |
| Policy HG7 – Energy consideration in new developments     | A Sustainability Statement is included in the Appeal Application pack that confirms the intended approach in terms of sustainable design and construction. The exact details of the approach to be taken will be secured at the Reserved Matters stage.                                                                          | ✓          |
| Policy TR13 – Footpaths and bridleways                    | There are no Public Rights of Way (“PROW”) on the Appeal Site. There are a number of desire lines where people regularly trespass on the site. The Appellant intends to deliver a circulate walking route around the perimeter of the Appeal Site reflecting the main desire line, which is shown on the illustrative layout.    | ✓          |
| Policy TR16 – Car parking standards                       | The Transport Assessment and the illustrative layout confirm that the Appeal Proposal can achieve the required level of onsite parking for all of the uses and mix of dwellings proposed.                                                                                                                                        | ✓          |

| Policy                                                                  | Commentary                                                                                                                                                                                                                                                                                                                                                                                  | Compliance |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Policy LR1 – provision of outdoor playing space                         | Adequate provision of onsite playspace is provided and shown on the illustrative layout to meet the Council's adopted standards.                                                                                                                                                                                                                                                            | ✓          |
| Policy LR3 – Children's play space in developments of 30+ dwellings     | As with Policy LR1 the Council's requirements are met. It is also relevant to note, as detailed in the Statement on Sports Pitch Provision attached at <b>Appendix 6</b> that the Appeal Proposal will make a substantial contribution towards the upgrading of existing sports pitches in the locality of the Appeal Site.                                                                 | ✓          |
| Policy LR5 – Informal amenity space in new residential developments     | The level of informal amenity space proposed, as show on the illustrative layout, meets with the Council's adopted standards.                                                                                                                                                                                                                                                               | ✓          |
| <b>Wealden District Core Strategy 2013 (Saved Policies)*</b>            |                                                                                                                                                                                                                                                                                                                                                                                             |            |
| Policy WCS5 – Managing the release of housing land                      | The infrastructure necessary to enable the delivery of the Appeal Proposal is either already in place or will be provided as part of the development and secured through the Planning Obligation. The need for release of the Appeal site is established through the Core Strategy and its immediate delivery is confirmed by the Council's lack of 5-year housing land supply.             | ✓          |
| Policy WCS7 – Effective provision of infrastructure                     | The Appellant, the Council and the relevant Statutory Consultees have confirmed that all necessary infrastructure has sufficient capacity to accommodate the development in the manner proposed. In the context of the medical centre the Appeal Proposal itself will be creating capacity by delivering the much needed new facility.                                                      | ✓          |
| Policy WCS12 - Biodiversity                                             | The Appeal Proposal has been informed by a suite of ecology surveys as set out in the Statement on Ecology Matters attached at <b>Appendix 7</b> . More recently the Appellant's Ecologist has undertaken a Biodiversity Net Gain ("BNG") calculation against the latest Natural England metric, which confirms the Appeal Proposal is capable of delivering a net gain of at least 11.23%. | ✓          |
| Policy WCS13 – Green infrastructure                                     | The Appeal Proposal incorporates green infrastructure to ensure an appropriate landscape setting to the development will be achieved.                                                                                                                                                                                                                                                       | ✓          |
| <b>Affordable Housing Delivery Local Plan May 2016 (Saved Policies)</b> |                                                                                                                                                                                                                                                                                                                                                                                             |            |
| Policy AFH1 – Affordable housing                                        | The Appeal Proposal includes 35% onsite affordable housing secured via the Planning Obligation and 5% self-build units to meet an existing demand on the Council's Self-build register. The Appeal Proposal therefore meets the requirements of this policy.                                                                                                                                | ✓          |

\*Please note that only those policies not covered earlier in this section are included in the table above.

- 4.19 In addition to the above policies the Council raises three other policies in the Case Officer Report to Committee and also its Statement of Case, which I deal with below.

#### Policy DC17 – Housing Development in the Countryside

- 4.20 This policy restricts development outside of the settlement boundaries as defined in the old 1998 Local Plan. This policy is out-of-date because it neither reflects the requirements of the District as expressed in terms of the Standard Method calculation of Local Housing Need, nor does it reflect the Core Strategy 2013, nor does it reflect national policy in the Framework 2012, 2018, 2019 or 2021.
- 4.21 Core Strategy Policy WCS4 identifies a Strategic Development Area (SD4) that includes the Appeal Site, this is confirmed at Paragraph 6.1 of the SoCG.
- 4.22 In policy terms the Appeal Site is not therefore in the countryside and therefore Policy DC17 should no longer apply. Even if it were to apply the fact that it is so out-of-date results in the weight to be given to it being negligible.

Policy GD2 – Development with development boundaries

4.23 The same principle applies to Policy GD2, which seeks to restrict development outside of the boundaries as defined in the 1998 Plan. Clearly those boundaries are out-of-date and the Appeal Site is confirmed as falling within Strategic Development Area SD4.

4.24 The Council's own Statement of Case confirms that the weight to be given to Policies DC17 and GD2 should be 'very limited' and the Case Officer report to Committee confirms that they are both superseded by the Core Strategy.

Policy EN18 – Protection of open areas within settlements

4.25 This policy is identified in the Case Officer report to Committee as a relevant policy to the determination of the Appeal Application. It is contained in the old 1998 Plan and refers to open areas within the settlements as defined on the Proposals Map for that Plan. It is already established that the Appeal Site is not identified as falling within a settlement on the Proposals Map in the 1998 Plan and therefore Policy EN18 cannot apply.

4.26 The fact that no commentary is given on this policy in the Case Officer Report and the Council's Statement of Case equally makes no reference would indicate that the Council agrees with this view.

4.27 Read as a whole it is clear that the Appeal Proposals comply with the strategic policies and the relevant detailed policies in the Development Plan.

4.28 I now turn in my stage 2 assessment to consider other material considerations relevant to the determination of this Appeal both in terms of positive considerations and also the harm alleged by third parties.

(ii) Stage 2: Other Material Considerations relevant to the determination of this Appeal

(a) There are no Site-Specific Planning Objections to the Development

4.29 The summary below confirms that, with the exception of Polegate Town Council and Willingdon and Jevington Parish Council, all Statutory Consultees are content with the Appeal Scheme. This is a matter of common ground between the Appellant and the Council:

Table 3: Summary of Statutory Consultee Responses

| Consultee                          | Comment                                                                                                                                                                                          |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| WDC Archaeology                    | No objection subject to conditions                                                                                                                                                               |
| WDC Conservation and Design        | No comment                                                                                                                                                                                       |
| WDC Drainage                       | No objection subject to conditions                                                                                                                                                               |
| ESCC Fire and Rescue               | No objection subject to conditions                                                                                                                                                               |
| WDC Housing                        | No objection                                                                                                                                                                                     |
| LLFA                               | No objection subject to conditions                                                                                                                                                               |
| Natural England                    | Further information is required – Note this was provided in the sHRA but the Council did not forward that material to Natural England                                                            |
| MHCLG                              | No comment                                                                                                                                                                                       |
| South Downs National Park          | Comments on the scheme but not a formal objection. Council confirmed that it was content with the Appeal Application and that no changes or further information was required from the Appellant. |
| Southern Water                     | No objection subject to conditions                                                                                                                                                               |
| Sport England                      | No objection subject to financial contribution                                                                                                                                                   |
| Sussex Police                      | No objection                                                                                                                                                                                     |
| WDC Waste Management               | No objection                                                                                                                                                                                     |
| Highways England/National Highways | No objection subject to conditions                                                                                                                                                               |
| ESCC Highways                      | No objection subject to conditions and planning obligations                                                                                                                                      |

(b) The Development Site is sustainable

- Polegate and Willingdon is a sustainable location for growth

- 4.30 The spatial portrait of Wealden District set out in Sections 2, 3 and 4 of the Core Strategy confirms that the District is highly constrained and largely rural in nature. See also Figure 1 from the Core Strategy, which is reproduced in **Appendix 8**.
- 4.31 Ashdown Forest SPA/SAC and the High Weald AONB dominate the northern part of the District and the South Downs National Park covers much of the southern part. In combination the AONB and National Park account for 60% of the District<sup>13</sup>.
- 4.32 The rural nature of the District is amplified by the settlement hierarchy set out in the Core Strategy in Table 1 (Page 9) that identifies the higher tier settlements (Primary Centre and Secondary Centres), all of which fall outside of the administrative boundaries of the District. In other words the highest order settlement within the District is a District Centre followed by a Service Centre<sup>14</sup>.
- 4.33 The settlement hierarchy is illustrated on Figure 2 of the Core Strategy, which is reproduced in **Appendix 9** for ease of reference.

<sup>13</sup> Paragraph 2.8 on Page 5 of the Core Strategy – **CD4.2**

<sup>14</sup> Polegate and Willingdon are both identified as Service Centres in Table 1

4.34 The Summary of the Core Strategy (Page v) confirms that:

*'To promote sustainability, ease of access to services and to reduce the carbon footprint of development most growth is proposed in the form of sustainable urban extensions.'*

4.35 Polegate and Willingdon are recognised as sustainable locations for growth both in terms of their function as Service Centres (Table 1 of the Core Strategy refers) and their close functional and physical relationship with Eastbourne that is identified as a Primary Centre at the top of the Council's settlement hierarchy, albeit outside the District.

4.36 Turning to consider the availability of services and facilities within Polegate and Willingdon my colleague Mr Marshall has set out within his Statement attached at **Appendix 5** the level of services and their relative availability. To summarise Polegate and Willingdon has a good level of service provision and key local services and facilities are all within the maximum walking distance with many located within a comfortable walking distance from the Appeal Site<sup>15</sup>. In addition a number of other facilities are within a reasonable cycling distance.

4.37 The SoCG also confirms the sustainability of Polegate and Willingdon. There can be no question that Polegate and Willingdon is therefore a sustainable location for growth.

- **The Appeal Site is a Suitable Location for Housing**

4.38 With regard to the Appeal Site itself and its suitability as a location for housing, this cannot be in doubt. The identification of the site for housing and a medical centre by the Council has been fully tested through the Core Strategy Examination, which itself was the subject of extension public participation with over 25,000 representations<sup>16</sup>.

4.39 The area including the Appeal Site is also one of the least constrained locations in terms of falling outside the AONB and National Park in particular. The land is also not of high landscape and visual quality nor of agricultural value being redundant former playing pitches.

<sup>15</sup> See Section 2 in Mr Marshall's Report attached at **Appendix 5**

<sup>16</sup> The Forward to the Core Strategy confirms this.

- 4.40 The only significant material changes in circumstance since the identification of the Strategic Development Area (SD4) have been the advancement of highway improvement works on the National Highways network at Polegate and also the progression of the HPEMAC proposals along Eastbourne Road, both of which help to reduce constraint on the delivery of the SD4 area.
- 4.41 It is important to note that the Core Strategy was prepared jointly by Wealden District Council and South Downs National Park who both considered development on the Appeal Site to be appropriate and sustainable. This joint view was endorsed by the Core Strategy Inspector.
- 4.42 More recently the Appeal on the wider site that included this Appeal Site confirmed the principle of development to be acceptable.
- 4.43 Mr Marshall has confirmed in his Statement on Transport Matters that the Appeal Site is a sustainable location for housing and the new medical centre.
- 4.44 It is agreed in the SoCG (Paragraph 6.5) that the Appeal Site is sustainable.
- 4.45 In fact there are few sites in Wealden District that are able to boast the sustainability credentials of this Appeal Site by reference to its site specific suitability and its location relative to Polegate, Willingdon and Eastbourne.
- 4.46 I now turn to consider the issues identified by the Inspector that arise from third party representations to the Application.

#### (c) Third Party Concerns – Highway Matters

##### Congestion on Eastbourne Road:

- 4.47 Mr Marshall has addressed this matter in his report at Section 7.2 attached at **Appendix 5**.
- 4.48 In summary, Mr Marshall concludes that:

*'It is therefore clear that the concern of the many parties as to the ability of the A2270 Eastbourne Road to accommodate the traffic flow from the development is not shared by the professional bodies (ESCC and NH) who operate and manage the networks, and who have reviewed the submission documents in detail. This appeal relates to the 180 dwellings at the Hindsland land, and should not be confused with the impact of the wider and large historic allocation land, which is mainly being put forward as the Morning Mill Farm application (and now Appeal) which*

*has its own set of assessment and mitigation to address the congestion issues created by its larger size.*

*Further, the accusations that the A2270 Eastbourne Road is the most congested in England relates to a single 50m section that was impacted by significant road works during 2021, and does not apply to the rest of the route. The appeal site is therefore fully in agreement with the NPPF policy test at paragraph 111 in relation to having no residual impact on the highway network.'*

4.49 The Appeal Proposal will not therefore give rise to unacceptable harm in relation to congestion along Eastbourne Road and within the wider highway network. The Highway Authority has signed a Statement of Common Ground with the Appellant that confirms the same (see Paragraph 9.5.11).

4.50 National Highways also raises no concern in this regard.

Suitability of the Access:

4.51 Mr Marshall addresses this at Section 7.3 of his report.

4.52 In summary Mr Marshall confirms that the access arrangements for the site have been designed in consultation with the County Highway Authority and ensure compatibility with the HPEMAC scheme along Eastbourne Road. The Access is safe and effective for all users and accords in full with the requirements of Paragraph 110 of the Framework 2021.

4.53 The access proposals for this site have been prepared through a process of extensive consultation with the County Highway Authority and also National Highways to ensure all matters relating to access, traffic impact and highway safety have been thoroughly addressed.

4.54 The Appeal Scheme therefore accords in full with the relevant requirements of the Development Plan and National policy.

#### (d) Third Party Concerns – Ecology Matters

##### Impact of Additional Traffic on Flora and Fauna:

- 4.55 This matter is dealt with in the report prepared by Mr Newman from Greenspace, which is attached at **Appendix 7**.
- 4.56 In summary Mr Newman concludes that the Appeal Proposal does not give rise to unacceptable impact in relation to flora and fauna arising from the additional traffic flows created by the development.
- 4.57 Mr Newman has also covered a number of other ecology points within in his report. In particular Mr Newman confirms that all necessary ecology survey work has been undertaken on the site and that there are no insurmountable constraints to the delivery of the site in ecological terms.
- 4.58 In addition Mr Newman has undertaken a Biodiversity Net Gain ("**BNG**") calculation based on the illustrative site layout and landscape proposals. The calculation, which applies Natural England's Metric 3.1 confirms that the Appeal Proposal is capable of delivering a BNG of 11.23%.
- 4.59 It is relevant to note that there is currently no requirement to provide a BNG in the Development Plan or National Policy. Furthermore the Statutory Requirement has not yet come into effect. The offer of 11.23% BNG on this Appeal Site is therefore made on a voluntary basis by the Appellant and is a matter that I return to in the Planning Balance below.
- 4.60 In overall terms the Appeal Scheme does not give rise to any unacceptable impacts in terms of ecology and is in compliance with the Development Plan and National Policy.

#### (e) Third Party Concerns – Infrastructure Matters

- 4.61 A number of third parties have raised concerns in relation to infrastructure provision and the adequacy of existing infrastructure to accommodate further growth.
- 4.62 As a starting point it is important to note that this Appeal Proposal includes the delivery of a new Medical Centre that has evolved through detailed discussion with the local GP practices. The Appellant has a specialist developer Assura in place and ready to deliver the new Medical Centre to a highly sustainable specification that will meet the needs of the existing GP practices and enable them to take on additional

patients. The letter attached from Assura at **Appendix 10** confirms their commitment to delivering the Medical Centre on this Appeal Site together with the collaborative approach that has been taken working with the local GP practices.

4.63 In terms of other key infrastructure requirements arising from the residential component of the Appeal Proposal the majority of these needs will be addressed via the Council's Community Infrastructure Levy ("**CIL**"), particularly public transport, school provision, multi-function indoor facilities, libraries, waste management facilities, policing and community infrastructure<sup>17</sup>.

4.64 In addition to CIL the following site-specific infrastructure is to be secured through a Planning Obligation:

- Off-site sports pitches and changing rooms
- Adult and Youth play
- Travel Plan with flexible voucher
- Bus service contribution
- Offsite highway works

4.65 The Appeal Proposal will therefore deliver a longstanding and much needed piece of local health infrastructure in terms of the Medical Centre and the infrastructure needs arising from the residential development will be fully met through CIL and the submitted Planning Obligation.

#### (f) Third Party Concerns – Loss of Agricultural Land

4.66 A number of third parties have raised concern in relation to the loss of agricultural land arising from the development of the Appeal Site.

4.67 As I have set out in Section 2 of my Evidence and as explained in the Appellant's Statement of Case the Appeal Site comprises former redundant playing pitches. The land has been engineered to create a series of level playing pitches with a positive drainage system. The land may have been in agricultural use at some point in the past but that is not defined. What is clear from the evidence is that the land was owned and used by the University of Brighton as private playing pitches along with a pavilion building and dwelling for the grounds keeper. That use ceased during the 2001/02 season.

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<sup>17</sup> See Council's CIL Charging Schedule, Appendix A – Regulation 123 List – **CD4.5**

- 4.68 As a matter of fact therefore the Appeal Proposal will not result in the loss of any agricultural land.

(g) Third Party Concerns – Landscape Matters

- 4.69 The third party representations include concerns in relation to a number of landscape matters. It is also relevant to note that the South Downs National Park Authority ("SDNPA") made comments on the scheme, which raised concerns in relation to landscape matters including the impact on the SDNP Dark Skies. Those comments were not however expressed as a formal objection to the Appeal Application. The SoCG confirms at Paragraph 6.7 that the Council did not consider the Appeal Scheme to give rise to any significant or demonstrable harm to the landscape character of the area, the setting of the SDNP or any local views or intervisibility with the SDNP.
- 4.70 Notwithstanding this agreed position and in order to assist the Inspector with these issues the Appellant's Landscape Architect (Clare Brockhurst) has prepared a Proof of Evidence on Landscape Matters.
- 4.71 Mrs Brockhurst concludes that:
1. The Appeal Site is not located within any policy designations listed in the Framework 2021 at Paragraph 11 (footnote 7);
  2. The Council has not identified any significant landscape and visual effects which would outweigh the grant of planning permission;
  3. The SDNPA, notwithstanding its consultation response, has not provided evidence as to how the proposals will impact on the two purposes of the National Park designation or its statutory duty;
  4. Having reviewed the LVIA and undertaken her own analysis of the issues Mrs Brockhurst concludes that there will be no effects on the special qualities of the SDNP; and,
  5. Consequently Mrs Brockhurst concludes that there are no landscape and visual issues that substantiate a landscape and visual objection to providing new homes in this location.
- 4.72 It is also important to have in mind that this Appeal Site comprises part of the Strategic Development Area SD4 set out within the adopted Core Strategy 2013. The Core Strategy 2013 was prepared jointly between Wealden District Council and SDNPA and following major consultation exercises undertaken in 2007 and 2009 with over 25,000 representations received. The Forward to the Core Strategy confirms that:

*'The Council and National Park Authority have carefully considered all responses received and the Plan has been refined and changed during its development in response to a number of the matters and concerns raised.'*<sup>18</sup>

- 4.73 The Inspector appointed to Examine the Core Strategy 2013 also confirms in his Report in relation to the whole of the SD4 area:

*'The scale of development proposed at SD4 is such that this could be achieved without unacceptable further visual coalescence between Polegate and Willingdon.'*<sup>19</sup>

- 4.74 It is of course relevant to note that this Appeal Scheme relates to only a small part of the SD4 area.

- 4.75 Finally the Core Strategy 2013 Inspector concludes that:

*'....the SDAs have been selected as a result of a robust process.'*<sup>20</sup>

- 4.76 Not only has Mrs Brockhurst confirmed that the Appeal Proposal will not give rise to any unacceptable harm in relation to landscape matters, the Council is in agreement and, the SDNPA must also have considered the Appeal Site to be acceptable in terms of the relationship with the SDNP bearing in mind that it was the Plan making authority (jointly with Wealden District Council) that promoted the SD4 Strategic Development Area as a suitable and sustainable location for growth, which was fully endorsed by the Core Strategy 2013 Inspector as Sound and having followed a robust process.

- 4.77 The Appeal Scheme will not therefore give rise to any unacceptable harm in landscape terms.

Impact on South Downs National Park Dark Skies:

- 4.78 The matter of lighting has been raised by third parties as well at the SDNPA.

- 4.79 The Appellant is aware of the Appeal Site's location in relation to the SDNP, which is identified as an International Dark Sky Reserve.

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<sup>18</sup> Third Paragraph from the bottom of Page i of the Forward to the Core Strategy 2013 **CD4.2**

<sup>19</sup> Paragraph 78 on Page 20 of the Core Strategy 2013 Inspector's Report **CD4.6**

<sup>20</sup> Paragraph 81 on Page 21 of the Core Strategy 2013 Inspector's Report **CD4.6**

- 4.80 The matter of lighting will be dealt with as part of the Reserved Matters details and will be secured via an appropriately worded Planning Condition.
- 4.81 The SDNPA confirms in its consultation response dated 13 May 2021 that the details of external lighting (both during and after the construction period) should be secured by an appropriate planning condition with the intention of limiting light pollution impacts and disturbance to wildlife. Furthermore the Case Officer report presented to Members at Committed on 24 March 2022 also confirms the same approach for details to be secured by Condition<sup>21</sup>.
- 4.82 The Appellant is content with the approach advocated by the SDNPA and endorsed by the Council in relation to external lighting and an appropriately worded Planning Condition will be agreed with the Council and provided to the Inspector in the schedule of agreed planning conditions ahead of the Inquiry.
- 4.83 In this respect the Appeal Proposal will not give rise to any unacceptable impact in relation to external lighting specifically in relation to the SDNP and the Dark Skies Reserve.

(h) The Development will Provide Much Needed Housing

- 4.84 The Government objective to significantly boost the supply of housing nationally is at the heart of its planning agenda as set out in the Framework 2021 and more recently reinforced by the newly renamed department for Levelling Up, Housing and Communities.
- 4.85 Recently published research by Lichfields (Feeding the Pipeline) that was commissioned jointly by the Home Builders Federation and the Land Promoters and Developers Federation (November 2021) (see **Appendix 11**) confirms that if the Government's target of 300,000 net new homes per annum is to be met the country will need to increase delivery by 59,200 homes per annum. This in turn will necessitate between 474 – 1,385 additional implementable permissions per annum on medium to large sites (50 – 250+homes). This represents between 4-5 additional permissions per annum on medium to large sites in every District over and above the usual flow of permissions. This is not an insurmountable task but does require each Local Planning Authority to play its part particularly on allocated housing sites.

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<sup>21</sup> See heading of Lighting in Case Officer Report **CD14.1**

- 4.86 There is a substantial need for new housing in Wealden District currently as confirmed in the Council's most recent Five Year Housing Land Supply Statement (December 2021)<sup>22</sup>. The Council confirms that as at 01 April 2021 its deliverable supply equates to 5,362 dwellings. This is some 1,964 dwellings less than the 7,326 dwellings required to be delivered over the 5-year period (inclusive of a 20% Buffer). This equates to only 3.66 years supply, which is very low.
- 4.87 As confirmed at Paragraph 6.3 of the SoCG the Council's 5-year housing land supply position is a matter of common ground between the parties.
- 4.88 It is however relevant to give consideration to the context for the Council's poor housing delivery in order to reach a conclusion on the appropriate level of weight to be given to the new housing provided as part of the Appeal Scheme.
- 4.89 The Council's record of poor deliver has extended over a number of years as confirmed in its Annual Monitoring Reports ("**AMR**"). The most recent AMR for the period 2020/21 published in December 2021 confirms the following delivery record:

Table 4: Summary of Council's Housing Delivery

| Monitoring Period | Net Completions |
|-------------------|-----------------|
| 2013/14           | 560             |
| 2014/15           | 576             |
| 2015/16           | 520             |
| 2016/17           | 564             |
| 2017/18           | 462             |
| 2018/19           | 828             |
| 2019/20           | 1,034           |
| 2020/21           | 722             |

- 4.90 Whilst delivery appears to have picked up from 2018 onwards this still falls significantly short of the applicable standard method requirement, which has remained consistently around 1,221 dpa plus a buffer of 20% i.e. 1,465 dpa.
- 4.91 The Council's housing supply position is therefore becoming materially worse year on year.
- 4.92 The latest Housing Delivery Test ("**HDT**") result for 2021 (published 14 January 2022) confirms this with a result of 82% and consequently requiring a 20% Buffer to be applied to the 5-year housing land supply calculation for a further year.

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<sup>22</sup> See **CD5.1**

- 4.93 The most recent median work place based affordability ratios published on 23 March 2022 confirm that affordability within Wealden is materially worse with a ratio of 13.76 compared with 11.57 a year ago and a current National average of 8.93.
- 4.94 The lack of housing delivery within the District is therefore have a material and detrimental impact on affordability rendering Wealden one of the most expensive places to live in the country outside of London.
- 4.95 The lack of delivery is of course linked to the Council's poor record of Plan making. Following the withdrawal of the last Local Plan in February 2020 very little progress has been made on the production of a new Local Plan. The Council undertook an initial Regulation 18 consultation on its Direction of Travel in late 2020/early 2021 and its Local Development Scheme indicated that a draft Plan (Regulation 18) consultation would take place in Spring 2022. That has not happened and there is currently no revision to the timetable set out by the Council. The delivery of the new Plan on time is the first key action within the Council's Housing Delivery Action Plan 2021, which it has failed to meet<sup>23</sup>.
- 4.96 The Appellant is committed to the early delivery of the Appeal Site and to this end has already reached an advanced stage in its contractual discussions with Vistry Group who will take the site forward and deliver the housing component of the scheme. The letter attached at **Appendix 12** confirms Vistry's commitment to the Appeal Site and its intention to progress with Reserved Matters at the earliest opportunity in order to ensure timely delivery of this much needed housing.
- 4.97 Set within the above context the delivery of up to 180 no. new dwellings on the Appeal Site is a benefit that I attach very substantial weight to in the Planning Balance.

(i) **There is an Overwhelming Need for Affordable Housing**

- 4.98 Wealden District is an inherently unaffordable place to live. As I have set out in sub-section (h) above the latest median work-place based affordability ration for Wealden is 13.76. That is high and equates to 1.5 times the National average.

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<sup>23</sup> See Table 5 on Page 17 of the Housing Delivery Action Plan 2021 – **CD5.3**

- 4.99 Turning to the actual need for affordable housing in the Borough the Council's latest assessment of needs prepared by Iceni Projects in the context of the new Local Plan in August 2021 confirms an annual need for social/affordable rented accommodation of 519 dpa<sup>24</sup>. This equates to 42.5% of the current Standard Method Local Housing Need ("LHN") of 1,221 dpa, which is high.
- 4.100 In terms of delivery the Council has only managed to deliver 275 dwellings in the last monitoring year 2020/21<sup>25</sup> i.e. 53% of the need for social/affordable rented accommodation.
- 4.101 The Iceni report also considers the need for Affordable Home Ownership and quantifies this at 348 dpa<sup>26</sup>.
- 4.102 In total therefore the need for social/affordable rented accommodate and affordable home ownership equates to 867 dpa or 71% of the minimum LHN of 1,221 dpa, which is unsustainable. The delivery in the last two monitoring years 2019/20 and 2020/21 has equated to only 31% of the total identified need for affordable housing, which is low.
- 4.103 It is clear that there is an acute need for affordable homes across the District, with the largest proportion being in the Eastbourne sub-area<sup>27</sup> that the Appeal Site falls within.
- 4.104 The delivery of 63 no. affordable homes on the Appeal Site, which Vistry confirms its commitment to bring forward, will make a valuable and timely contribution towards meeting the overwhelming need for affordable homes in the District and the Eastbourne sub-area in particular. This is a benefit that I attach very substantial weight to in the Planning Balance.

(j) The Development will meet an urgent need for a new Medical Centre

- 4.105 The need for a new Medical Centre within Polegate/Willingdon is longstanding. The Core Strategy 2013 noted that planning permission had been granted for a new Medical Centre<sup>28</sup>, which subsequently did not proceed.

<sup>24</sup> See Table 7.16 on Page 88 of Wealden Local Housing Needs Assessment (August 2021) **CD5.4**

<sup>25</sup> See Page 29 of the 2020/21 AMR **CD5.2**

<sup>26</sup> See Paragraph 7.73 Page 90 of Wealden Local Housing Needs Assessment (August 2021) **CD5.4**

<sup>27</sup> Table 7.16 on Page 88 of Wealden Local Housing Needs Assessment (August 2021) **CD5.4**

<sup>28</sup> See Paragraph 6.22 on Page 43 **CD4.2**

- 4.106 The previous application and appeal on the wider site also included provision for a medical centre, which was illustrated as being provided on this Appeal Site. In the Appeal Decision for that earlier scheme the Inspector noted at Paragraph 43 on Page 10 the need for the medical centre as identified by the Council.
- 4.107 More recently the letter of support for the Appeal Application submitted by Assura (see **Appendix 10**) confirms the ongoing need for a new medical centre and the lack of suitable sites. The letter also confirms that the Appeal Site comprises a suitable location for the new medical centre, which is at the heart of the patient catchment area.
- 4.108 Assura has bought its position up-to-date with the letter attached at **Appendix 10** confirming its commitment to the delivery of the new medical centre with the support of the CCG and the relevant GP practices.
- 4.109 The need for and delivery of the new medical centre is also largely acknowledged or supported by the local community and the Town and Parish Council, albeit that the representations do not support the delivery of housing alongside the medical centre.
- 4.110 This Appeal Proposal will therefore realise a longstanding need for new premises to serve both the existing residents of Polegate/Willingdon and new residents on the Appeal Site.

(k) Consideration of all other aspects of the Appeal Scheme

- 4.111 I now turn to consider other aspects of the Appeal Scheme that have arisen.

- Noise and Air Quality

- 4.112 The matter of noise and air quality was considered by the Appellant as part of the Application Pack.
- 4.113 The Appellants Noise and Air Quality specialist (SMA) has provided updated reports, which are attached at **Appendix 13** that confirm the acceptability of the Appeal Proposals in relation to both technical matters. The attached reports also address concerns raised by third parties in relation to Noise and Air Quality and confirm the Appeal Proposals remain appropriate in both regards.

- Urban Design

4.114 Although the Appeal Application is presented in Outline form with only the means of access into the site, including the internal access up to the medical centre plot in detail, the Appellant is conscious of the current Government objective in relation to high quality design and the build beautiful agenda encompassed within the National Model Design Code and National Design Guide.

4.115 With this in mind and given that illustrative design material was supplied as part of the Application Pack the Appellant's Urban Designer Lichfields has undertaken a review of the Appeal Scheme, which is attached at **Appendix 4**.

4.116 The review confirms that:

*'Overall it is considered that the indicative layout would deliver a well designed place that is appropriate for the character surrounding urban area and would comply with local and national and design policy in that regard.'*<sup>29</sup>

4.117 On the basis of the advice provided by Lichfields I am of the view that the Appeal Proposal is fully capable of achieving a high quality design in keeping with the surrounding context that would meet with the Government objectives set out in the Framework 2021, the PPG, the National Design Guidance and National Model Design Code.

- Drainage

4.118 The Appellant's Drainage Engineer SMA has prepared a report on drainage and flood risk matters, which is attached at **Appendix 3**.

4.119 The report confirms that the entire site is within Flood Zone 1 and is consequently at a low risk of flooding.

4.120 None of the relevant Statutory consultees to the Appeal Application have raised objection to the proposals.

4.121 The surface water drainage strategy for the Appeal Scheme has been designed in accordance with the required standards and approved by the Council and the LLFA, subject to appropriately worded Planning Conditions.

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<sup>29</sup> Paragraph 6.5 on Page 26

- 4.122 The new SUDs features will provide water quality improvements and contribute towards biodiversity and ecological habitats on the site.
- 4.123 In this regard the Appeal Proposal is acceptable in terms of its approach to flood risk and drainage matters.

- Playing Pitches

- 4.124 As I have explained in Section 2 of my Evidence the Appeal Proposals relate to land that was formerly in use as private playing fields by the University of Brighton.
- 4.125 As a consequence the Appeal Application was supported by an assessment of sports pitch provision prepared by Nortoft Planning.
- 4.126 Nortoft has prepared a Sport Planning Report for this Appeal, which is attached at **Appendix 6.**
- 4.127 Nortoft concludes that:

*'The former private university playing fields at Hindsland have not been used for almost 20 years. It is considered that the provision of an off-site contribution to local playing field projects, in line with the Local Plan Policy WCS13, and as agreed by the Council and Sport England, will fully mitigate the loss of former playing field.'*

*The policy compliant, agreed value of the \$106 contribution from the proposed Hindsland development is £185,830 (Q2/2021 cost). This should be spent on identified, appropriate and deliverable schemes in the immediate locality.'*<sup>30</sup>

- 4.128 No objection is raised to the Appeal Application by Sport England and the Council confirms at Paragraph 6.9 of the SoCG that the approach taken by the Appellant is acceptable.
- 4.129 The Appeal Proposal does not therefore give rise to any unacceptable impact in relation to loss of playing pitches. Although the contribution to be secured via a Planning Obligation should be regarded as mitigation for the loss of the former playing pitches it is inevitable that the schemes to which the money will be spent in the immediate locality will give rise to benefits to the wider community in terms of enhanced sports pitch provision.

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<sup>30</sup> Paragraphs 28-29 on Page 5

(iii) Stage 3: The Planning Balance and Application of Paragraph 11 of the Framework 2021

4.130 I now turn to Stage 3 of my assessment and consider the Planning Balance and the application of Paragraph 11 of the Framework 2021.

4.131 I have had regard to the range of material planning benefits that the Appeal Proposal will deliver, which I summarise in the table below along with my consideration as to the weight that should be attributed to each benefit:

Table 5: Summary of Key Planning Benefits Arising from Appeal Scheme

| Benefit                                                                                                                   | Type                 | Weight           |
|---------------------------------------------------------------------------------------------------------------------------|----------------------|------------------|
| Early provision of up to 180 no. dwellings                                                                                | Social/Economic      | Very Substantial |
| Provision of 35% onsite affordable dwellings (63 no. dwellings)                                                           | Social               | Very Substantial |
| Provision of 5% serviced plots for custom and self-build units (9 no. units)                                              | Social               | Substantial      |
| Development in a Sustainable Location on an allocated housing site                                                        | Social/Environmental | Substantial      |
| An appropriate dwelling mix including the affordable tenure split                                                         | Social               | Substantial      |
| Delivery of new Medical Centre in a location preferred by the Council and the GP practices, which is supported by the CCG | Social               | Substantial      |
| Provision of extension to HPEMAC                                                                                          | Social/Environmental | Substantial      |
| Delivery of highly sustainable construction particularly the aspiration by Assura to deliver a zero carbon medical centre | Environmental        | Substantial      |
| BNG of 11.23%                                                                                                             | Environmental        | Substantial      |
| Onsite open space including play space and trim trail                                                                     | Environmental        | Moderate         |
| Landscape and Ecology Enhancement                                                                                         | Environmental        | Moderate         |
| Provision of Car Club for use by existing and new residents                                                               | Environmental        | Moderate         |
| Short term economic benefits during construction                                                                          | Economic             | Moderate         |
| Long term economic benefits from new residents spend in the local economy                                                 | Economic             | Moderate         |

4.132 The material planning benefits of the Appeal Scheme are many and varied and in the context of the Government objective to significantly boost the supply of housing set against the housing crisis in Wealden and the acute need for affordable homes in particular the benefits when taken together should be afforded substantial weight.

4.133 By contrast little or no harm is identified by those that object to the Appeal Application. As I have demonstrated in my Evidence and that of Mrs Brockhurst together with the suite of reports prepared by the Appellant's professional project team, none of the matters identified by objectors come close to justifying a reason to refuse the Appeal Application.

- 4.134 This is a position, which is a matter of common ground between the Appellant and the Council, with the Council Members confirming at Committee on 24 March 2022 that had the Council still been able to determine the Appeal Application it would have been approved.
- 4.135 The Planning Balance therefore rests firmly in favour of granting consent for the Appeal Application on an allocated site within the adopted Core Strategy 2013. This is on the basis of a flat balancing exercise.
- 4.136 Turning now to consider the application of Paragraph 11 of the Framework 2021 to the planning balance. The Appeal Scheme sits full square in compliance with the Development Plan when read as a whole. It is common ground that the Development Plan is out-of-date both in terms of the fact that it is time expired and not in conformity with the current Framework and on the basis the Council cannot demonstrate a 5-year housing land supply.
- 4.137 In these circumstances Paragraph 11 d) of the Framework 2021 is engaged, which means that the 'tilted balance' is applied in the determination of this Appeal. With the tilted balance in play the planning balance rests even more firmly in favour of allowing this Appeal and granting Outline Planning Permission for the Appeal Proposal.

## 5.0 Planning Obligations and Planning Conditions

### (i) Matters to be dealt with via Planning Obligation

5.1 It is a matter of common ground between the Appellant and the Council, as set out in the SoCG, that there are a series of matters to be addressed via a Planning Obligation, which is currently being finalised.

5.2 The following matters are to be addressed in the Planning Obligation:

Table 6: Summary of Planning Obligations

| Planning Obligation                 | Notes                                                                                                                                                                                                                      |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Onsite affordable housing provision | 35% provision in accordance with agreed mix and tenure split                                                                                                                                                               |
| Custom and Self Build Plots         | 5% provision onsite                                                                                                                                                                                                        |
| Medical Centre                      | Provision of Serviced Site for Medical Centre                                                                                                                                                                              |
| Off Site Sports Pitch Mitigation    | Financial contribution of £185,830.00                                                                                                                                                                                      |
| Travel Plan                         | £200.00 flexible voucher per dwelling for sustainable travel measures and residents information pack, £6000.00 audit fee and £36,000 financial bond                                                                        |
| Bus Services                        | £600.00 per dwelling (total £108,000) RTPi and bus stop infrastructure for 2 bus stops closest to the site and RTPi board for medical centre foyer                                                                         |
| Off-site highway Works              | S278 for site access and HPEMAC cycle/footway extension along part frontage of the site, tie in details, uncontrolled crossing point with refuge and, right turn ghost lane<br>Traffic calming scheme in Wannock Road area |

### (ii) Planning Conditions

5.3 The Appellant has agreed a schedule of Planning Conditions with the Council, which will be provided to the Inspector ahead of the commencement of the Inquiry. These can form the basis for the Conditions session at the Inquiry.

## 6.0 Summary and Conclusion

- 6.1 My Evidence and that of my colleagues has demonstrated that the Appeal proposal comprises a suitable and sustainable form of development on an allocated site in the adopted Development Plan.
- 6.2 The Council is supportive of the Appeal Application and its Members have resolved not to defend this Appeal. The comprehensive SoCG records the level of agreement between the Appellant and the Council in this regard.
- 6.3 There is a clear, present and, substantial need for new housing in the District, which has a poor record of delivery in terms of housing and in terms of Plan making. The current 5-year housing land supply position demonstrates the severity of the situation.
- 6.4 There is an acute need for affordable housing in the District and this Appeal Proposal will make a meaningful contribution towards the current overwhelming need, particularly in the Eastbourne sub-area.
- 6.5 There is a long standing requirement for a new medical centre in Polegate/Willingdon and this Appeal Site is the location preferred by the Council, the CCG and the GP Practices.
- 6.6 The Appellant has an advanced contractual position with Vistry Group and Assura who together will deliver the Appeal Scheme in a timely manner ensuring the benefits of the scheme are realised.
- 6.7 The harm alleged by objectors to the Appeal Application has been comprehensively assessed by the Appellant's professional project team and does not come anywhere near to justifying a refusal reason against the Appeal Proposal.
- 6.8 The Planning Benefits of the Appeal Scheme are many and varied and, in my view, should be afforded substantial weight in the Planning Balance.
- 6.9 The Appeal Scheme complies with the Development Plan as a whole and despite the Core Strategy 2013 being out-of-date there have been no material changes in circumstance to suggest that the Strategic Development Area SD4 should not come forward. The Planning Balance rests firmly in favour of allowing this Appeal when assessed against the flat balance scenario. In this case the tilted balance is engaged via Paragraph 11 d) of the Framework 2021 and therefore the balance is even more firmly in favour of allowing this Appeal and granting Outline Planning Consent.