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Appeal Hearing Statement on behalf of Obsidian Strategic Asset Management Ltd

For the decision made by Wealden District Council (Ref: WD/2022/0648/MAO)
Mockbeggars Farm, Uckfield
January 2024
DHA Ref: MWB/LS/30166

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Appendix No.	Title	Author
1	Wealden District Five Year Housing Land Supply + Appendix A, B, C, D & E	DHA Planning
2	Appeal Decision APP/C1435/W/21/3283533 - Five Ash Down, Cooper's Green	The Planning Inspectorate
3	Appeal Decision APP/C1435/W/22/3297419 - Mornings Mill Farm, Lower Willingdon	The Planning Inspectorate
4	Appeal Decision APP/C1435/W/22/3293970 Hindsland Playing Fields	The Planning Inspectorate
5	Station Road, Hailsham APP/C1435/W/22/3296579	The Planning Inspectorate
6	Summary of Statutory Consultee Responses	DHA Planning

1 Introduction

1.1 Purpose of this statement

1.1.1 This Statement has been submitted in advance of a Hearing to consider an appeal submitted on behalf of Obsidian Strategic Asset Management Ltd ("the Appellant") against the decision of Wealden District Council ("the Council) to refuse planning application WD/2022/0648/MAO.

1.1.2 The planning application sought planning permission for the following development:

> *'outline application for the development of 60 no. dwellings, access and internal roads, parking, ancillary structures, landscaping and open space, drainage and other associated works. All matters reserved apart from access'.*

1.1.3 This statement has been prepared on behalf of the Appellant by **Mark Bewsey**, a Director of DHA Planning, Chartered Town Planners and Development Consultants based in our Gatwick office in West Sussex.

1.2 Qualifications and Experience

1.2.1 I hold a first-class honours degree in City and Regional Planning and a post graduate diploma in Planning from Oxford Brookes University. I have over 15 years' experience as a town planner and have been a Member of the Royal Town Planning Institute since 2010.

1.2.2 I joined DHA Planning in March 2020 and I am involved in the promotion of major residential development sites across the South East for a range of developer, promoter and landowner clients. Prior to joining DHA, I spent five years as a Planning Consultant at Savills, and seven years at housebuilders Crest Nicholson and Countryside Properties, where I held in-house planning positions. I was an Associate Planning Director at Countryside for four years, and I was responsible for overseeing all planning matters in relation to their sites in Kent, Surrey and Sussex, including the Wealden District.

1.2.3 I have gained experience in a wide range of planning matters, overseeing numerous and varied planning applications and appeals, undertaking site planning appraisals and leading Local Plan promotions. I have participated in Hearings and given evidence at Examinations in Public and at Planning Inquiries, including in Wealden.

1.2.4 I appear at this Hearing on the instructions of Obsidian Strategic Asset Management Ltd ("the Appellant") to present evidence on planning matters. This statement is given in accordance with the guidance of my professional institution, and I confirm that it expresses my true and professional opinions. I have visited the site and surrounding area.

1.3 Scope of Evidence

1.3.1 This Hearing Statement should be read in conjunction with those submitted by:

- Mr Chris Jenkinson, who provides evidence on landscape matters;
- Mr Dan Simpson, who provides evidence on ecology issues; and
- Mr Simon Moon, who provides evidence on transport matters.

1.3.2 I rely on their evidence on these issues in my own evidence. Additionally, I have prepared separate evidence on Housing Land Supply, which is attached as **Appendix 1** to this Hearing Statement.

2 Context

2.1 The Appeal Site

2.1.1 The appeal site comprises approximately 3.62 hectares of land at Mockbeggars Farm, on the east side of London Road, Uckfield.

2.1.2 The site is currently in agricultural use (pastoral). It is formed of two separate fields, separated by an existing hedgerow and broadly equal in size, with gentle variations in ground levels and topography. The site is generally very well contained with limited views into and out of the site available from public vantage points. Vehicle access is currently provided via a track off London Road.

2.1.3 A full description of the appeal site and surrounding area is set out at Section 2 of the Statement of Common Ground (SOCG) [**CD13.1**].

2.2 Planning History

2.2.1 According to Wealden District Council's online planning history there have been two planning applications on the site.

- Application T/1967/100/F - erection of garage and small addition to house. Approved 09/02/1967.
- Application WD/2010/2053/O - development of a five pitch travellers caravan site, landscaping and access. Refused 24/12/2010.

3 Background to the appeal

3.1.1 The planning application was submitted to the Council on 3rd March 2022 and validated on 26th April 2022 under reference WD/2022/0648/MAO.

3.1.2 Whilst the application giving rise to this appeal was recommended for approval by the Head of Planning and Environmental Services, it was refused at Wealden's Planning Committee North on 15th June 2023. The Decision Notice was subsequently issued on 22nd June 2023 [**CD4.1**].

3.1.3 The appeal was lodged in October 2023. PINS initially agreed that the appeal would be considered by the Public Inquiry procedure, however on 1st December 2023, the Council took the decision to withdraw from the appeal, and to not defend it. The appellant and PINS were notified of this decision by email from the Council's Head of Planning Mr Stacey Robins on 1st December which highlighted that following a procurement process seeking tenders for professional representation to defend the refusal of planning permission, that the LPA found itself in a situation unable to defend the appeal.

3.1.4 Separately, the Mockbeggars Residents Steering Group (MRSG) was formed in December and initially was granted Rule 6 status. However, the MRSG voluntarily withdrew their Rule 6 status but remains involved as an interested party and a coordinator of the views of local residents. Their initial Statement of Case was issued on 11th December 2023.

4 Issues

4.1 Main Issues

4.1.1 As set out in the Case Management Conference Summary Note, the main issues identified by the Inspector relate to:

(1) Whether the appeal site lies in an appropriate location for the development proposed and whether the proposal would make the most efficient use of land having regard to paragraphs 8(c) and 125(c)[1] of NPPF; and

(2) The effect of the proposal on:

i. Ecology with particular regard to protected species (bats); and

ii. Local landscape features.

4.2 Other Issues

4.2.1 A number of other issues have been raised by third parties including the MRSG and Uckfield Town Council (UTC), including:

- Landscape Character and Visual Impact;
- The impact on Mockbeggars Farmhouse and Smallholding;
- Landfill at the development site;
- Claimed benefits of proposed development;
- Impact on ancient woodland, wet woodland and hydrology;
- Highway safety and impact on the existing network (vehicular and pedestrian);
- Impact on the biodiversity and ecological value of this site, and connecting areas; and
- Impact on heritage assets.

4.2.1 I therefore structure my assessment around the following three stages:

(1) I consider 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);

(2) I consider any other Material Considerations that are relevant to the determination of this Appeal, in particular those that may affect the weight to be given to any Development Plan Policy; and,

[1] NPPF paragraph 129(c) (December 2023)

(3) I then apply paragraph 11 of the National Planning Policy Framework 2023 (NPPF) to the overall Planning Balance.

5 Planning Policy Context

5.1 Introduction

5.1.1 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the current development plan for the area in which the appeal site is located comprises the Policies of the Wealden Local Plan (LP) 1998, which were saved in 2007, the Core Strategy Local Plan (CSLP), which was formally adopted on 19th February 2013, and the Affordable Housing Delivery Local Plan (AHDLP) May 2016 ("the Development Plan [DP]").

5.1.2 In addition to the development plan, there are other material considerations including the revised National Planning Policy Framework (NPPF) and other supplementary planning guidance and standards.

5.1.3 Those policies which are considered relevant to the appeal scheme are summarised at Section 4 of the agreed SOCG and therefore are not repeated here.

5.2 Other Material Considerations

National Planning Policy Framework (NPPF) [CD1.1]

5.2.1 The NPPF was originally published in March 2012 to provide a single overarching national policy document. A revised NPPF was published in December 2023 and is a material consideration when determining planning applications.

5.2.2 The following paragraphs are considered relevant to this appeal:

- Chapter 2 (Achieving Sustainable Development): Paragraphs 8, 10 and 11;
- Chapter 4 (Decision-making): 38, 47, 55 and 57;
- Chapter 5 (Delivering a sufficient supply of homes): 60, 66 and 74;
- Chapter 6 (Building a strong, competitive economy): 85;
- Chapter 8 (Promoting healthy and safe communities): 96, 97 and 102;
- Chapter 9 (Promoting sustainable transport): 108, 109, 114, 115, 116 and 117;
- Chapter 11 (Making effective use of land): 123, 124, 128 and 129;
- Chapter 12 (Achieving well-designed places): 131 and 135;
- Chapter 14 (Meeting the challenge of climate change, flooding and coastal change): 157, 165, 173 and 175;
- Chapter 15 (Conserving and enhancing the natural environment): 180 and 186; and

- Chapter 16 (Conserving and enhancing the historic environment): 203 and 208.

Wealden Emerging Local Plan

5.2.3 The Council is currently in the very early stages of producing a new Local Plan. A Regulation 18 consultation was originally anticipated to be held in 2022, however this did not take place. On 1st November 2023 the Council issued a Local Plan update which stated that:

'…we are today announcing our intention to consider our draft local plan at a special meeting of Full Council on 8 February 2024, with the formal Regulation 18 consultation to take place in the following weeks (exact dates to be confirmed).'

5.2.4 It is therefore clear that a new Local Plan will be not be forthcoming anytime soon. The emerging Local Plan is of no relevance to the determination of this Appeal at the current time.

Housing Land Supply and Housing Delivery

5.2.5 When the appeal scheme was determined, the Council's published Authority Monitoring Report showed a position equating to a supply of not more than 3.92 years as at 1st April 2022. The then Housing Delivery Test measurement for 2021, published on 14th January 2022, was 82%, requiring a 20% buffer to continue to be applied to their housing land supply requirements.

5.2.6 In December 2023, the Council updated its Five-Year Housing Land Supply Statement [**CD6.1**]. This shows there are 5,513 (net) dwellings on identified sites that the Council considers suitable and available now for the five-year period, which is some 1,687 (net) dwellings less than the 7,200 (net) dwellings required to be deliverable (inclusive of a 20% buffer). This equates to 3.83 years of housing land supply as of 1 April 2023, which is a slight reduction when compared to the 3.92 years supply as of 1 April 2022 that was previously reported.

5.2.7 The Appellant considers that the Council's Five-Year Housing Land Supply Statement is not a sound basis to assess the current supply position and that the supply can be more accurately estimated as equivalent to 3.19 years.

5.2.8 A consequence of the Council's inability to demonstrate a 5-year housing land supply is that paragraph 11(d) of the NPPF is engaged. This means that the policies most relevant to the determination of the appeal are deemed to be out of date and that planning permission should be granted unless the harm caused by the proposed development significantly and demonstrably outweighs the benefits.

<u>Affordable Housing</u>

5.2.9 The Council's latest assessment of needs prepared by Iceni Projects in August 2021 [**CD6.2**] states an annual need for social/affordable rented accommodation of 519

dpa. This equates to 43.25% of the current Standard Method Local Housing Need ("LHN") of 1,200 dpa, which is high.

5.2.10 In terms of delivery, the Council has only managed to deliver 218 dwellings in the last monitoring year 2022/2023 i.e., 42% of the total identified need for social/affordable rented accommodation, which is low. This equates to approximately 19% of net completions. The proportion (in percentage terms) of affordable housing dwellings has therefore dropped from the 2021/22 monitoring period where the delivery of affordable housing dwellings was at 26%.

5.2.11 The Iceni report also considers the need for Affordable Home Ownership and quantifies this at 348 dpa.

5.2.12 In total therefore the need for social/affordable rented accommodation and affordable home ownership equates to 867 dpa or 72% of the minimum LHN of 1,200 dpa, which is unsustainable.

5.2.13 It is clear that there is an acute need for affordable homes across the District.

Self-Build and Custom Housing

5.2.14 The Self-build Custom Housebuilding Act 2015 (as amended) makes provision for Local Authorities to maintain a register of people who are seeking to acquire a serviced plot for self-build or custom housing. In addition, the Council is required to grant planning permission for enough serviced plots to meet the demand in the District.

5.2.15 The latest update to the Council's Self-Build and Custom Housebuilding Register states that as of 2nd January 2024 there are 246 individuals enrolled on the self-build and custom housebuilding register.

5.2.16 As noted, three of the dwellings (5%) will be for self/custom build. The Council is currently not meeting the identified demand and this must be afforded weight in the balance of considerations.

6 Compliance with the Development Plan

6.1 Status of the Development Plan

6.1.1 In the context of paragraph 11 of the NPPF, which reiterates the presumption in favour of sustainable development and that plans should positively seek opportunities to meet the development needs of their area, the starting point for determining the appeal is whether the relevant policies of the current Development Plan are up to date.

6.1.2 In this case I consider that some policies of the Development Plan, in particular from the Local Plan 1998, are out-of-date.

6.1.3 Whilst the expiry of the plan period for the Local Plan 1998 does not automatically render the policies out-of-date, for the purposes of paragraph 11(d), there are policies within it which are not consistent with the Framework, specifically in terms of housing delivery.

6.1.4 In particular, I consider that 'saved' policies GD2 (Development within development boundaries) and DC17 (Housing development in the countryside) [**CD2.2**], which seek to restrain new development to land within the settlement boundaries, are out of date. I base this view on the following reasons:

(1) These policies are predicated on a development boundary that although technically part of the current adopted development plan was assigned over twenty years ago to cater for the housing needs at that time. The period for which the Local Plan sought to meet the District's housing needs ended in 2004;

(2) They seek to restrain new development to land within the settlement boundaries, which restricts the supply of housing and prevents local housing needs being met. They therefore conflict with the NPPF and in particular the Government's objective of significantly boosting the supply of homes;

(3) They conflict with the aims and objectives of the Council's 2013 Core Strategy Local Plan, which aims to guide development up to 2027; and

(4) The Core Strategy accepts that development boundaries contained within the Local Plan may have to be breached to deliver the housing strategy set out within the Core Strategy.

Five Ash Down, Cooper's Green

6.1.5 In considering the status of the Development Plan, it is important to draw attention to other recently allowed appeal sites in Wealden.

6.1.6 In July 2022 an appeal (PINS Ref: APP/C1435/W/21/3283533 – **Appendix 2**) was allowed and planning permission granted for the development of land for up to 35 residential dwellings at Land West of Five Ash Down Road (LPA Ref: WD/2020/1088/MAO, dated 2 June 2020). The site is within the countryside and outside a development boundary.

6.1.7 In that case as part of the planning balance exercise the Inspector concluded the following about the Council's Development Plan:

> 69. *This housing land supply shortfall is substantial, and I have not been made aware of any prospect of the situation improving. Indeed, as the Local Plan was adopted in February 2013 and an early review was recommended, this dated plan does not offer hope of an improving situation.*
>
> *70.* *The inadequate housing land supply situation shows that the housing strategy policies have not delivered sufficient housing. Consequently, there is a need to consider additional development even if contrary to the strategy.*
>
> *71.* *Whilst the occupiers of the proposal would have some reliance upon private car for some access to services and facilities, inadequate alternative housing land would be deliverable to offer wholly accessible locations. Accordingly, I give the conflict with the Development Plan limited weight in this regard.*
>
> *72.* *As I found earlier the proposal would lead to an adverse impact on the character and appearance of the area of between limited to very limited harm (depending upon the scheme approved at the reserved matters stage). In the absence of an up-to-date local plan and very deficient housing land supply, there is no clear likelihood of other sites coming forward which would have less impact. Accordingly, I give the conflict with the Development Plan very little weight in this regard.*
>
> *73.* *Taken as a whole I find that the proposal would be in conflict with the Development Plan but this would be of limited weight.*

Mornings Mill Farm, Lower Willingdon

6.1.8 An appeal decision in September 2022 in respect of Mornings Mill Farm granted outline planning permission for a mixed-use urban extension comprising up to 700 dwellings including affordable housing and 8,600 square metres of employment floorspace (PINS Ref: APP/C1435/W/22/3297419). A copy of the Appeal Decision is attached at **Appendix 3**.

6.1.9 As with the appeal site, the proposed development at Mornings Mill Farm was initially considered by WDC to be contrary to Local Plan policies DC17 and GD2. It was however accepted that in the absence of a five-year supply of deliverable housing land it was no longer defensible to restrict development to the boundaries that were tightly drawn in 1998 to meet the development needs up until 2004.

6.1.10 It was therefore concluded that having regard to the Council's poor record of housing delivery, Policies GD2 and DC17 are out of date and therefore given very limited weight in the determination of the Appeal. At paragraph 14 it was concluded that:

"The proposed development is outside of the development boundaries, but these were drawn to accommodate the level of housing required at the time the LP was

adopted, which is far below the level now required. If these policies continue to be strictly applied, they will inevitably prevent the delivery of much needed housing in the district, in conflict with the objectives of the National Planning Policy Framework (the Framework). This would be particularly troubling given the Council's poor record of housing delivery and current housing land supply of just 3.66 years at best. For all of these reasons, policies GD2 and DC17 are out of date. Whilst the proposal is in conflict with them, I attach the conflict only very limited weight."

6.1.11 It was consequently determined that, having regard to the provisions of the development plan and all material considerations, planning permission should clearly be granted. As a result, the Appeal was allowed on 28th September 2022. Full costs were also awarded against the Council.

Hindsland, Willingdon

6.1.12 On 11th October 2022, an appeal was allowed, and outline planning permission granted for the erection of 180no. dwellings and a new medical centre at the former Hindsland Playing Fields, Willingdon (PINS ref: APP/C1435/W/22/3293970). A copy of the Appeal Decision is attached at **Appendix 4**.

6.1.13 As with the appeal site, one of the Main Issues identified was whether the proposal is consistent with the development plan, and in particular Policies DC17 and GD2.

6.1.14 However, the Council agreed that these policies are out of date since they do not reflect the current housing needs of Wealden and are inconsistent with the Core Strategy.

6.1.15 The site is identified as a Strategic Development Area and although it does not benefit from a detailed allocation in the Site Allocation DPD, the Inspector found that, in planning terms, it could no longer be considered to be within the countryside.

6.1.16 For these reasons, the conflict with Policies DC17 and GD2 was afforded little weight and the Inspector concluded that the proposed development would accord with the Development Plan, taken as a whole.

Station Road, Hailsham

6.1.17 An appeal decision in September 2022 in respect of Land west of Station Road, Hailsham granted outline planning permission for the erection of up to 200 dwellings (PINS ref: APP/C1435/W/22/3296579 – **Appendix 5**). The site is located outside the settlement boundary and for the purposes of planning policy lies in the countryside.

6.1.18 In considering the status of the Development Plan, the Inspector concluded:

(50)'The Council's housing land supply position stands at not more than 3.66 years. As such, they are unable to demonstrate a five-year supply of deliverable housing sites. Therefore, in accordance with the Framework,

the policies which are the most important for determining the application are considered out of date.'

(52) 'The proposal would be outside an area which is the focus of future housing growth in the Local Plan. However, the effect of related policies GD2 and DC17 of the Local Plan would be to restrict housing development such as this which lies outside the settlement boundary. Given the Council's housing land supply shortfall, the need to remedy this may require the provision of other sites and locations not envisaged by those policies at that time. I therefore give conflict with these policies only limited weight.'

Local Plan 1998 Policies GD2 and DC17 and Housing Land Supply

6.1.19 Policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot show a robust five-year supply of housing land and cannot fulfil the requirements of the Government's Housing Delivery Test. As set out within my evidence on Housing Land Supply, provided in **Appendix 1**, the Council is not currently able to demonstrate a robust five-year housing land supply. This is common ground, however my evidence suggests a greater shortfall than that acknowledged by the Council.

6.1.20 The Officer's Report to Committee [**CD5.1**] confirmed that as the Council is not able to demonstrate a five-year supply of housing, the conflict with the development plan in respect of the site falling around 300 metres outside of the adopted development boundary is afforded substantially less weight in the planning balance. I am of the view that very limited should be given to these policies in the consideration of this appeal, given the significant age of these policies, that they have been in conflict with national policy for a long time, and that they were prepared against a substantially different planning framework and housing requirement. In any event, the issue of housing delivery is considered to be a very significant material consideration that outweighs the Policy conflict with development plan Policies GD2 and DC17 in terms of s38(6) of the Planning and Compulsory Purchase Act 2004.

Core Strategy Local Plan 2013

6.1.21 The Council seeks to claim in their reason for refusal that '*the delivery of housing on this site is contrary to the rural housing restraint policies within Saved Policies GD2 and DC17 of the Wealden Local Plan 1998 and WCS6 of the Wealden Core Strategy Local Plan'* [**CD4.1**]. This interpretation is in direct conflict with the following extracts from the Officer's Planning Committee report [**CD5.1**]:

'The development boundary for Uckfield has been retained as the town has been categorised as a District Centre within the Core Strategy Local Plan 2013. Paragraph 3.6 of the Core Strategy indicates that development boundaries may be moved where housing growth indicates that it will be required which would be undertaken as part of the Site Allocations DPD. This is formalised by Policy WCS6 which advises that retained or new development boundaries will be reviewed as part of the Delivery and Site Allocations DPD as appropriate. The adopted Core Strategy Local Plan 2013 clearly accepts that the development boundaries contained within the 1998 Local Plan will have to be breached to deliver the level of housing required and also clearly identifies Uckfield as a suitable location for

development. Indeed, policy WCS2 indicates a growth potential for Uckfield as significant allocating at least 1,000 new dwellings between 2006 and 2027. Policy WCS4 states that the strategic development areas are critical to the delivery of the overall strategy (at the time of writing only 950 dwellings per year).

The spatial strategy that underpinned the 2013 Core Strategy recognised the need to breach the 1998 settlement boundaries in order to deliver the housing and community needs of the town. Thus, the scheme's location outside the adopted settlement boundary would not be at odds with the spatial strategy in the development plan taken as a whole' (page 57).

6.1.22 The appeal proposal is considered to be in accordance with the following policies which the Council claims the appeal proposals are contrary to:

CS Policy WCS12

6.1.23 Reason for Refusal 5 [**CD4.1**] summarises that the proposal is in conflict with policy WCS12 [**CD2.2**], which seeks to ensure that habitats, biodiversity features and ecological networks are maintained, restored, enhanced and where possible created to achieve a net gain in biodiversity.

6.1.24 Amended plans were submitted prior to the Council determining the application which show proposed woodland creation/bat corridor linking existing woodland parcels either side of the development. As noted by the Council's Biodiversity Officer, the amended details alleviate concerns raised relating to impacts upon local ecological network, ecological connectivity and local bat populations/fragmentation of habitats [**CD8.2**].

6.1.25 As set out in the Officer's report to committee [**CD5.1**] '*the development would enable provision of an enriched connection between the currently isolated ANSW within the site and larger expanses of ANSW to the west which in turn would enhance habitat used by protected species. The proposed density would enable any reserved matters to enhance the retained existing planting around the site. The development would provide the opportunity for biodiversity gain'* (page 73).

6.1.26 Additional details were submitted with the appeal, in the form of a Biodiversity Net Gain Assessment, a Landscape Strategy Plan and Ecological Lighting Design Principles, demonstrating how the proposed development is acceptable in ecological and biodiversity terms, as justified within the respective Hearing Statements on Landscape and Ecological. The proposal is therefore entirely compliant with WCS12.

CS Policy WCS14

6.1.27 Policy WCS14 [**CD2.1**] reflects the NPPF's presumption in favour of sustainable development stating that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

6.1.28 In this case the Council concluded in their Officer's Committee report that '*the development would help to meet all three of the criteria of paragraph 8 of the Framework namely the social, economic and environmental objectives of*

sustainable development. Because the proposed development would meet, the three overarching objectives for sustainable development detailed within paragraph 8 of the NPPF the development proposals are considered sustainable by officers' [**CD5.1** – Page 81]. Consequently, the presumption in favour of sustainable development identified in paragraph 11 is engaged and given significant weight in the planning balance.

6.1.29 Having regard to the planning balance, the Officer held that '[the] *benefits are considered to significantly outweigh any harm to the character of the area or the location of the development*' [**CD5.1** – Page 82]. Therefore, it was recommended that the application is approved.

Saved Policy EN8

6.1.30 Policy EN8 [**CD2.2**] states that development within the Low Weald will only be permitted if it conserves the low rolling agricultural character of the landscape.

6.1.31 It is not disputed that the loss of the two fields would permanently change the character of the immediate area. However, the site is of a medium/low landscape sensitivity, located adjacent to the settlement edge, that is influenced by the existing urbanising elements and built form to the south, east and partly north. The site would not be prominent in longer terms views due to the topography of the site surroundings as well as exiting built from around parts of the site.

6.1.32 As stated in the Officer's Committee report *'the proposed quantum of growth would enable planting around the site boundaries to the north south and west that would in time mitigate the effects of the development in close and longer term views'* [**CD5.1** – Page 71].

6.1.33 Moreover, *'the development of the scale proposed could deliver a low key landscape dominated scheme that would be appropriate within the setting of Uckfield and would provide much needed residential development in the Low Weald that would be capable of conserving the landscape'* [**CD5.1** – Page 71].

6.1.34 Therefore, *'given the proposed boundary enhancements and the existing landscape character, the change is not considered materially harmful to a degree that would constitute a reason to refuse planning permission*' [**CD5.1** – Page 82].

6.1.35 In any event, whilst the development would change the current character of the site, the in-principle support offered by Paragraph 11 of the NPPF (due to the lack of 5 year land supply) is considered sufficient to outweigh any conflict with the aims of LP Policy EN8.

Saved Policy EN27

6.1.36 Reason for Refusal 5 [**CD4.1**] also refers to LP Policy EN27 (Design) [**CD2.2**], which seeks to attach great importance to good design in new development, whether within or outside the development boundaries.

6.1.37 This application is in outline form with all matters reserved other than access. Accordingly, the main design considerations are reserved for future consideration.

6.1.38 Nevertheless, the initial concept proposals have been informed by a study of local vernacular, consideration of the site's constraints and opportunities, and in accordance with pre-application advice, the National Design Guide and the Wealden Design Guide as well as planning policy at local and national levels.

6.1.39 As set out within the Design and Access Statement [**CD3.3**], the proposals include the creation of high-quality homes in keeping with the character of the existing surrounding context, taking inspiration from the built form of development in Uckfield. Provision of attractive open spaces and enhancement of existing habitats with significant additional planting will strengthen boundaries, deliver enhanced visual screening and improve the ecological value of the site.

6.1.40 It is therefore clear that the appeal scheme is fully capable of complying with the aims of Policy EN27, together with the Government's National Design Guide at the Reserved Matters stage.

Compliance with the Development Plan - Conclusion

6.1.41 The appeal proposal accords with all the relevant planning Policies in the adopted development plan with the exception of the LP Policies GD2 and DC17. However, it has clearly been demonstrated that these two policies, which seek to restrain new development to land within the settlement boundaries, would restrict the supply of housing and prevent local housing needs being met. They are therefore considered to conflict with national planning policy, are therefore out of date and should be given very limited weight in the consideration of this appeal.

6.1.42 With regard to breaching the development boundaries contained within the Local Plan to deliver the required level of housing, the Committee Report states that '*The adopted Core Strategy Local Plan 2013 clearly accepts that the development boundaries contained within the 1998 Local Plan will have to be breached to deliver the level of housing required and also clearly identifies Uckfield as a suitable location for development'* [**CD5.1** – Page 57].

6.1.43 Thus, it is concluded that '*the scheme's location outside the adopted settlement boundary would not be at odds with the spatial strategy in the development plan taken as a whole*.' [**CD5.1** – Page 57].

6.1.44 This, coupled with the fact that the Council's emerging Local Plan is currently on hold, further reinforces the need for the Council to look at sites outside of the settlement boundaries to meet their significant housing shortfall.

7 Response to the Main Issues

7.1 Introduction

7.1.1 The Council has resolved not to defend the appeal.. Nevertheless, given anticipated public interest in the appeal, on behalf of the appellants I set out my professional responses to the reasons for refusal as listed on the decision notice.

7.2 Reason 1

7.2.1 As set out within this Proof of Evidence, having regard to the effect of the development and in accordance with NPPF Paragraph 11(d)(ii), the adverse environmental impacts do not significantly and demonstrably outweigh its social and economic benefits when assessed against the policies in the NPPF as a whole.

7.2.2 Moreover, in weighing up the Planning Balance the Officer held that '[the] *benefits are considered to significantly outweigh any harm to the character of the area or the location of the development*' [**CD5.1** – Page 82].

7.2.3 I agree with the officer's stance, for reasons set out within this proof of evidence. For these reasons I say that there is no Town Planning justification for the first reason for refusal.

7.3 Reason 2

7.3.1 Reason for Refusal 2 [**CD4.1**] states that the developable area (when key layout features are taken into account) represents an inefficient use of land which is contrary to NPPF paragraphs 8(c) and 125(c)[2] [**CD1.1**]. Paragraph 8(c) outlines the environmental objectives for achieving sustainable development, which includes making effective use of land. Similarly, paragraph 125(c)[3] requires that developments avoid building homes at low densities and make optimal use of each site.

7.3.2 Notwithstanding this, NPPF paragraph 128 [**CD1.1**] requires that, in achieving appropriate densities, proposals must take into account factors including the desirability of maintaining an area's prevailing character and setting. The site lies within the Low Weald landscape character area whereby saved policy EN8 [**CD2.2**] seeks to preserve the rural landscape. Indeed, the Council have confirmed the importance of protecting the character of the area throughout the decision notice [**CD4.1**].

7.3.3 The layout as submitted has been conceived in accordance with the written advice of Officers, representing a gross density of approximately 16.6 dwellings per hectare. The Council acknowledges within the Officer's Report to Committee that '*the proposed density could enable a layout that would allow preservation of biodiversity providing suitable mitigation for existing wildlife and enhancements to habitat (including the enhancement of connectivity between parcels of ANSW in the vicinity of the site'*. [**CD5.1** – Page 71].Moreover, '*the proposed density*

[2] NPPF paragraph 129(c) (December 2023)
[3] NPPF paragraph 129(c) (December 2023)

would allow for any reserved matters to secure attractive groups of buildings with an attractive vernacular buildings suitable for the area' [**CD5.1** – Page 81].

7.3.4 In its reason for refusal, the Council have not considered that decisions should take into account factors including the desirability of maintaining an area's prevailing character and setting.

7.3.5 The Appeal Scheme therefore accords in full with the relevant requirements of the Development Plan and National policy in respect of the efficient use of land.

7.3.6 Therefore, the proposed development is not contrary to NPPF Paragraphs 8(c) and 125(c) and this reason for refusal has no Town Planning justification.

7.4 Reason 3

7.4.1 In Reason for Refusal 3 [**CD4.1**] Committee Members took the view that insufficient information has been submitted to demonstrate that the proposed development would not result in adverse impacts on protected species and that therefore it is contrary to paragraph 174(a)(b)(d)[4] [**CD1.1**]. In particular, Members suggest it is not clear how the area indicated for bat mitigation will be affected by lighting, nor how the loss of the land from a foraging perspective is adequately mitigated or compensated.

7.4.2 Amended plans were submitted prior to the Council determining the application which show proposed woodland creation/bat corridor linking existing woodland parcels either side of the development. As noted by the Council's Biodiversity Officer [**CD8.2**], the amended details alleviate concerns raised relating to impacts upon local ecological network, ecological connectivity and local bat populations/fragmentation of habitats.

7.4.3 The committee report confirms:

`*...the development would enable provision of an enriched connection between the currently isolated ASNW (ancient semi-natural woodland) within the site and larger expanses of ASNW to the west which in turn would enhance habitat used by protected species. The proposed density would enable any reserved matters to enhance the retained existing planting around the site. The development would provide the opportunity for biodiversity gain.*

The development of this site has the capacity to allow for ecological enhancements in line with the NPPF at paragraphs 20 and 174' [**CD5.1** – Page 73].

7.4.4 Additional information was submitted with the appeal to provide further assessment of the proposals subject to the planning application. This includes the submission of a Biodiversity Net Gain Assessment prepared by Aspect Ecology in September 2023. This demonstrates that the development will deliver a Biodiversity Net Gain equivalent to 0.98% in habitat units, and 68.85% in hedgerow units.

7.4.5 Further mitigation can be secured via a condition. For example, suggested Condition 27 of the committee report states that a Wildlife Management Plan with

[4] NPPF paragraph 180 (a)(b)(d) (December 2023)

detailed proposals for the protection of species and mitigation measures shall be submitted to and approved by the Local Planning Authority prior to commencement. Furthermore, Condition 29 requires details of external lighting, in accordance with the Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 Bats and Artificial Lighting in the UK.

7.4.6 A Shadow Habitats Regulation Assessment prepared by Aspect Ecology (September 2023) demonstrates that the development will not result in an adverse impact on the integrity of any European protected sites, in combination with other plans and projects.

7.4.7 Evidence on these matters has been provided by the Appellant's Ecology Witness (Dan Simpson).

7.4.8 Mr Simpson concludes:

- *I conclude that the proposals are fully compliant with relevant provisions of legislation and policy, including in particular NPPF paragraph 185, Core Strategy Policy WCS12 and Local Plan Saved Policies EN13 and EN15.*
- *there is no ecological impediment to the grant of planning permission, subject to the imposition of suitable planning conditions securing details of the relevant ecological mitigation and enhancement measures, including a Construction Environment Management Plan (CEMP), Landscape and Ecological Management Plan (LEMP) and sensitive lighting scheme.*
- *the proposed development would provide the opportunity for biodiversity gain. A Biodiversity Net Gain assessment has been carried out, which demonstrate that the appeal scheme will deliver measurable net gains in both area habitat and linear hedgerow units.*

7.4.9 Mr Simpson confirms that the appeal development can be undertaken using appropriate mitigation strategies to ensure that protected species are not harmed by the development. He adds that implementing the proposed mitigation strategies together with the enhancement proposals will provide additional opportunities for the biodiversity of the site to be expanded.

7.4.10 The Council's Biodiversity Officer has confirmed that they have no concerns relating to impacts upon local ecological networks, ecological connectivity and local bat populations/fragmentation of habitats [**CD8.2**].

7.4.11 The Appeal Scheme therefore accords in full with the relevant requirements of the Development Plan and National policy in respect of ecology matters.

7.4.12 Further to the refusal of the planning application, Mr Simpson has prepared Biodiversity Net Gain evidence which further demonstrates that there will not be harm to biodiversity which cannot be adequately mitigated, whilst opportunities have also been taken to improve biodiversity which have been integrated into the design. As such, the appeal proposals will enable a coherent ecological network of habitats and green infrastructure in accordance with NPPF Paragraph 174.

7.5 Reason 4

7.5.1 The Appellant's evidence, prepared by Mr Chris Jenkinson, explains why we say reason for refusal 4 is not a proper basis on which to withhold planning permission. I adopt Mr Jenkinson's conclusions for the purpose of my own planning assessment.

7.5.2 As I have previously confirmed, it is accepted that the loss of the two fields would permanently change the character of the immediate area. However, the site is not covered by any qualitative landscape designations at a national or local level, nor is it a "valued landscape" with reference to paragraph 174(a)[5] of the NPPF.

7.5.3 Reason for Refusal 4 [**CD4.1**] states that the loss of landscape hedge and vegetation would not add to the overall quality of the area, contrary to paragraph 130(a)[6] [**CD1.1**]. However, this was addressed in the Council's committee report [**CD5.1** – Page 81] as follows:

'It is noted that the loss of the two fields to the proposed development would permanently change the character of the immediate area but given the proposed boundary enhancements and the existing landscape character, the change is not considered materially harmful to a degree that would constitute a reason to refuse planning permission.'

7.5.4 Notwithstanding the above, as the issue of landscape and visual impacts has been deemed as a consideration in this case, evidence on these matters has been provided by the Appellant's Landscape Witness (Chris Jenkinson).

7.5.5 The Council have acknowledged that, in light of the proposed boundary enhancements and the existing landscape character, any potential adverse effects are not considered materially harmful to a degree that would constitute a reason to refuse planning permission.

7.5.6 Mr Jenkinson concludes:

- *In my professional opinion, the proposals can be integrated without significant harm to the character or appearance of the landscape or settlement edge. The proposals will not cause an unacceptable level of visual intrusion beyond the boundaries of the Appeal Site and will conserve and enhance the key landscape features of the LCA.*

7.5.7 The Appeal Scheme will not therefore give rise to any unacceptable harm in landscape terms. Given the above, it is my position that the fourth reason for refusal cannot be successfully defended. The Appeal Scheme therefore accords in full with the requirements of NPPF Paragraph 135(a).

7.6 Reason 5

7.6.1 According to Reason for Refusal 5 [**CD4.1**] '*unsustainable rural housing is resisted under the NPPF and as such the rural restraint policies can be afforded some weight'*. Notwithstanding this, it is stated by the Council that the harms are

[5] NPPF paragraph 180 (a)(b)(d) (December 2023)
[6] NPPF Paragraph 135 (a) (December 2023)

considered to significantly and demonstrably outweigh the benefits, such that even if the presumption in favour of sustainable development is applied, the proposal is in conflict with the NPPF.

7.6.2 The appeal site sits adjacent to existing urban areas, benefitting from proximity to a wide range of services and good levels of public transport accessibility, and walking and cycling opportunities. The appeal site is clearly in a sustainable location. Moreover, the Council has confirmed that the development would meet all three of the overarching objectives for sustainable development detailed within paragraph 8 of the NPPF. Consequently, the presumption in favour of sustainable development identified in Paragraph 11 is engaged and given significant weight in the planning balance.

7.6.3 The appeal site adjoins the built confines of Uckfield and is close to the settlements of Ringles Cross, Coopers Green, Maresfield and Five Ash Down. Table 1 of the Core Strategy classifies Uckfield as a 'District Centre', which is in the highest tier of the settlement hierarchy in terms of settlements within Wealden, and not reliant on other centres within the District to meet day to day needs. It provides a broad range of services and facilities that are within walking distance including a secondary and further education, healthcare, primary school, pre-school, employment and other local services. The site benefits from conveniently located bus services on London Road with regular services to other nearby settlements, whilst Uckfield itself also has a main line railway station.

7.6.4 The Council have concluded in their Officer's Report to Committee [**CD5.1**] that *'the location of the site would broadly accord with the strategy of the development plan, insofar as it can be argued the location has access to public services and public transport and would not adversely affect neighbouring property or visual amenity and is considered to be a sustainable location' (page 81).*

7.6.5 Uckfield, and the appeal site itself, are therefore considered to be highly sustainable locations for growth.

7.6.6 As set out within this Hearing Statement, there is an absence of any adverse impacts which would significantly and demonstrably outweigh the benefits of the proposed scheme.

7.6.7 For these reasons I say that there is no Town Planning justification for the fifth reason for refusal.

8 Response to the Other Issues

8.1 Introduction

8.1.1 Within **Appendix 6** I provide a table which gives a brief summary of the statutory and non-statutory consultation responses to the application. As can be seen, with the exception of Buxted Parish Council, Uckfield Town Council and the Local Ward Members, all Statutory Consultees are content with the Appeal Scheme.

8.1.2 Nevertheless, third parties including the MRSG do continue to raise other issues and I address these in turn within this section.

Suitable Location for Housing

8.1.3 The appeal scheme does not impact on any of the specific polices/designations listed in the Framework, paragraph 11, footnote 7, including:

- SSSI;
- Habitat Sites;
- Green Belt;
- Area of Outstanding Natural Beauty;
- National Park;
- Heritage Coast;
- Irreplaceable habitats;
- Areas at risk of flooding or coastal change; or
- Designated heritage assets.

8.1.4 By reference to the Agricultural Land Classification Maps available on the Natural England website, the appeal site is not considered to comprise Best and Most Versatile Agricultural Land (BMVAL). The site is not, therefore, afforded the level of protection in planning policy terms afforded to BMVAL. In any event, the Officer's Committee report [**CD5.1**] states that '*it is not considered that the loss of the agricultural land at this site would constitute a reason to recommend the withholding of any planning permission'* (page 75).

8.1.5 The locational benefits of the Appeal Site can be summarised as:

- Located close to the settlement edge with public transport availability and active travel options;
- Not a designated landscape;
- Not within or adjacent to a Conservation Area; and

- Not within a 'valued landscape';
- No physical attributes which result in a soils objection;
- No physical attributes which result in an ecology objection;
- The absence of physical attributes which results in a hydrology objection; and
- No physical attributes which result in an arboricultural objection.

8.1.6 Whilst the site sits a distance from the defined settlement boundary (the relevance of which I discuss below), the site is surrounded by existing built development on its southern, eastern and northern boundaries, and therefore falls within a built-up area.

Traffic Impact, Access and Highway Safety

8.1.7 The access proposals for this site have been prepared through a process of extensive consultation with the County Highway Authority to ensure all matters relating to access, traffic impact and highway safety have been thoroughly addressed in accordance with the requirements of Paragraph 114 of the Framework.

8.1.8 ESCC Highways provided a comprehensive and detailed response and assessment of the proposals in a series of consultation responses [**CD7.2**]. As the Officer's Report states, ESCC have confirmed that they had no objection to the proposals subject to their suggested conditions and the completion of a legal agreement.

8.1.9 Notwithstanding the above, a Highways Proof of Evidence has been prepared by the Appellant's Transport Witness (Simon Moon).

8.1.10 Mr Moon concludes that:

- the Proposed Development will not lead to 'unacceptable' or 'severe' impacts on the local highway network, as defined by the National Planning Policy Framework, and should proceed without delay.

8.1.11 The Appeal Scheme therefore accords in full with the relevant requirements of the Development Plan and National policy in respect of highways matters.

Flood Risk and Drainage

8.1.12 Southern Water, the LLFA and the Council's Drainage Engineer provided comments on flood risk and the proposed surface water drainage strategy.

8.1.13 Southern Water confirmed that they had no objection in their response dated 27th May 2022 [**CD9.3**].

8.1.14 The Lead Local Flood Authority confirmed that they had no objection subject to the inclusion of the conditions recommended in their response dated 23rd May 2022 [**CD9.2**].

8.1.15 The Council's Drainage Officer has confirmed that they have no objection to the scheme subject to the conditions set out in their response dated 16th May 2022 [**CD9.1**].

8.1.16 The proposal was therefore considered capable of managing flood risk and drainage effectively, subject to conditions. No further evidence in this regard is considered necessary.

Impact on heritage assets

8.1.17 A Heritage Statement was prepared by Savills and was submitted with the planning application. It followed a scope of establishing baseline heritage assets, above and below ground, including designated and non-designated heritage assets.

8.1.18 The Heritage Statement concludes that there are no known heritage assets on the site and it is not considered that any Listed Buildings in the area, including Budletts House, will be affected by the proposed development.

8.1.19 Moreover, the Council's Conservation Officer confirmed within a consultation response dated 31 May 2022 that they had no particular observations to make from a heritage perspective.

8.1.20 Savills suggested that any archaeological fieldwork mitigation considered necessary could be carried out under the terms of a suitably worded archaeological planning condition set out under the granting of planning permission. This has been proposed through conditions 3 and 4.

8.1.21 The MRSG Statement of Case suggests that evidence will be presented to demonstrate that the appeal site forms part of an historic medieval landscapes. The MRSG Statement of Case also lists a number of buildings within proximity of the site, which it considers to comprise heritage assets. None of these are considered by Savills to comprise heritage assets and the MRSG provide no justification as to why they disagree.

8.1.22 Nevertheless, the MRSG statement does not provide any indication that they consider that the appeal scheme actually leads to any harm to the buildings they list as heritage assets. Accordingly, we offer no further heritage evidence at this stage but we reserve our right to respond within a rebuttal statement within the agreed timetable.

8.1.23 Accordingly, it is considered that the proposals do not lead to any harm from a heritage perspective, and therefore there are no sound conservation or heritage reasons to oppose the proposals.

The impact on Mockbeggars Farmhouse and Smallholding

8.1.24 Within the MRSG Statement of Case, it is alleged that neither WDC nor the appellant have undertaken onsite assessments or consultations with the owner and resident of Mockbeggars Farm Smallholding.

8.1.25 The Appellants have entered into a Promotional Agreement with The Russell Family, who own the appeal site and the Mockbeggars Farm smallholding. This Promotional Agreement requires the appellant to promote the appeal site for

residential development. There is a separate dwelling to the north of the smallholding which is also known as Mockbeggars Farm, however this is owned by a third party.

8.1.26 Nevertheless, through the preparation of the necessary supporting documents to accompany the planning application, the Appellant undertook the necessary surveys to give consideration to impact on the residential amenity of all existing properties in the surroundings, including Mockbeggars Farm itself. This included professional consideration of flooding and drainage matters.

8.1.27 It is clear that the proposals will not harm the residential amenity of Mockbeggars Farm, and that the owner of the smallholding is entirely satisfied with the prospect of a residential development taking place on the appeal site by virtue of having entered into a legal agreement with the appellants.

9 The Planning Balance

9.1.1 It is common ground that the LPA cannot demonstrate a five-year housing land supply and as such policies for the supply of housing are agreed to be out of date. Indeed, whilst the Council accepts this position, as demonstrated within my evidence at **Appendix 1,** I consider the true shortfall to be more significant. The failure needs to be understood in the context of a persistent failure to deliver the required amount of housing over a significant period of time.

9.1.2 Given the lack of five-year housing land supply and the out of date polices, paragraph 11(d) of the Framework (2023) is relevant and the appeal should be allowed, unless:

> *i. the application of policies in the 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 the Framework taken as a whole.*

Benefits of Proposed Scheme

9.1.3 As set out below, the proposed development will deliver a significant number of economic, social and environmental benefits. In this case, the benefits are weighed according to the following scale:

- Very substantial weight
- Substantial weight
- Moderate weight
- Limited weight
- No weight

Residential Development

9.1.4 The application will deliver 39 market homes, indicatively comprising the following mix of units:

Number of Bedrooms	Percentage	No. of Dwellings
2	31	12
3	41	16
4	15	6
5	13	5
Total	**100%**	**39**

Table 7.1: Market homes mix

9.1.5 Therefore, the provision of market housing is a benefit that I attach very substantial weight.

Affordable Housing

9.1.6 The Council's latest assessment of needs prepared by Iceni Projects in August 2021 [**CD6.2**] states an annual need for social/affordable rented accommodation of 519 dpa. This equates to 43.25% of the current Standard Method Local Housing Need ("LHN") of 1,200 dpa, which is high.

9.1.7 In terms of delivery, the Council has only managed to deliver 218 dwellings in the last monitoring year 2022/2023 i.e., 42% of the need for social/affordable rented accommodation, which is low.

9.1.8 The Iceni report also considers the need for Affordable Home Ownership and quantifies this at 348 dpa.

9.1.9 In total therefore the need for social/affordable rented accommodation and affordable home ownership equates to 867 dpa or 72% of the minimum LHN of 1,200 dpa, which is unsustainable.

9.1.10 It is clear that there is an acute need for affordable homes across the District.

9.1.11 The proposed scheme proposes 21 affordable units (35%) which is compliant with Policy AFH1 of the Affordable Housing Delivery Local Plan (AHDLP). Of these, 12 are proposed to be 2-bedroom houses, eight are proposed for 3-bedroom houses, and one is proposed for a 4-bedroom house, however this mix is provided for indicative purposes only.

9.1.12 As acknowledged in the Officer's Committee report, '*the proposal would assist in the provision of housing and meet the need for affordable housing. This is a highly significant material consideration and carries substantial weight in the context of the NPPF*' [**CD5.1** – Page 85].

9.1.13 Therefore, the provision of affordable housing in this case is a benefit that I attach very substantial weight to in the Planning Balance.

Self and Custom Build

9.1.14 In accordance with the Self-build and Custom Housebuilding Act 2015 (as amended), three of the dwellings (5%) will be for self-build/custom housing, meeting an existing demand for such accommodation on the Council's self-build register and helping the Council fulfil its statutory duties in this respect.

9.1.15 The provision of self/custom build units is a benefit that I also attach substantial weight to in the Planning Balance.

Economic Benefits

9.1.16 The development would have a short term positive economic impact due to the employment opportunities which would be created with its construction including supply of materials and skilled labour. The development of this scheme has the potential to draw upon local labour.

9.1.17 Additional spending is also likely to occur in the local area as construction contractors and workers purchase goods and services from local providers over the construction period. The provision of additional housing will also result in the increased use of local shops and services, which in turn will support indirect jobs in the supply chain.

9.1.18 Household expenditure generated by future residents will also help to support economic activity locally, including businesses providing household goods and services, transport service providers and the leisure industry. Increased household expenditure will flow to the retail and food and accommodation businesses present in the locality, helping to sustain the jobs and services which these facilities provide into the future. Household expenditure will also be captured by businesses further afield.

9.1.19 The new dwellings will also contribute to the public purse in respect of Council Tax and the New Homes Bonus. The scheme will also be capable of contributing to local services and infrastructure. Formal requests have been made for the completion of a Section 106 Agreement to secure:

(1) 35% affordable housing provision to include first homes.

(2) 5% serviced plots for custom and self-build units.

(3) A financial contribution towards SANGS and SAMMS.

(4) A financial contribution toward off-site youth and adult recreation space in Uckfield in accordance with the requirements of the Council's current evidence base (at the time of writing this is draft SPG Outdoor Playing Space and saved policies LR1, LR3 and LR5 of the Wealden Local Plan).

(5) Onsite open space and play space to be retained in perpetuity.

(6) Highways works to include:

(i) Site access and grading;

(ii) Crossing point with refuge;

(iii) Footway on east side of London Road; Southbound bus stop and infrastructure (cage, shelter, seating, RTPI, raised kerb);

(iv) Footway widening to minimum of 1.5m between proposed crossing and Paygate/1 Ringles Cottage;

(v) Footway enhancement Ringles Cross to Snatts Road and double yellow lines (TRO);

(vi) Snatts Road junction realignment;

(vii) Layby to accommodate current on-street parking for 4 spaces;

(viii) Northbound bus stop with infrastructure layby/parking (cage, shelter, seating, RTPI, raised kerb).

9.1.20 I therefore give the economic benefits substantial weight in the planning balance.

Public Open Space

9.1.21 The Framework recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

9.1.22 As confirmed in the Officer's Committee report [**CD5.1** – page 71], the submitted (indicative) layout shows sufficient open space in accordance with WDC's minimum requirements for youth and adult play space and casual informal children's play space.

9.1.23 The development of the site therefore presents opportunities to increase the level and quality of publicly accessible open space, and addresses some of the requirements and identified deficits in recreation and open space provision through the provision of additional play facilities.

9.1.24 I therefore give this element of the appeal scheme moderate weight in the planning balance.

Sustainable Construction

9.1.25 The residential proposals are in outline form and a suitable design can be advanced that respects the context of the site and take account of the efficient use of energy. Indeed, a detailed Energy Statement was submitted as part of the planning submission, which concluded that the proposed dwellings would surpass Part L building regulations, going an estimated 20% beyond the minimum requirement across the site. The development will also exceed the water use requirement of Part G. I give this element of the appeal scheme moderate weight in the planning balance.

Biodiversity Net Gain

9.1.26 As Mr Simpson demonstrates in his evidence, the appeal proposal results in a Biodiversity Net Gain (BNG). The appellant focused on delivering woodland enhancements to provide valuable new foraging habitat for bats, linking Round Wood to the south-east with Paygate Wood to the west, noting that woodland does not score particularly well within the DEFRA Metric for calculating BNG. As such, whilst the scheme delivers a net gain in habitat units of 1%, it achieves over 60% net gain in hedgerow units. Additionally, WDC has no policy requirement to deliver a BNG and the statutory requirement, even once enacted, does not apply to the application because it was made prior to the legislation coming into force. The hedgerow and woodland planting and associated improved connectivity between ancient woodlands and priority habitat woodland adds beneficial weight to the scheme. Therefore, I consider that the combination of BNG and other tangible ecological enhancements deliver benefits of moderate weight.

Conclusion

9.1.27 It has been clearly demonstrated that there are significant benefits of the proposed scheme, which as part of the tilted balance, weigh heavily in support of the appeal.

9.1.28 The proposal contributes to a number of the core objectives of the development plan and will provide a number of significant benefits, including:

Sustainable development objective	Benefit of the proposals
Economic benefits	• Provision of short term jobs in association with developing the site, including use of local materials; • Provision of financial contributions in the form of CIL and Section 106; • Additional expenditure in the local area from future residents; and • Additional income through the New Homes Bonus and in Council Tax payments to WDC.
Social benefits	• Boosting the Council's supply of housing by 60 homes; • Providing a policy compliant level of affordable housing and self/ custom-build plots; • Provision of an attractive new development; and • Provision of open space – including food growing areas and children play space.
Environmental benefits	• Re-use of currently under-utilised land; • The provision of a sustainable drainage system and renewable energy, equating to a 20% improvement over part L requirements; • Site is in a sustainable location; • Provision of ecological enhancements as recommended in the environmental reports, which will achieve net gains to biodiversity; and • Significant new and enhanced landscaping across the site.

Table 4.5: Benefits of Appeal Scheme

Harm

9.1.29 Whilst the appeal scheme was recommended for approval by Officers, it was turned down by Members at Committee with the following concerns being raised:

(1) Proposal not seen as a sustainable form of development;

(2) The developable area (when key layout features are taken into account) represents an inefficient use of land;

(3) Insufficient information has been submitted to demonstrate that the development would not result in adverse impacts on protected species;

(4) Loss of landscape hedge and vegetation in order to provide necessary access would not add to the overall quality of the area;

(5) The harm from this development would significantly and demonstrably outweigh the benefits such that even if the presumption in paragraph 11 is applied, the proposal would be in conflict with the NPPF.

9.1.30 Whilst the Council has now withdrawn from the appeal and does not seek to defend its reasons for refusal, it remains appropriate to weigh up any harm arising from the putative reasons for refusal originally applied by the planning committee. Nevertheless, I do not consider that these reasons relate to any actual harm and therefore within table 4.7 below I apply appropriate weighting only to areas of genuine harm, based on my professional judgement and that of my fellow witnesses.

Balance

9.1.31 Having regard to all of the matters outlined above, it is my view that the benefits of the proposal are genuine and tangible and directly respond to the core objectives of the adopted development plan, namely the provision of market and affordable housing.

9.1.32 Whilst the appeal site is outside the development boundary for Uckfield, where development is generally resisted in accordance with saved policies GD2 and DC17 [**CD2.2**], these policies were based on the development required up until 2004. Having regard to paragraph 11 and footnote 8 of the Framework, Policies GD2 and DC17 are considered "out of date" in the context of the 2013 Core Strategy Local Plan. We also acknowledge there is limited harm to local landscape character.

9.1.33 As stated in the Officer's Committee report "[the] *benefits are considered to significantly outweigh any harm to the character of the area or the location of the development*" [CD5.1 – Page 82].

9.1.34 Accordingly, there is limited real world harm and there are material considerations that would justify a departure from those out-of-date policies.

9.1.35 The considerations summarised in Table 4.6 weigh in favour of the appeal.

	Consideration	Weight to be attached
1.	Delivery of 60 new homes	Very Substantial
2.	Delivery of 35% policy-compliant affordable housing	Very Substantial
3	Self/Custom build provision	Substantial
4.	Economic benefits including job creation and S106 contributions	Substantial
5.	Sustainable construction	Moderate
6	Public Open Space	Moderate
7.	Biodiversity Net Gain	Moderate

Table 4.6: Summary of positive factors / benefits

9.1.36 The considerations summarised in Table 4.7 weigh against the appeal.

	Consideration	Weight to be attached
1.	Outside development boundary for Uckfield	Very Limited
2.	Effects on local landscape character	Limited

Table 4.7: Summary of negative considerations

9.1.37 It can be concluded that there is limited adverse impact, with any negligible adverse impacts capable of being mitigated as part of a comprehensive proposal. Critically, the proposal would not significantly and demonstrably outweigh the benefits, which is the test applied via the presumption in favour of sustainable development.

9.1.38 This being the case, my evidence is that the appeal proposal does accord with the development plan as per the requirements of S38(6) of the Planning and Compulsory Purchase Act 2004. Additionally, it has been demonstrated that there are material considerations that justify a departure from the out-of-date policies where there is conflict.

9.1.39 Indeed, I consider that the benefits of the proposal are so compelling that regardless of whether a "tilted" or "traditional" planning balance is applied the development is acceptable. Simply put, there are no harms which significantly and demonstrably outweigh the benefits of the proposal.

9.1.40 The Council's slow progress with its Local Plan, and poor performance in terms of its five-year supply and Housing Delivery Test position make it necessary for this site to be released. It is for that reason that I am asking the Inspector to assist the Council by allowing this appeal.

10 Conclusion

10.1.1 At the heart of the Government's Planning Agenda is a desire to significantly increase the provision of housing through the delivery of sustainable development. The appeal proposal represents an excellent scheme which will deliver a sustainable development and will make a very significant contribution to the Council's five-year housing land supply, in particular.

10.1.2 Within this statement I have demonstrated:

(1) 'Saved' Local Plan Policies GD2 and DC17 are out of date;

(2) The Council cannot demonstrate a five-year housing supply, and the shortfall is more significant than the Council's published position;

(3) The proposal would make a significant housing contribution of 60 dwellings; of which 35% will be provided as affordable homes in a district where there is demonstrable need for such provision;

(4) The proposed development fully accords with the principles of sustainable development as set out in national policy and the site sits within a suitable, appropriate and accessible location for new development;

(5) The layout has been formulated to respect the surroundings and to minimise impact on the wider landscape, ecological, and arboricultural constraints;

(6) The proposed development will bring significant economic and social benefits and adverse environmental effects can be mitigated;

(7) The site sits amongst existing built form, and whilst the loss of the existing fields to development will have an impact on the immediate landscape character, the change is restricted to the site only and reduces within the immediate setting and furthermore in the wider setting; and

(8) The Appellant will secure the necessary obligations and other measures to mitigate any impact of development.

10.1.3 Having regard to all of these matters, it is clear that there is an absence of any adverse impacts which could be considered to demonstrably outweigh the benefits. I therefore respectfully request that the appeal be allowed and outline planning permission be granted subject to the completion of a S106 legal agreement and suitably worded conditions.