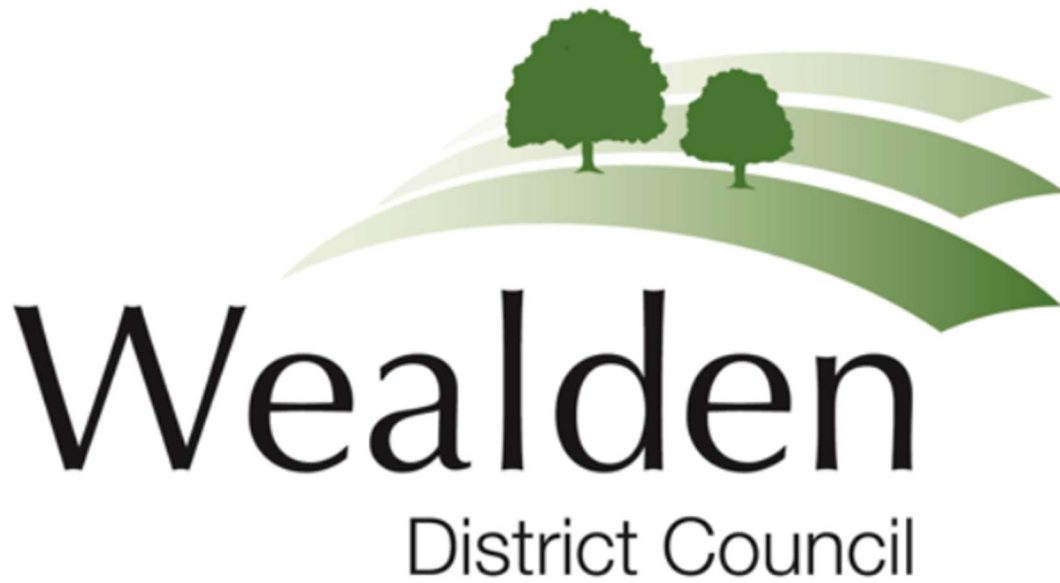




Town and Country Planning Act 1990

Appeal by Croudace Homes Ltd c/o Woolf Bond Planning LLP

Land at Bird in Eye Farm, South of Bird in Eye Hill, Framfield, TN22 5HA

Wealden District Council Ref:

WD/2024/1799/MAO

Appeal Ref:

APP/C1435/W/24/3356658

PLANNING PROOF OF EVIDENCE

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1 Introduction

- 1.1 My name is Declan Redman. I hold a Master's degree in Urban and Regional Planning and I am a Licentiate Member of the Royal Town Planning Institute (RTPI). I have over eight years of experience at Wealden District Council, working across both the Planning Enforcement and Development Management departments. I currently serve as the Assistant Team Leader in the Major and Strategic Sites team, where I oversee complex planning applications and strategic developments.
- 1.2 The evidence which I have prepared and provided within this proof is true and given in accordance with the RTPI Code of Conduct. I confirm that the opinions expressed are my true and professional opinions.
- 1.3 This appeal concerns an application for outline planning permission, with all matters reserved except access, for the construction of up to 190 dwellings, associated works, parking, landscaping, publicly accessible open space and the provision of a Suitable Alternative Natural Greenspace (SANG) at Land at Bird in Eye Farm, South of Bird in Eye Hill, Framfield, TN22 5HA.
- 1.4 The appeal arises from the Council's non-determination of the application. The Council was minded to decline to determine under Section 70A of the Town and Country Planning Act 1990, due to the recent dismissal of a similar application at the site. Had the Council determined the application, it would have refused planning permission.
- 1.5 My Proof of Evidence sets out the planning matters relevant to the appeal and explains why planning permission should be refused. It should be read alongside the Council's Statement of Case and the Heritage Proof of Evidence submitted by the Council's specialist witness.
- 1.6 My evidence is structured as follows:

- Section 2 – Recent Planning History and the Current Application/Appeal Scheme
- Section 3 – Site and Surroundings
- Section 4 – Planning Policy Overview
- Section 5 – The Council's Case
- Section 6 – Planning Balance and Conclusion

2 Recent Planning History and the Current Application/Appeal Scheme

- 2.1 The Appellant submitted an application for outline planning permission for up to 290 homes and a strategic SANG at the appeal site in September 2021 (application reference WD/2021/2198/MAO). Following the Council's non-determination of the application, the Appellant lodged an appeal, which proceeded to an Inquiry in September 2023. The appeal was subsequently dismissed in October 2023 under reference APP/C1435/W/22/3307820 (**CD14.3**).
- 2.2 The Inspector dismissed the appeal on the grounds that the proposed development would result in harm to ancient woodland, highway safety, flood risk, and heritage. The Inspector previously found that the development would cause less than substantial harm to the significance of the designated heritage asset (the Grade II listed oasthouse) and concluded that the public benefits of the scheme (including heritage benefits) – even when given substantial weight – did not outweigh the heritage harm.
- 2.3 The Inspector found that the harm to heritage was individually significant and that this harm engaged policies within the National Planning Policy Framework (NPPF) that protect areas or assets of particular importance and provided a clear reason for refusing the proposed development.
- 2.4 In relation to the current appeal, the Council is satisfied that the revised scheme satisfactorily addresses the previously identified impacts on ancient woodland, highway safety (now resolved following a Wheatcroft application and agreement with the Highway Authority), and flood risk. However, the proposal fails to sufficiently reduce the harm identified to the listed oasthouse. The public benefits of the scheme do not outweigh this harm, and a clear reason for refusing planning permission therefore remains.

- 2.5 The application which is the subject of this appeal was submitted on 2 August 2024, following pre-application discussions with the Council in May 2024. The application was not validated. At that time, the Council was actively considering whether to exercise its powers under Section 70A of the Town and Country Planning Act 1990 to decline to determine the application. Before a formal decision was issued, the applicant lodged an appeal on 3 December 2024. The appeal has therefore proceeded on the grounds of non-determination.
- 2.6 Initially, the Council identified two putative reasons for refusal: the first relating to highway safety, and the second to the impact of the development on heritage assets. The first putative reason for refusal, concerning highway safety, is set out in full below:

“The Appellant has not demonstrated that its proposal can be accessed safely, in particular:

Putative Reason for Refusal 1(a):

The proposed extension of the 30mph limit from the foot of Bird in Eye Hill eastwards to the entrance to Lantern House is contrary to policy for setting local speed limits (PS5-02 Local Speed Limits and 20mph Zones) based on the local characteristics of this part of B2102 Bird in Eye Hill and the existing vehicle speeds, and would not be supported or promoted by ESCC on the grounds that it could not be safely implemented and be self-enforcing.

Putative Reason for Refusal 1(b):

The proposed roundabout means of vehicular access from B2102 has been designed to comply with standards applicable to a major road with speeds consistent with a 30mph speed limit. Even so, the design is not fully compliant and has not been demonstrated as being safe for all road users (including cyclists). Further, the design has not been demonstrated to be compliant or acceptable at higher main road speed limits and traffic speeds.

Putative Reason for Refusal 1(c):

Sufficient details have not been provided to demonstrate that the proposed roundabout is capable of safely providing for all users during hours of darkness. ESCC consider that lighting of the proposed new roundabout is required as it is a significant junction on a rural road. An unlit roundabout may have implications for highway safety regardless of the speed limit and may need to be a part of a more comprehensive lighting scheme for Bird in Eye Hill. It is unclear whether such a lighting scheme can be delivered within the available highway land.

As the Appellant has not demonstrated that its appeal proposals can be accessed safely, the proposal would conflict with Policies TR3 of the 1998 Local Plan and Spatial Planning Objective SPO12 of the Core Strategy which requires that new development does not create unacceptable traffic conditions, and provides a satisfactory means of access. The proposals also conflict with the relevant provisions in the Framework in that it has not been demonstrated that the proposal would provide safe and suitable access for all users (para 115(b)); that any significant impacts on highway safety can be cost effectively mitigated to an acceptable degree (para 115(d); and that there would not be an unacceptable impact on highway safety (para.116)."

- 2.7 Prior to submitting the application, and subsequently lodging the appeal, the Appellant did not engage in any formal pre-application discussions with the Highway Authority in respect of the proposed access arrangements.
- 2.8 Formal engagement with the Highway Authority only began during the appeal process, following the first Case Management Conference (CMC) held on 11 February 2025. At that stage, the Inspector noted that it was unclear what the final proposed access arrangements entailed, as a Road Safety Audit had only recently been submitted and the Highway Authority had raised several objections that had not yet been addressed.

- 2.9 The Inspector ruled that the Inquiry be adjourned to allow time for the Appellant and the Highway Authority to either agree a revised access scheme that would remove highway safety as a main issue in the appeal, or at the very least narrow the areas of disagreement.
- 2.10 Over the course of nearly three months – between the first CMC and the submission of a revised access scheme via a Wheatcroft application on 9 May 2025 – the Appellant undertook extensive discussions with the Highway Authority. These included numerous meetings and iterative revisions of the proposed access arrangements. In total, the access design underwent nine revisions, with the final version submitted as Revision J.
- 2.11 Following this process, a Highways Statement of Common Ground (SoCG) (**CD4.2**) was agreed between the Appellant and the Highway Authority, confirming that the revised access scheme was acceptable. As a result, the Council is no longer pursuing Putative Reason for Refusal 1 relating to highway safety. Therefore, highway safety is no longer a contested issue at this appeal.
- 2.12 The Council undertook formal re-consultation on the Wheatcroft proposals on 12 May 2025. This included notifications to relevant statutory and non-statutory consultees, as well as the display of public notices on and near the site.
- 2.13 As I have indicated above, the Council maintains Putative Reason for Refusal 2 which concerns heritage impact.

3 Site and Surroundings

- 3.1 The appeal site is situated on the southern side of the B2102, between Uckfield to the west and Framfield to the east. It extends to approximately 20 hectares and comprises a series of paddocks and fields, surrounding the Bird in Eye Farm complex. This complex includes farm buildings, business units, stables, a manège and a residential dwelling. Notably, it also contains a Grade II listed oasthouse (List Entry Name: Oasthouse to the North West of Bird in Eye Farmhouse; List Entry Number: 1028381).
- 3.2 The site exhibits a general downward slope from northeast to southwest. Its southern and part of its western boundary adjoin Bird in Eye Shaw, an Ancient Woodland. The northern boundary is defined by the B2102, alongside neighbouring properties, while Hailwell Farm and open agricultural fields lie to the east, with the village of Framfield beyond. To the south, the site is bordered by parcels of Ancient Woodland, extending into agricultural fields. The western boundary is delineated by a tributary of the river Uck, beyond which lie Uckfield Hospital and residential development on the opposite side of the valley.
- 3.3 Due to the presence of the tributary, part of the western portion of the site lies within Flood Zones 2 and 3.
- 3.4 A more detailed description of the appeal site and its surrounding context is provided in Section 2.0 of the Planning SoCG (**CD4.1**).

4 Planning Policy Overview

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 mandates that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 4.2 The relevant development plan documents for the determination of this appeal comprise the Wealden Local Plan 1998 ('the Local Plan') (**CD6.2**), the Wealden Core Strategy Local Plan 2013 ('the Core Strategy') (**CD6.1**) and the Affordable Housing Delivery Local Plan 2016 (**CD6.3**).

Wealden Local Plan 1998

- 4.3 The Local Plan was adopted in December 1998, with a number of its policies formally saved in September 2007 through the approval of the Secretary of State under Paragraph 1(3) of Schedule 8 of the Planning and Compulsory Purchase Act 2004. These policies continue to form a key part of the statutory development plan for the district and are material to the determination of this appeal.
- 4.4 The following saved policies are of relevance:
- **GD2 – Development Outside Development Boundaries:** Resists development outside defined settlement boundaries unless expressly permitted by specific policies of the Local Plan.
 - **EN1 – Sustainable Development:** Requires the Council to pursue sustainable development in accordance with national guidance, taking into account location, environmental impacts and accessibility.
 - **EN2 – Development Pattern:** Aims to preserve settlement patterns and ensure that major developments generating significant traffic movements are sustainably located in relation to existing settlements and public transport links.

- **EN7 – Ashdown Forest:** Seeks to conserve the landscape and historic character of the Ashdown Forest.
- **EN8 – Low Weald:** Seeks to conserve the low rolling agricultural character of the landscape.
- **EN12 – Protection of Trees and Woodlands:** Seeks to protect and enhance trees and woodlands as key landscape features, ensuring their contribution to the character and biodiversity of the district is maintained.
- **EN13 – Ancient Semi-Natural Woodland:** Resists development that would have a detrimental impact on the ecological integrity of Ancient Semi-Natural Woodland.
- **EN15 – Designated Nature Conservation Sites:** Seeks to safeguard designated nature conservation sites, resisting development or land-use changes that would compromise their ecological value.
- **EN27 – Layout and Design:** Requires high-quality design that respects the scale, form, density, materials and character of surrounding development, and enhances local distinctiveness where appropriate.
- **DC17 – Housing Development in the Countryside:** Prohibits new housing development outside settlement boundaries unless it complies with other relevant policies of the Local Plan.
- **TR3 – Traffic Impact of New Development:** Supports development proposals only where they do not create or perpetuate unacceptable traffic conditions, provide a safe and satisfactory means of access, and, where appropriate, incorporate public transport improvements.
- **TR13 – Footpaths and Bridleways:** Seeks to ensure new development enhances pedestrian access, providing safe and convenient routes that integrate with the existing network.
- **LR1 – Provision of Outdoor Playing Space:** Requires adequate outdoor recreational space to be provided in towns and villages, in line with National Playing Field Association standards.
- **LR3 – Children’s Play Space (Developments of 30+ Dwellings):** Requires developments of 30 or more homes to provide 0.6–0.8 hectares of play space per 1,000 residents, of which 0.2–0.3 hectares

should be equipped. Play spaces must be well-designed, centrally located and contributions may be required for ongoing maintenance.

- **LR5 – Informal Amenity Space in Residential Developments:** Requires all large-scale residential developments to provide informal green spaces in addition to children's play areas.
- **CS1 – Provision of Capital Works and Services:** Ensures that essential infrastructure and services required to support new development are delivered in a timely manner, either on-site or through appropriate contributions.

Wealden Core Strategy Local Plan 2013

- 4.5 The Core Strategy was adopted on 19 February 2013 and serves as the overarching planning policy document for the district, setting out the Council's long-term vision for development up to 2027. It establishes a strategic framework for growth, identifying key objectives, policy priorities and broad locations for housing, employment and infrastructure delivery.
- 4.6 The Core Strategy contains a series of Spatial Planning Objectives (SPOs) and Policies (WCSs) that guide development across the district. While SPOs are not policies themselves, they provide essential context and justification for the policies within the Plan, making them material considerations in the determination of this appeal.
- 4.7 The following SPOs and WCSs are of relevance:
- **SPO1 – Management of Countryside Resources:** Establishes a vision for the protection and enhancement of the countryside as a valued resource, with a particular focus on preserving biodiversity and geodiversity. This includes safeguarding internationally important sites, such as the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

- **SPO2 – Protection of the Historic Environment:** Ensures that the intrinsic quality of the historic environment is preserved, while supporting the appropriate use of heritage and cultural assets to encourage sustainable tourism development and attract inward investment.
- **SPO3 – Meeting Housing Needs:** Defines the scale and distribution of housing growth required to meet local needs, ensuring that development is strategically planned and directed to the most sustainable locations.
- **SPO7 – Reducing the Need to Travel by Car:** Promotes a modal shift towards sustainable transport by concentrating development in locations with good access to public transport, enhancing town centre retail, leisure and recreation offerings, and improving infrastructure for walking, cycling and public transport users. The objective aims to enhance journey quality for non-car-based modes of travel.
- **SPO12 – Promoting Safety and Crime Reduction:** Commits to working with partners to ensure Wealden remains a safe place, with crime and disorder levels below the national average. Also seeks to achieve significant improvements in road safety.
- **SPO13 – High-Quality and Sustainable Development:** Encourages the delivery of well-designed, high-quality and sustainable developments, ensuring that new schemes contribute positively to the built environment and climate resilience.
- **SPO15 – Infrastructure Delivery:** Stresses the importance of securing essential infrastructure improvements, including both on-site provisions and off-site contributions, to support new development and mitigate potential impacts.
- **WCS2 – Distribution of Housing Growth:** Defines the location and scale of residential development across the district, ensuring that housing growth aligns with the Council's spatial strategy and contributes to a sustainable settlement pattern.
- **WCS6 – Rural Areas Strategy:** Identifies settlements where development boundaries have been retained and those where additional housing allocations are planned up to 2027, ensuring that rural growth is appropriately managed.

- **WCS7 – Effective Provision of Infrastructure:** States that the release of land for development will be contingent on adequate infrastructure capacity, ensuring that essential services and facilities can accommodate new growth without adverse impacts.
- **WCS12 – Biodiversity:** Seeks to prevent net loss of biodiversity, protect and enhance habitats and ecological networks, and promote a net gain in biodiversity where possible. It also aims to avoid adverse impacts on designated sites, including the Ashdown Forest SPA and SAC.
- **WCS13 – Green Infrastructure:** Protects existing open space and green infrastructure networks, ensuring that any development that would result in loss or harm incorporates appropriate mitigation or alternative provision. Open spaces must be accessible, high quality and valuable to users, contributing positively to the wider green infrastructure network.
- **WCS14 – Presumption in Favour of Sustainable Development:** Aligns with the National Planning Policy Framework in adopting a positive approach to development. Where policies are absent or out of date, the presumption is in favour of granting planning permission, unless material considerations indicate otherwise.

Affordable Housing Delivery Local Plan 2016

- 4.8 The Affordable Housing Delivery Local Plan was adopted on 18 May 2016 and serves as the primary policy document governing the provision of affordable housing within district. It supersedes Policy WCS8 of the Core Strategy, along with the supporting text in paragraphs 7.10 to 7.14, ensuring that affordable housing delivery aligns with current housing needs and viability considerations.
- 4.9 **Policy AFH1** establishes a clear requirement for all qualifying residential developments to deliver 35% affordable housing.

National Planning Policy Framework

- 4.10 The most recent iteration of the NPPF (**CD12.1**) came into effect in December 2024 and serves as a key material consideration in the assessment and determination of planning applications. The NPPF provides the national policy framework for sustainable development, guiding decision-making at both the strategic and local levels.
- 4.11 Throughout this evidence, specific paragraphs of the NPPF will be referenced as relevant to the consideration of this appeal.

Draft Wealden Local Plan (Regulation 18)

- 4.12 The Council is currently preparing a new Local Plan (**CD6.9**), which will provide a refreshed spatial strategy for growth across the district to 2040. A draft version of the plan was subject to public consultation under Regulation 18 between March and May 2024.
- 4.13 Although the Local Development Scheme (**CD6.10**) outlines an indicative timetable for the plan's progression, I understand that a further Regulation 18 consultation draft is expected in the third quarter of the 2025/26 monitoring year, with the Regulation 19 Proposed Submission version anticipated in the first quarter of 2026/27. The implications of revised housing requirements and the recent updates to the NPPF remain important factors shaping the emerging plan.
- 4.14 Given the very early stage of plan preparation, and in accordance with paragraph 49 of the NPPF, I consider that the emerging Local Plan carries no weight in the determination of this appeal. I do not rely on it in support of my evidence.

Five Year Housing Land Supply and Weighting

- 4.15 The Council is unable to demonstrate a five-year supply of deliverable housing land. The Council's Housing Land Supply Statement (February 2025) (**CD6.7**), which covers the five-year period from 1 April 2024 to 31 March 2029, identifies

a housing land supply of 3.68 years. This figure has been agreed by the parties in the Planning SoCG (**CD4.1**).

4.16 As a result, the policies most important for determining the appeal are considered out-of-date (paragraph 11, footnote 8 of the NPPF). Consequently, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the NPPF, is engaged. For decision-taking, this means granting planning permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a strong 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 NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

4.17 Notwithstanding the above, policies deemed out-of-date can still carry weight. In accordance with paragraph 232 of the NPPF, the closer a policy aligns with the NPPF, the greater the weight it may carry in decision-making. Accordingly, it is entirely possible for policies deemed out-of-date by reason of an inadequate housing land supply to still carry significant weight.

4.18 In my view, the proposed development conflicts with Policies EN1 and EN27 of the Local Plan and Spatial Planning Objective SPO2 and Policy WCS14 of the Core Strategy, for the reasons I set out below in relation to the remaining putative reason for refusal concerning heritage impact.

4.19 While the proposal also technically conflicts with Policies GD2 and DC17 of the Local Plan and Policy WCS2 of the Core Strategy – on account of the site's location outside a defined settlement boundary and within an area not allocated for growth – I acknowledge that these policies are out-of-date. I afford no weight

to this policy conflict, noting that the site has previously been found to represent a suitable location for development in terms of access to services and facilities by sustainable transport.

- 4.20 I do not identify any conflict with other relevant development plan policies, provided that appropriate planning conditions and obligations are imposed in the event that the appeal is allowed.
- 4.21 In relation to the remaining putative reason for refusal on heritage grounds, I consider that Policies EN1 and EN27 of the Local Plan reflect the overarching aim of national planning policy to achieve sustainable development. Policy EN1 expresses the Council's commitment to securing sustainable development through appropriate consideration of location, layout and design. Policy EN27 requires proposals to be of a high standard, to respect existing character and to promote local distinctiveness. I consider these aims to be consistent with paragraphs 7, 8, 11, 131 and 135 of the NPPF.
- 4.22 In my view, Spatial Planning Objective SPO2 of the Core Strategy similarly reflects national policy, seeking to protect the intrinsic quality of the historic environment in line with the objectives set out in Chapter 16 of the NPPF, which promotes the conservation and enhancement of heritage assets.
- 4.23 Policy WCS14 of the Core Strategy sets out a presumption in favour of sustainable development, aligning with the approach set out in paragraph 11 of the NPPF. I therefore consider that WCS14 is consistent with national policy.
- 4.24 In accordance with paragraph 232 of the NPPF, I consider that Policies EN1 and EN27 of the Local Plan, and Spatial Planning Objective SPO2 and Policy WCS14 of the Core Strategy, are broadly consistent with national policy and should therefore be afforded significant weight in the determination of this appeal.

5 The Council's Case

5.1 This appeal arises from the non-determination of an outline planning application, meaning that the Council did not issue a formal decision and, consequently, no specific reasons for refusal were recorded.

5.2 However, having undertaken a detailed assessment of the appeal proposals, it is my view that planning permission should not be granted and that the appeal should be dismissed for the following reasons:

- **Heritage Impact:** The proposed development would result in less than substantial harm to the Grade II listed oasthouse through inappropriate development within its setting. This harm is not outweighed by the public benefits of the scheme.
- **Planning Balance:** The proposal fails to accord with the development plan, and material considerations do not justify granting planning permission contrary to policy.

5.3 These issues are addressed below.

Heritage Impact

5.4 The relevant heritage consideration is the effect of the proposed development on the significance of the Grade II listed oasthouse (List Entry Name: Oasthouse to the North West of Bird in Eye Farmhouse; List Entry Number: 1028381). This impact has been assessed by the Council's Senior Heritage Officer, Joanna Tucker, and is set out in her Heritage Proof of Evidence. Additionally, the conclusions reached by Inspector Butcher in the previous appeal decision for this site (Appeal Ref: APP/C1435/W/22/3307820, dated October 2023) (**CD14.3**) are material to the heritage assessment and carry significant weight.

5.5 As set out in Ms Tucker's evidence, the oasthouse occupies a prominent position on the western edge of the farmstead, situated along the ridgetop. It

shares a strong visual and functional relationship with the open agricultural land that falls away to the south and west. As an early 19th-century example of a specialist agricultural building, the oasthouse is of both architectural and historic significance. This value derives from its historic character, fabric and architectural detailing, which reflect technological advancements and the use of local materials. It also holds significance for its relationship to the 18th-century farm at Bird in Eye and its broader contribution to the understanding of traditional rural farmsteads.

- 5.6 Its heritage value is derived not only from its architectural and historic interest, but also from its open, rural setting and historic association with surrounding hop gardens and arable land. This context provides both a historic functional link to the listed building, thereby contributing to its significance, and allows the asset to be appreciated in its intended form: an isolated, functional structure within a working rural landscape.
- 5.7 When the outline application for up to 290 dwellings was considered in 2021, the Council accepted – based on the information available at the time – that any potential impact on the setting of the oasthouse could be addressed at the reserved matters stage. As a result, no heritage reason for refusal was advanced, and the Planning SoCG for that appeal recorded agreement that the proposal would not result in harm to the heritage asset.
- 5.8 However, the appellant's own heritage advisor, in evidence submitted with the earlier scheme, acknowledged that the development would result in less than substantial harm to the oasthouse's significance. While the SoCG recorded no harm as agreed between the main parties, this inconsistency was highlighted by the Inspector and prompted a round table session on heritage during the 2023 Inquiry. The Inspector's appeal decision, alongside a more detailed examination of the development's relationship with the setting of the oasthouse, has since prompted a reassessment. Having now undertaken that reassessment, I consider that the current proposals would give rise to less than substantial harm, at a moderate level, for the reasons set out below.

- 5.9 This assessment aligns with the findings of Inspector Butcher in the previous appeal, who recognised the importance of setting to the oasthouse's overall significance. While acknowledging that the building's listing is partly attributable to its technical rarity, she emphasised that the contribution of its surrounding rural landscape was also a key factor. At paragraph 57, she stated:

“The setting to the oasthouse contributes to its significance insofar as its historic use for drying hops and functional relationship with the surrounding fields which grew the hops can still be appreciated today. These fields remain open, undeveloped, and in use as pasture. Consequently, they enable the oasthouse to be appreciated in broadly its historic rural scene. These fields also provide for a qualitative understanding of the significance of the oasthouse derived from its setting as they provide a degree of quiet and tranquillity which you would reasonably associate with such a rural, historic scene. Furthermore, the lack of development in these fields along with its elevated position above the town gives it a local landmark quality.”

- 5.10 In assessing the previous scheme, Inspector Butcher concluded that the introduction of large-scale development would result in a fundamental erosion of this setting:

“The proposed development seeks to site up to 290 houses, access roads, and an attenuation basin within the setting of the oasthouse. Consequently, any remaining ability to appreciate the significance of the oasthouse in its historic rural setting would be largely lost. The level of development proposed would also visually compete with and distract from its local landmark quality. Furthermore, the relatively quiet and tranquil character of the setting of the oasthouse would be significantly diminished by the large-scale residential development proposed.”
(Paragraph 58)

- 5.11 She also addressed the appellant's proposal to retain open space around the oasthouse, concluding that such measures would offer only minimal mitigation:

“The appellant suggests that area(s) of open land could be designed in the final layout of the development, as shown on the Illustrative Site layout, in order to provide an element of the rural setting of the oasthouse. However, given the scale of development proposed any such land would be relatively modest in size, flanked by development, likely landscaped, and would not provide any meaningful historic views of the oasthouse that I have been made aware of. This would therefore reduce the harm I have found to setting by a very minimal degree as its setting as currently experienced is far wider, more extensive, and rural in character. An information board could also be provided as part of the development providing interpretation as to the significance of the oasthouse in terms of its technical rarity and this would better reveal its significance. However, it would not minimise the specific harm to its setting that I have identified.” (Paragraph 59)

5.12 She concluded unequivocally that:

“It is my finding, therefore, that the setting of the oasthouse would not be preserved by the development. It follows therefore that the proposal would conflict with Spatial Planning Objective SPO2 of the CS which requires protection of the historic environment. The Framework is also clear that in determining planning applications account should be taken of the desirability of sustaining and enhancing the significance of heritage assets.” (Paragraphs 60)

5.13 These findings remain directly relevant to the current appeal. Although the number of dwellings has been reduced from 290 to 190, the key issues identified by the Inspector, relating to the nature, scale and proximity of development, remain applicable.

5.14 It is the Council’s view, as set out in the evidence of Ms Tucker, that the current proposal would result in harmful encroachment into this historically significant landscape, undermining the ability to appreciate the oasthouse’s significance

within its setting. While the Council acknowledges that changes have been made to the layout and quantum of development, a substantial level of built form, infrastructure and associated urbanising influence remains within both the immediate and wider setting of the heritage asset.

- 5.15 These revisions do not significantly reduce or offset the heritage harm previously identified. The essential characteristics that contribute to the oasthouse's significance, including its open, tranquil and undeveloped rural setting, would still be significantly diminished.

Assessment of Specific Components of the Development

- 5.16 Building on the assessment above, the following sections examine the specific components of the proposed development that make particular contribution to the identified harm, as have been assessed by Ms Tucker.
- 5.17 The residential development proposed to the northwest of the oasthouse, including the internal access road serving these dwellings, would introduce a detached island of built form into the rural landscape. Located behind existing properties on Bird in Eye Hill, this would create a permanent and irreversible visual intrusion that significantly alters the character and grain of development in this part of the site.
- 5.18 Existing development along Bird in Eye Hill is relatively modest in scale, with varied heights and massing, and benefits from generous spacing and established boundary vegetation. This contributes to a soft and well-integrated rural edge. By contrast, the proposed backland development would appear denser, less organic in layout and visually detached – disrupting the rural-urban transition on Uckfield's eastern edge. The new housing would face south into the open landscape, with a perimeter road reinforcing its suburban character, resulting in an urbanising influence within the setting of the listed building.
- 5.19 Similarly, the proposed projection of development to the southwest of the oasthouse would intrude into the open rural landscape. This setting currently

retains a pastoral quality, reflecting the oasthouse's historic outlook: open, undeveloped and physically separated from the town.

- 5.20 Development in this sector would also be visually prominent in views towards the oasthouse from the west, including from Uckfield Hospital, Framfield Road and surrounding residential areas. At present, the oasthouse is experienced as part of an isolated farmstead in a rural landscape. The proposed development would erode the landmark quality of the oasthouse, undermining its visual prominence and historical legibility.
- 5.21 These elements would significantly erode the oasthouse's rural setting and materially harm the ability to appreciate its visual and functional association with the surrounding landscape.
- 5.22 Although the illustrative land use plan shows no built development directly to the west of the oasthouse, this area is proposed to accommodate SANG and open space infrastructure. This would result in a clear change from its existing pastoral and agricultural character to a more managed, domesticated landscape.
- 5.23 The introduction of a 3-metre-wide hard-surfaced pedestrian and cycle route, lit along its length, would require engineered modifications to ground levels, including cut and fill. Street furniture such as seating, bins, signage and fencing is also likely. These features would formalise and domesticate the landscape, detracting from its currently undeveloped rural quality.
- 5.24 The inclusion of attenuation basins would further contribute to an engineered appearance. Together, these changes would significantly alter the perception and experience of the land to the west of the oasthouse, even in the absence of residential units.
- 5.25 The effect would be a substantial visual and contextual change, replacing the quiet, agricultural character that contributes to the oasthouse's significance with an accessible and managed public amenity space.

- 5.26 A further harmful impact arises from the proposed highway infrastructure at the site entrance, including a new roundabout to accommodate access for the 190 dwellings and existing farmstead uses. This would involve changes to levels and widening the existing access, introducing kerbs, signage, lighting and associated engineering operations.
- 5.27 Currently, the access route runs informally between paddocks with post-and-rail fencing and no lighting, reinforcing the rural, undeveloped context. The oasthouse is readily visible on approach from Bird in Eye Hill, supporting its landmark quality and historically isolated setting.
- 5.28 The urbanising effect of the proposed highway works would erode these qualities, diminishing the oasthouse's visual prominence and disrupting the rural context that contributes to its significance.
- 5.29 Taken as a whole, the various elements of the proposed development – including the residential encroachment to the northwest and southwest, the urbanising effects of the SANG and associated infrastructure to the west, and the introduction of engineered highway works – would adversely impact the rural setting of the Grade II listed oasthouse. These changes would erode the simplicity, openness and tranquillity that contribute to the asset's significance as a historically isolated agricultural building.
- 5.30 While the Council acknowledges that the level of harm would fall within the category of 'less than substantial', Ms Tucker has assessed this to be of a moderate degree, resulting in a material reduction in the ability to appreciate the oasthouse's historic function, prominence, and its relationship with the surrounding landscape. This harm persists despite positive amendments from the previous appeal scheme, including the reduction in built development to the west of the oasthouse and the minor heritage benefits arising from the proposed interpretation of the asset and removal of the car parking area immediately to its west.

- 5.31 In my view, some of these elements represent avoidable sources of harm, as referenced in paragraph 208 of the NPPF and Historic England's guidance (GPA2, **CD7.8**), which a scheme with a lower quantum of development may be able to deliver. The omission of development to the northwest, along with the realignment or removal of built form from the southwest quadrant, would materially reduce the overall impact on the oasthouse's setting and correspondingly lessen the degree of harm.
- 5.32 Notwithstanding the fact that the harm identified is less than substantial, paragraph 212 of the NPPF makes clear that great weight must be given to the conservation of designated heritage assets, regardless of the scale of harm. This is reinforced by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (**CD6.8**), which imposes a statutory duty on decision-makers to have special regard to the desirability of preserving a listed building or its setting. The duty under Section 66 means that decision makers are required to give considerable importance and weight to harm caused to the setting of a listed building.
- 5.33 Notwithstanding the Government's imperative to boost housing supply, the statutory and policy provisions protecting heritage assets remain unchanged.

Benefits

- 5.34 Paragraph 215 of the NPPF states that, where a development would result in less than substantial harm to the significance of a designated heritage asset, that harm must be weighed against the public benefits of the proposal.
- 5.35 The proposed development would deliver up to 123 market homes, consistent with the objectives in paragraph 61 of the NPPF. In the context of the Council's current shortfall in deliverable housing land, and the Government's objective to significantly boost the supply of housing, this benefit attracts significant positive weight.

- 5.36 The scheme would also provide up to 67 affordable homes and 10 self-build or custom-build dwellings, in accordance with paragraphs 63-66 of the NPPF. Each of these housing tenures responds directly to identified needs within the District and, individually, both the provision of affordable housing and self/custom-build plots attract significant positive weight.
- 5.37 The development would generate economic benefits through the direct employment of construction workers and indirectly via increased expenditure in local shops, services and facilities by future residents, in accordance with paragraph 83 of the NPPF. Given the scale of the scheme, these economic benefits attract moderate positive weight.
- 5.38 The scheme would deliver measurable biodiversity net gains, consistent with the requirements of paragraphs 187 and 193 of the NPPF. This includes a +159.11% uplift in habitat units within the SANG, as well as a +13.02% net gain in habitat units and a +35.87% net gain in linear features within the main development area. While these enhancements are clearly beneficial, they are largely mitigation-led – particularly through the provision of the SANG – and represent a policy-compliant response rather than an exceptional or strategic biodiversity gain. As such, these benefits attract moderate positive weight.
- 5.39 The scheme proposes to close and block off the existing informal footpath within the adjacent ancient woodland, which currently contributes to recreational pressure and potential harm. This, combined with the long-term management of the ancient woodland, would support its conservation and ensure alignment with in accordance with paragraphs 187 and 193 of the NPPF. While this is a clear environmental benefit, it is primarily mitigation-led and reflects good ecological management rather than exceptional gain. As such, this element of the scheme attracts moderate positive weight.
- 5.40 The proposed SANG is intended primarily as a mitigation measure to offset potential recreational impacts on the Ashdown Forest Special Protection Area (SPA). As such, its primary function is not a public benefit but a policy requirement. However, its provision as an area of open space accessible to the

wider public may deliver some additional value beyond its mitigation role, which attracts limited positive weight.

- 5.41 Cumulatively, the public benefits of the appeal scheme attract substantial weight in favour of the proposal.

Heritage Balance

- 5.42 The Council considers that the proposed development would result in less than substantial harm – at a moderate level – to the significance of the Grade II listed oasthouse. This assessment takes into account the positive amendments made since the previous appeal, including the reduction in development to the west of the oasthouse, as well as the minor heritage benefits arising from the proposed interpretation of the asset and the removal of the car parking area immediately to its west.
- 5.43 As set out in Ms Tucker's assessment, the harm arises principally from the encroachment of built development into what has historically been an open and rural setting, the urbanising effects of associated infrastructure such as the SANG and highways works, and the erosion of the oasthouse's visual prominence and legibility within the landscape. In accordance with paragraph 212 of the NPPF, this harm must be afforded great weight, irrespective of its scale. This is further reinforced by the statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special regard to be had to the desirability of preserving the setting of listed buildings.
- 5.44 I acknowledge that the proposed development would deliver a number of public benefits, all of which I have carefully considered. When taken together, I recognise that these benefits attract substantial positive weight. However, it is my view that they are not sufficient to outweigh the harm identified to the significance of the designated heritage asset.

5.45 My position is further supported by the findings of Inspector Butcher in the previous appeal decision, where she concluded that the earlier scheme for up to 290 dwellings would result in less than substantial harm to the oasthouse's significance. Importantly, the public benefits in that case were arguably greater, given the higher housing yield. Nevertheless, the Inspector determined that those benefits did not outweigh the identified heritage harm. I consider this to directly reinforce my conclusion that the current, smaller scheme also fails to meet the heritage balance required by national policy.

6 Planning Balance and Conclusion

- 6.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.2 The proposal would conflict with EN1 and EN27 of the Local Plan and SPO2 and WCS14 of the Core Strategy as it would result in harm to the setting of a designated heritage asset – the Grade II listed oasthouse – through inappropriate encroachment into its historically open and rural context, which contributes to its significance.
- 6.3 Policy EN1 promotes sustainable development and requires proposals to be sensitive to their surroundings, particularly in terms of location, layout and design. In my view, the proposed development fails to respond appropriately to its context, with the urbanising effects of the scheme resulting in harm to the historically open and rural setting of the Grade II listed oasthouse. This adverse impact demonstrates a clear lack of sensitivity to the site's heritage setting and undermines the aims of Policy EN1.
- 6.4 Policy EN27 requires development to respect existing character and setting, and to promote local distinctiveness. In my view, the scale, form and siting of the proposed development fail to respond to the area's established rural character and the historically isolated setting of the Grade II listed oasthouse. As a result, the proposal would cause visual and contextual harm, undermining the rural qualities that contribute to the significance of the heritage asset and placing it in conflict with the aims of Policy EN27.
- 6.5 Spatial Planning Objective SPO2 of the Core Strategy seeks to protect and enhance the historic environment. The introduction of built form and associated infrastructure in close proximity to the oasthouse would erode its significance and rural setting, directly undermining this objective.

- 6.6 Policy WCS14 of the Core Strategy reflects the presumption in favour of sustainable development, as set out in paragraph 11 of the NPPF. However, in this case, that presumption is disapplied by virtue of paragraph 11(d)(i), due to the harm identified to the significance of a designated heritage asset. Although WCS14 supports sustainable development in principle, paragraph 11(d)(i) of the NPPF disapplies the presumption due to the harm to a designated heritage asset.
- 6.7 As set out above, I consider that the relevant development plan policies are consistent with the objectives of the NPPF and should therefore be afforded significant weight. In my view, the harm arising from the proposed development's adverse impact on the setting of the listed building results in a clear conflict with these policies. Accordingly, I consider that the proposal is in conflict with the development plan when read as a whole.
- 6.8 The NPPF is clearly an important material consideration. I acknowledge that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. As a result, paragraph 11(d) of the NPPF is engaged, and the decision must be taken in the context of the presumption in favour of sustainable development.
- 6.9 Paragraph 11(d) of the NPPF states that, 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 the NPPF that protect areas or assets of particular importance provides a strong 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 NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

- 6.10 In this case, I consider that the less than substantial harm, assessed at a moderate level, to the Grade II listed oasthouse engages paragraph 11(d)(i) of the NPPF. As I have set out above, the public benefits of the proposal do not outweigh the identified heritage harm. In my view, the heritage policies of the NPPF therefore provide a strong reason for refusing the development, and the presumption in favour of sustainable development does not apply.
- 6.11 However, even if the tilted balance were to be engaged under paragraph 11(d)(ii), I consider that the adverse impacts, particularly the harm to the setting and significance of the designated heritage asset, would significantly and demonstrably outweigh the benefits of the proposal.
- 6.12 For these reasons, I conclude that the appeal should be dismissed.