Land at Mockbeggars Farm, London Road,
Uckfield TN22 2EA

Appellant's Opening Statement

Introduction

1. This is the appeal against the decision of Wealden District Council ("the Council") on 15th June 2023 to refuse the outline planning application (save for access) ("the Application") submitted by Obsidian Strategic Asset Management Ltd ("the Appellant") to develop the land at Mockbeggars Farm, London Road ("the Site") for 60 dwellings together with associated works ("the Scheme").

2. The Application was supported by a suite of reports and technical notes – see SoCG **[CD13.1]** (p.6) and recommended for approval subject to conditions by the Council's planning officer in his Report to Committee **[CD5.1]**. The Executive Summary to the Committee Report said:-

> "Whilst the development is in conflict with Policies GD2 and DC17 which restricts development in the countryside, material considerations which weigh heavily in favour of the development are the housing need and that the Council is unable to substantiate a five year supply of deliverable housing land. 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.
>
> It is the view of Officers that the site is suitable for residential development and having regard to the planning balance and the considerations set out in the main body of the report, it is recommended that the application is APPROVED subject a S106 Agreement and planning conditions."

3. Relevant to the issue raised by third parties, that conclusion was reached in the context of there being no objection (subject to the imposition of conditions) from:-

- East Sussex County Council ("ESCC") as the highway authority on highway matters (pdf 15);
- the Local Lead Flood Authority ("LLFA") on flooding matters (pdf 23);
- the County Archaeologist (pdf 26);
- the Council's Drainage Engineer (pdf 40);
- the Council's Conservation and Design Officer (pdf 49); and
- the Council's Biodiversity and Arboricultural Officer (pdf 51)

4. These matters are all then comprehensively addressed in the body of the Committee Report and a summary is in the Appellant's Statement of case – see **[CD15.1]** (p. 12-13). There is also substantial agreement in relation to these matters as set out in the SoCG – see **[CD13.1]** Section 5.

5. Contrary to the clear recommendation to approve the Application, the Council's Planning Committee refused it **[CD4.1]**. The Planning Committee did so because it concluded that the adverse impacts of the Scheme would significantly and demonstrably outweigh the benefits for three principal reasons:-
   - the Site is outside the settlement boundary and the Scheme is an unacceptable form of development in the countryside;
   - the development is inefficient in its use of land; and
   - the development would have an adverse impact on ecology (particularly bats) through the loss of hedgerow/vegetations and ecological connectivity.

6. Notwithstanding the refusal of the Application, the Council has now resolved not to defend the appeal. That decision was reached after the Council had undertaken a procurement exercise seeking tenders for professional representation which failed to find any external consultant who was willing to

defend the reasons for refusal – **[CD11.8]**. Thus, the Council is offering no evidence in the appeal to support its reasons for refusing the Application.

The Site

7. The Site extends to 3.62ha of the land comprising Mockbeggars Farm on the east side of London Road and 1.3km to the north of Uckfield town centre. The Site is currently in agricultural use for pasture (ALC = 3b and 4 i.e. it is not BMV) and is surrounded by existing development (mostly residential) to the south, east and north. It is agreed to have a settlement fringe character – see SoCG (para. 5.4.5). Round Wood (an isolated and degraded area of ancient woodland) adjoins the south-eastern boundary of the Site.

8. The Site is not in any designated national landscape and is not a 'valued' landscape within the meaning of the NPPF (Dec. 2023). It is very well contained with limited views into and out of the Site from public vantage points – see SoCG (paras. 2.1.2 & 5.4.5). There are no designated heritage assets on or off the Site which the Scheme would adversely affect.

9. The Site is in Flood Zone 1 and at a low risk of flooding.

10. The obvious suitability of the Site is evident from its inclusion as an allocated housing site (Ref. BU6) in the Wealden Draft Local Plan Regulation 18 Document which will go before the Council for approval on 8th February 2024.

Uckfield

11. Uckfield is a District Centre and has the largest town centre in the District with a wide variety of shops, including a Tesco Superstore and a Waitrose supermarket, a variety of cafes and restaurants, a cinema and a Civic Centre. It also has good public transport services including a centrally located bus station and main line rail station, providing connections to neighbouring towns and villages, and London (via rail).

12. Other services and facilities in Uckfield include the educational facilities of Uckfield School and Uckfield College, leisure facilities at Uckfield Leisure Centre, West Park Recreational Ground and Luxford Playing Fields, and health facilities at The Meads Surgery.

13. Unsurprisingly, the Wealden Core Strategy (2013) seeks to distribute new houses and jobs in accordance with the settlement hierarchy, noting that the strategy "*seeks to concentrate growth at the urban areas, but especially at Hailsham and Uckfield*" – para. 5.5 **[CD2.1]**.

14. The Council accepts that the Site is in a sustainable location – see SoCG (paras. 5.6.1 & 5.6.2).

The Scheme

15. The Scheme proposes the development of the Site for 60 dwellings of which 35% (21 dwellings) will be affordable and 5% (3 plots) will be for self/custom build. All other matters are reserved except for access which will be taken off London Road. The Parameters Plan ensures that there will be a minimum buffer of 15m from the ancient woodland (with most of the buffer being a minimum of 20m) and there will be a significant net gain in hedgerow habitat together with significant additional woodland planting providing habitat and ecological connectivity.

16. The density (16.6 dwellings) was arrived at on the advice of the Council's planning officers. It respects the character of the Site's setting and allows for the provision of ample open space.

17. Access will be from a new priority junction from London Road. The existing footpath on the west side of London Road will be supplemented by a new 2m wide footway on the east side of London Road to the south of the proposed access together with a new pedestrian crossing. New south and northbound bus stops will be provided.

Housing Land Supply

18. As the SoCG notes (para. 5.1.2), when the Application was determined the Council could only demonstrate at most a 3.92 years' supply of deliverable housing land. On the Council's latest assessment, the supply has dropped to not more than 3.83 years – see SoCG (para. 5.1.3). The Appellant's analysis is that at 1 December 2023, the supply is not more than 3.19 years – see SoCG (para. 5.1.6). Whether 3.83 years or 3.19 years, it is agreed that the shortfall is significant and that full weight should be given to the shortfall – see SOCG (para. 5.1.7).

19. The need for affordable housing in Wealden district is particularly acute whilst the delivery of affordable housing is particularly poor such that the current need is for 867 dpa (or 72% of the minimum LHA of 1,200 dpa) – see Appellant's Planning Hearing Statement **[CD15.2]** (para. 5.2.9 – 5.2.13). Further, there is no evidence that the situation is likely to improve any time soon.

20. There are currently 246 individuals enrolled on the Council's Self-Build and Custom Housebuilding Register – see Planning Hearing Statement **[CD15.2]** (para.5.2.15).

Presumption in favour of development

21. At the time the Application was determined para. 11d of the NPPF (July 2021) provided that where the policies which are most important for determining the application are out-of-date, planning permission should be granted unless (1) the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or (2) 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. Footnote 8 provided that the policies most important for determining

the application were deemed to be out-of-date where the local planning authority could not demonstrate a five-year supply of deliverable housing land.

22. The para. 11d presumption has not changed with the publication of the 19 December 2023 version of the NPPF. Footnote 8 continues to provide that the policies which are most important for determining the application are deemed to be out-of-date where the Council cannot demonstrate a five-year supply (or four-year supply if para. 77 of the NPPF applies). The most important policies are agreed to be Policies GD2, DC17 and EN27 of the 1998 Local Plan and Policy WCS14 of the 2013 Core Strategy – see SoCG (para. 5.1.8).

23. It is agreed by the Council that Policies GD2 and DC17 should be given substantially less weight – see SoCG (para. 5.2.2); and it has been consistently found by Inspectors that any conflict with Policies GD2 and DC17 should be given very limited weight – see Planning Hearing Statement **[CD15.2]** (paras. 6.1.7 – 6.1.18). The Council does not contend that there is any conflict with Policies EN27 or WCS14.

24. The Council cannot rely on para. 76 of the NPPF (December 2023) because its adopted plan (1998) is more than 5 years old and/or it did not identify at least a five-year supply of specific, deliverable sites at the time its examination concluded. Nor do paras. 77 or 226 of NPPF apply because the Council cannot demonstrate a four-year supply against its local housing need and/or its Regulation 18 emerging plan does not allocate sufficient sites to meet its housing need. Consequently, it is agreed with the Council that (1) the 'tilted balance' applies; and (2) planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits – see SoCG (para. 5.1.9).

25. The Council does not contend that there are any harms which would significantly and demonstrably outweigh the benefits. Those benefits, as the Committee Report acknowledged, include:-

- the provision of market housing;
- the provision of affordable housing;
- the provision of custom/self-build plots;
- economic support from construction, additional residents and CIL payments for local facilities and services contributing to the vitality of the location and social cohesion; and
- enhancements to habitat (including the enhancement of connectivity between parcels of ancient woodland in the vicinity of the Site) and biodiversity net gain.

Third Parties

26. In spite of the clear conclusions of the Council's officers and the decision by the Council not to defend the appeal, there continue to be wide-ranging objections by third parties. These are principally by the Mockbeggars Residents Steering Group ("MRSG") and Uckfield Town Council ("UTC"). They are all addressed by the Appellant in its Hearing Statements and Rebuttal Hearing Statements and will be the subject of further discussion during the round table sessions. In short, the Appellant contends that there will be no adverse impacts on designated/non-designated heritage assets, flooding, ecology or highways. Any landscape/visual impacts are confined to the Site itself and immediately adjoining areas because of the visually and physically enclosed nature of the Site.

Habitat Regulations Assessment

27. The Council undertook an HRA as the competent authority when it determined the application and concluded that the Scheme with the proposed mitigation would not be likely to have any adverse effect on the Ashdown

Forest SPA/SAC. To assist the Inspector, the Appellant has prepared a shadow HRA **[CD11.5]** to allow the Inspector (as the competent authority for the appeal) to reach the same conclusion.

Conditions

28. The Appellant and Council have agreed draft conditions – see Appendix 1 to the SoCG.

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29. The Appellant has prepared a unilateral planning obligation the contents of which are agreed by the Council. Agreement is expected by ESCC. Subject to any comment by the Inspector it is ready to be engrossed.

Dated 6th February 2024

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