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Statement of Case
Mockbeggars Farm, London Road, Uckfield, TN22 2EA

October 2023
MWB/RH/30166

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1 Introduction

1.1 Purpose of this Statement

1.1.1 This Statement of Case has been prepared by DHA Planning on behalf of Obsidian Strategic Asset Management Ltd ("The Appellants") in support of an appeal 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 of Case is made for the purposes of a Public Inquiry and sets out the Appellants' case, which includes the following:

(1) an overview of the site, and planning application;

(2) a review of the planning history and planning policy context;

(3) a description of the development proposals;

(4) presentation of the Appellants' case; and

(5) justification for seeking the inquiry procedure.

1.2 Background to the Appeal

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

1.2.2 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, citing the following reasons for refusal:

Reason for Refusal	Grounds
1	The proposed development represents an unjustified and unacceptable form of development of a site that for planning purposes lies in the countryside, outside of the defined development boundary for Uckfield, contrary to Policies GD2 and DC17 of the Wealden Local Plan. It is accepted that the Council cannot demonstrate a five-year supply of deliverable housing sites. This means that policies most relevant to the determination of the application should not be considered up to date and that the proposals should be considered in the context of the presumption

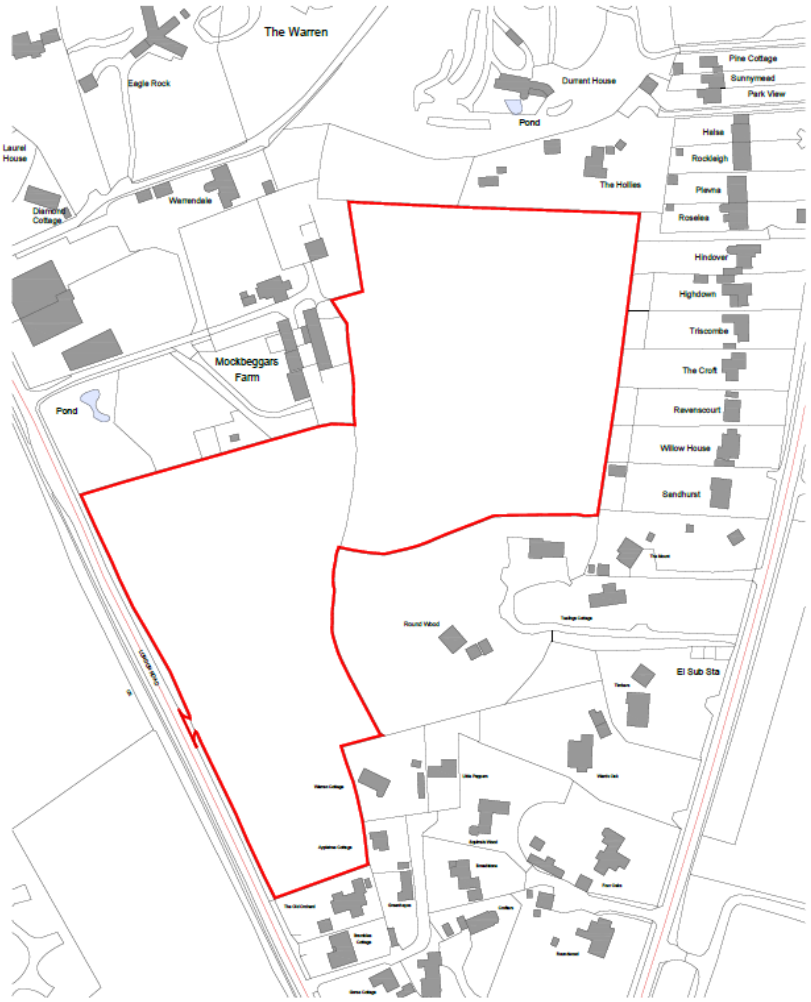
	of sustainable development as set out in the NPPF. However, having regard to the effect of the development and in accordance with Paragraph 11 (d) (ii) the adverse environmental impacts of the development significantly and demonstrably outweigh its social and economic benefits when assessed against the policies in the NPPF as a whole.
2	When the required on site mitigation and buffering to important habitats (Ancient Woodland and other natural features) is accounted for, together with key requirements (open and play space, space for on site surface water drainage), the developable area does not represent an efficient use of land as required by NPPF paragraph 8(c) and 125(c).
3	The site is located within a local ecological network of large ancient woodlands inter-dispersed with smaller parcels of ancient woodland, priority habitat deciduous woodland, fields, hedges, tree lines and scattered and linear development on the periphery of Ringles Cross and Budlett's Common. The site itself provides semi-natural connectivity between these habitats and is constrained by existing development on its north, south and eastern sides. The site currently provides connectivity in the landscape between large areas of semi-natural and irreplaceable habitat Paygate/Budlett's Wood, Budletts Common to the west (which in turn leads on to Shortbridge Stream and Lake wood LWS) and View's Wood and Buxted Park SSSI to the east. Insufficient information has been submitted to demonstrate the proposed development would not result in adverse impacts on protected species (bats) known and within the application supporting evidence to be on, at or foraging over the site. Moreover, the applicants survey confirms high bat activity within the site and confirms use of the site by a number of light avoiding species including, myotis, brown-long-eared and barbastelle; the latter of which is an annex IV species of the European Habitats Directive (Animal and plant species of Community interest i.e. endangered, vulnerable, rare or endemic in the European Community, in need of strict protection), a rare bat that forages/commutes over a large area. Whilst it is noted that the scheme includes an area indicated for bat mitigation, it is not clear how this would be affected by lighting from the proposed houses and movements to/from them in vehicles or from light emitted from adjacent developments, nor is it clear how the loss of the land from a foraging perspective is adequately mitigated or compensated. The proposals do not show how the quantum of growth can be accommodated here as well establishing a coherent ecological network, resilient to current and future pressures. Nor would it maintain and enhance known networks of habitats and green infrastructure. Therefore the proposal would be contrary to paragraph 174 a b and d of the National Planning Policy Framework 2021.
4	The development proposals would result in loss of landscape hedge and vegetation in order to provide necessary access (with required sight lines to serve the development). It will open up the site to development whereas at present the boundary treatment is an attractive and otherwise undisturbed natural habitats that supports protected wildlife, species and other flora and fauna.

	The loss of this feature and its replacement with a housing estate and associated access and other infrastructure would not add to the overall quality of the area, contrary to the National Planning Policy Framework 2021, paragraph 130 (a).
5	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 WCS 6 of the Wealden Core Strategy Local Plan. The development by reason of its poor density (when key layout features are taken into account), adverse effect on ecology and landscape features, results in a development out of character with the local area and that would cause harm to recognised biodiversity, contrary to Saved Policy EN27 and WCS14. As such the development is contrary to the local plan should be refused unless material considerations indicate otherwise. The Council does not have a 5 year housing land supply. Footnote 8 of the NPPF would render the local plan policies on housing supply out of date limiting the weight that can be afforded to them in line with the degree of compliance with the NPPF. Restraint on unsustainable rural housing is resisted under the NPPF and as such the rural restraint policies can be afforded some weight. Weighing against the scheme is the unproven package of bat mitigation on a site where the applicants own evidence confirms high bat activity within the site and confirms use of the site by a number of light avoiding species including, myotis, brown-long-eared and barbastelle; the latter of which is an annex IV species of the European Habitats Directive (Animal and plant species of Community interest i.e. endangered, vulnerable, rare or endemic in the European Community, in need of strict protection), a rare bat that forages/commutes over a large area (very significant weight against scheme), the loss of an open green field has some intrinsic harm to the rural character of the Low weald (moderate weight), unacceptable loss of vegetation to road obviously not in keeping with the best elements of area and local distinctiveness (very significant weight). Weighing in favour of the scheme is the contribution of the 60 units including affordable units, custom and self build. This carries substantial weight given the current lack of 5yr supply and particularly given the relatively sustainable nature of the location. The future occupants would also contribute to the established community and rural services the existing community rely on and this can be afforded moderate weight. It is clear that the harm from this development of this semi-rural site significantly and demonstrably outweigh the benefits identified such that even if the presumption in paragraph 11 is applied, the proposal would be in conflict with the NPPF. As such there are no material considerations that outweigh the conflict with the adopted local plan and the quoted paragraphs of the NPPF, and consent should be refused the proposal being in conflict with saved polices GD2, EN8, EN27 and DC17 of the Wealden Local Plan 1998, WCS12 and WCS 14 of the Wealden Core Strategy Local Plan 2013.

2 Site 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.



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Figure 1: Site Location Plan

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. Farm vehicle access is currently provided via a track off London Road.

2.1.3 The site's boundaries are made up of a mixture of hedgerows and post and wire fencing. The site adjoins existing development in each direction, mainly comprising large detached residential properties to the south and east. Agricultural buildings adjoin the site to the north west, beyond which is a caravan dealership and a used

car dealership. Two existing dwellings sit to the north east, and an area of ancient woodland (Round Wood) sits to the south east of the site.

2.1.4 The site is approximately 1.3km north of Uckfield town centre, within the wider Uckfield urban area. It occupies a position between Ringles Cross to the south and Budletts to the north. Further afield is Five Ash Down to the north and Maresfield to the north west.

2.1.5 The site benefits from its close proximity to Uckfield, Maresfield and Five Ash Down. Uckfield is a district centre which provides a range of services and amenities including employment, healthcare (including Uckfield Hospital) and education (including Uckfield College). An established footpath exists on London Road providing safe walking opportunities to each of these settlements. Nearby amenities include the Bonners C of E Primary School and the Stepping Stones Pre-School south of Maresfield, approximately 1km north of the site, accessible by public footpath. The Blue Asia Restaurant sits 200m north of the site and the Ringles Cross Public House is 500m to the south.

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 Appeal Proposal

3.1 Description of Development

3.1.1 Outline planning permission is sought 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 are reserved apart from access.

3.1.2 As set out in further detail in Section 4 of this statement, the application includes a parameter plan which is submitted for approval. However, in order to demonstrate the site can accommodate 60 dwellings with associated works, an indicative site plan, elevations and landscape strategy has been prepared. This has been informed by technical studies, a review of local vernacular, consideration of the site's constraints and opportunities, the National Design Guide and the Wealden Design Guide as well as planning policy at local and national levels.

3.2 Amount of Development

3.2.1 The outline application is for 60 dwellings, including 35% (21 dwellings) affordable housing and 3 custom/self build plots.

3.3 Access

3.3.1 Access is submitted in detail.

3.3.2 Access to the site is proposed from a new simple priority junction access from London Road midway along the western boundary. A carriageway width of 5.5 metres will be provided on the site spine road and kerb radii at the proposed access will be 8 metres to accommodate larger vehicle movements.

3.3.3 A two-metre wide pedestrian footway is proposed on the southern side of the access junction, linking to the proposed new pedestrian crossing on London Road.

3.3.4 Visibility sight lines of 171 metres to the south and in excess of 215 metres to the north can be provided, in excess of the requirements of the Design Manual for Roads and Bridges (DMRB).

3.4 Outline Matters

3.4.1 All other matters are reserved for future consideration, however a parameter plan has been prepared, together with an indicative site plan to show how the site could accommodate 60 dwellings with associated works on site.

Scale

3.4.2 Whilst not a matter for determination, it is indicatively proposed to provide a mix of 2, 3, 4, and 5 bedroom homes.

Layout

3.4.3 Whilst not a matter for determination, the indicative site plan includes 3 character areas as follows:

1) London Road Frontage - The entrance area to the site will provide open space and high quality landscaping to protect the setting of Round Wood and retain the existing hedgerow along London Road. The proposed dwellings will front onto London Road or the primary access road which connects the different character areas of the development. Key features within this character area will include tree planting, post-and-rail fencing and high quality planting.

2) Woodland Edge - With a backdrop of existing mature trees and planting, these dwellings have a frontage onto London Road, tucked behind the existing retained hedgerow. This character area will feature shared surface streets.

3) Village Streets - The dwellings are arranged around a series of shared surface streets, with the larger houses fronting onto the open spaces and landscape buffers. further detached dwellings back onto the eastern boundary enhanced with new trees and planting. Robust landscaping will be provided to the eastern edge.

Parking

3.4.4 Whilst not a matter for determination, it is indicatively proposed to provide two allocated spaces per residential dwelling in addition to a further six unallocated resident parking spaces and 12 unallocated visitor spaces. This will be confirmed at a future Reserved Matters stage.

3.4.5 Safe and secure cycle parking facilities will be provided within the curtilage of each dwelling, sufficient to store at least two bicycles per residential unit.

Landscaping

3.4.6 Details of landscaping are reserved for future determination. However, the illustrative site layout plan provides an overview of the areas which make up the key structural elements of the landscape and ecology strategy for the site which have been informed by landscape and ecological assessments including:

- Existing vegetation, including trees along the boundaries of the site, would be retained and strengthened with new mixed tree and shrub planting to

filter views towards proposed residential development. By providing extensive new hedgerow and tree planting throughout the scheme, the proposals will achieve Biodiversity Net Gain;

- Attractive mixed, native tree belts with an understorey of mixed, native shrubs would be provided along the boundaries to screen views towards proposed residential development;

- The use of hard and soft landscape features within the development which complement the architectural forms and reflect the character and appearance of the townscape within the surrounding area;

- A mixture of attractive native street trees would be provided within the development to break up views towards built form and to soften car parking areas;

- Proposed planting would all be native and locally appropriate to increase the biodiversity value of the site; and

- Tree-lined streets in accordance with NPPF paragraph 131 would be included

Appearance

3.4.7 Whilst not a matter for determination, it is indicatively proposed to incorporate a unifying palette of materials that is considered to be appropriate to the locality, including a variety of locally sourced bricks, timber boarding and tile hanging with contrasting bricks used for details such as window headers or cills. Roofs will be a variety of gable or hipped, with plain red/orange tiles.

4 Planning Application Submission

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

4.1.2 The application submission comprised the following drawings and supporting reports.

Drawings

Plan	Drawing Number
Site Location Plan	20179–S101-B
Site Survey Plan	20179-S102-A
Coloured Sketch Layout	20179-C101-C
Coloured Sketch Street Elevations	20179-C102-B
Land Use Plan	20179-C103-B
Landscape Strategy Plan	7397-ASP3-B

Reports

Document	Author
Completed Application Form	DHA Planning
Cover Letter	DHA Planning
Design & Access Statement	OSP Architecture
Arboricultural Development Report	*Tree:* Fabrik
Arboricultural Survey (including RPA)	*Tree*: Fabrik
Biodiversity Checklist	Aspect Ecology
Ecological Appraisal	Aspect Ecology
Energy & Sustainability Report	Green Tiger Sustainability
Flood Risk Assessment & Drainage Strategy	Glanville
Heritage Statement	Savills
Landscape and Visual Impact Assessment	Aspect Landscape Planning
Transport Assessment (including Access Design and Pedestrian Crossing)	DHA Transport
Statement of Community Involvement	Development Intelligence
Schedule of Accommodation	

4.2 Post submission amendments

4.2.1 During the life of the application, additional work was submitted in order to respond to statutory consultee responses. This included:

Document	Author
Transport Technical Note (November 2022)	DHA Transport
Transport Technical Note – Response to ESCC (January 2023)	DHA Transport
Transport Technical Note – Response to Uckfield Town Council (January 2023)	DHA Transport

Transport Technical Note (February 2023)	DHA Transport
Amended Indicative Site Layout Plan with garden sizes 20179-C104	
Coloured Sketch Layout 20179-C101-G	
Land Use Plan 20179-C103-D	
Schedule of Accommodation Rev L	
Travel Plan	DHA Transport

4.3 Consultation Responses

4.3.1 Various consultation responses were received throughout the life of the planning application. For the purpose of this Statement, we have summarised the latest position from statutory consultees at the time the appeal was submitted.

Statutory Consultee	Objection/No Objection	Other
ESCC Highways	No objection subject to the imposition of conditions	The application was received as a formal consultation in May 2022 and attracted a number of highway objections. The highway representation remained as a draft response which was shared with the applicant and planning case officer and was not submitted as a formal objection. The summary of the objections originally made are: i) Access suitability – gradient ii) Lack of measures to support active travel accessibility. iii) Site within a 60mph limit not conducive to reaching footway on west side of London Road or for cyclists. iv) Lack of suitable footway between Ringles Cross/Ringles Place and Snatts Road v) Lack of information to support the application – non motorised user audit vi) Location reliant on private car due to active travel constraints on the network. ESCC Highways formal and latest comments dated 17th February 2023 confirm No objection subject to the imposition of conditions and s106 agreement.
ESCC Archaeology	No objection subject to imposition of conditions	Dated 6th June 2022
East Sussex Police	Comments provided – no immediate concerns – relating to the detail which would be considered at the reserved matters stage.	Dated 25th May 2022
Southern Water	No objection	Standard response: Dated 27th May 2022 Second response: Dated 1st November 2022. Third response: Dated 7th November 2022.
Local Lead Flood Authority	No objection subject to imposition of conditions.	Dated 23rd May 2022

East Sussex Fire and Rescue Service	No objection	Dated 6th May 2022
Buxted Parish Council	First response: requested an extension on decision. Second response: Objection. Third response: Objection.	First response: Dated 10th May 2022. Second response: Dated 17th June 2022. Third response: Dated 12th April 2023.
NatureSpace	No objection subject to imposition of conditions.	Received on 24th May 2022
Waste Management	No objection subject to imposition of conditions.	Received on 17th May 2022.
WDC Ecology	No objection subject to imposition of conditions.	Received on 25th May 2023
Non-Statutory Consultees		
WDC Housing	No objection subject to imposition of conditions.	Received on 27th May 2022
WDC Drainage	No objection subject to imposition of conditions.	Received on 16th May 2022
WDC/Rother Pollution Control	No objection subject to imposition of conditions.	Received on 12th August 2022
WDC Conservation and Design	No objection	Received on 31st May 2022
Uckfield Town Council	Objection	Received on 8th June 2022

4.3.2 Throughout the life of the Planning Application, a number of letters of representation were received from neighbouring residents, all of which were objecting to the proposed development. These will be discussed in more detail in the Appellant's evidence.

5 Planning Policy Context

5.1 Introduction

5.1.1 The current development plan for the area in which the appeal site is located comprises the policies of the Wealden Local Plan 1998, which were saved by Direction in 2007; the Core Strategy Local Plan, which was formally adopted on 19 February 2013; and the Affordable Housing Delivery Local Plan adopted in May 2016.

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.

5.2 The Development Plan

Core Strategy Local Plan (CSLP) (Adopted February 2013)

5.2.1 The following policies of the adopted Core Strategy are considered relevant to the appeal.

Policy Reference	Description
SPO3	**Spatial Planning Objective 3:** To deliver at least 9440 homes within Wealden from 2006 to 2027.
SPO6	**Spatial Planning Objective 6:** To support the growth of the Wealden economy by helping existing companies to expand and develop.
SPO7	**Spatial Planning Objective 7:** To encourage the reduction of the need to travel by car.
SPO13	**Spatial Planning Objective 13:** To encourage the development of high quality, safe and attractive living environments for communities in both towns and villages, while promoting local distinctiveness through good design in all new development.
SPO15	**Spatial Planning Objective 15:** Expects new development to contribute to strategic and local infrastructure requirements, through both on site facilities and financial contributions for off-site works
WCS1	**Provision of Homes and Jobs 2006-2027:** States that land will be identified in subsequent Development Plan Documents for the provision of some 4525 net additional dwellings in Wealden District to provide for 9440 dwellings over the period 2006-2027.
WCS2	**Distribution of Housing Growth 2006-2027:** Sets housing distribution and identifies broad locations to meet the housing provision of WCS1.
WCS5	**Managing the Release of Housing Land:** States that the release of land for housing will be managed so that it will deliver the level and broad distribution of development set out in Policy WCS2.
WCS7	**Effective Provision of Infrastructure:** States that the release of land for development will be conditional upon there being

	sufficient capacity in the existing local infrastructure to meet the requirements generated by the proposed development.
WCS8	**Affordable Housing:** States that affordable housing will be required at a level of 35% of the number of dwellings in any scheme.
WCS12	**Biodiversity:** 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 and sustain wildlife in both rural and urban areas.
WCS13	**Green Infrastructure:** Seeks to protect, improve and enhance the District's existing network of green infrastructure.
WCS14	**Presumption in Favour of Sustainable Development:** States that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Wealden Local Plan (LP) 1998

5.2.2 The following 'saved' policies of the Wealden Local Plan 1998 are also considered relevant to the appeal.

Policy Reference	Description
GD2	**Development outside development boundaries:** States that outside the development boundaries, development will be resisted unless it is in accordance with specific policies in the Plan.
EN1	**Sustainable Development:** States that the Council will pursue sustainable development in considering the location, layout and design of development, renewable energy and waste management proposals and in assessing the effects of proposals on the environment, including on water and air quality.
EN2	**Development Pattern:** States that the Council will seek to maintain the existing settlement pattern and ensure that major new developments generating significant travel movements are located efficiently in relation to existing development and to public transport.
EN8	**Low Weald:** States that development within the Low Weald will only be permitted if it conserves the low rolling agricultural character of the landscape.
EN12	**Protection of trees and woodlands:** Seeks to retain and enhance the contribution of trees and woodland areas to the landscape character of the District.
EN14	**Landscaping within developments:** States that in appropriate cases, the Council will require landscaping, including surface treatments, to be carried out as part of development proposals.
EN15	**Designated nature conservation sites:** States that the Council will seek to safeguard designated nature conservation sites by resisting development or land use changes which would be likely to adversely affect their nature conservation value.
EN18	**Protection of open areas within settlements:** States that the Council will resist the loss of open areas and undeveloped gaps within settlements which contribute to the character or amenities of the locality.
EN27	**Layout and Design of development:** Expects developers to aim for a high quality of design in all proposals.

EN29	**Light Pollution:** Requires light spillage to be minimised and the use of the minimum intensity of light necessary to be compatible with safety and security objectives.
DC17	**Housing development in the countryside:** States that housing development will not be allowed outside development boundaries, as defined on the Proposals Map, unless it conforms with other policies in the Plan.
HG5	**Dwelling mix within new development schemes:** Seeks a mix of dwelling types and sizes on new estate developments.
HG6	**Crime prevention in new housing developments:** States that regard should be paid to crime prevention in the design and layout of the housing areas.
HG7	**Energy consideration in new housing developments:** States that consideration should be given to energy conservation in the design and layout of new housing areas.
CS1	**Provision of capital works and services:** States that development will not be permitted before the Council is satisfied that the capital works directly required to service the development are provided at the time development takes place or will be provided at the appropriate time.
CS2	**Drainage:** States that planning applications will be permitted only where adequate provision is made for surface and foul water drainage to meet Local Authority standards.
CS4	**Recycling enclosures:** States that within new housing developments over 40 dwellings, when appropriate, the Council will seek the provision of a purpose built enclosure for the containment of recycling facilities.
TR3	**Traffic impact of new development:** Seeks to ensure that new developments do not create or perpetuate unacceptable traffic conditions.
TR13	**Footpaths and Bridleways:** Seeks to secure the provision of safe and convenient pedestrian routes in new developments.
TR16	**Car Parking Standards:** Requires the on-site provision of vehicle parking and servicing in accordance with the standards set out in Appendix 6.
LR1	**Provision of outdoor playing space:** States that the Council will seek to ensure that adequate outdoor playing space is provided in towns and villages within the District in accordance with the levels recommended by the National Playing Fields Association.
LR3	**Children's play space in developments of 30+ dwellings**: Requires new residential development of 30 or more dwellings to contain children's play space at a rate of 0.6 – 0.8 hectares per thousand population, including an equipped area at a rate of 0.2 – 0.3 hectares per thousand population.
LR5	**Informal amenity space in new residential developments:** Seeks the provision of informal amenity space in all large new housing developments.

Affordable Housing Delivery Local Plan 2016

Policy Reference	Description
AFH1	**Affordable Housing:** States that affordable housing is required at a level of 35% of the number of dwellings on development sites with 5 (net) dwellings or more.

5.3 Other Material Considerations

National Planning Policy Framework

5.3.1 The following paragraphs of the NPPF (September 2023) are considered relevant to this appeal:

(1) Chapter 2 (Achieving Sustainable Development): Paragraphs 8, 10 and 11;

(2) Chapter 4 (Decision-making): 38, 47, 55 and 57;

(3) Chapter 5 (Delivering a sufficient supply of homes): 60, 65 and 73;

(4) Chapter 6 (Building a strong, competitive economy): 81;

(5) Chapter 8 (Promoting healthy and safe communities): 92, 93, 95, 96 and 98;

(6) Chapter 9 (Promoting sustainable transport): 104, 105, 106, 108, 109, 110, 111, 112 and 113;

(7) Chapter 11 (Making effective use of land): 119, 120, 124 and 125;

(8) Chapter 12 (Achieving well-designed places): 126 and 130;

(9) Chapter 14 (Meeting the challenge of climate change, flooding and coastal change): 152, 159, 167 and 169;

(10) Chapter 15 (Conserving and enhancing the natural environment): 174 and 180; and

(11) Chapter 16 (Conserving and enhancing the historic environment): 194, 197 and 202.

Wealden Emerging Local Plan

5.3.2 The Council had proposed a new Local Plan which was submitted for independent examination on the 18 January 2019. However, following the Stage 1 hearing sessions into the Examination, the Inspector wrote to the Council advising that the Plan was unsound, could not proceed and should be withdrawn.

5.3.3 On 19th February 2020, Wealden District Council formally withdrew its draft Wealden Local Plan 2019 following its Stage One examination process. Accordingly, whilst the background of the withdrawn Local Plan is considered to be of interest, it is not considered to be a material consideration in the decision-making process.

5.3.4 The Council has since undertaken a further call for sites between 1st June and 10th August 2020, but it has not yet assessed any of the new sites, including land at Mockbeggars Farm (ref: 1005/1410). Whilst it has announced an intention to

produce a new draft Local Plan, at the time of writing no new draft Local Plan has been published.

Wealden Design Guide 2008

5.3.5 The Wealden Design Guide was adopted as a Supplementary Planning Document (SPD) and, as such, the guidance represents an important material consideration in the determination of planning applications.

5.3.6 The purpose of the Wealden Design Guide is to encourage a higher standard of design for development within the District.

5.3.7 The following sections of the Design Guide are considered to be of particular relevance:

(1) Chapter 5 (Site and character Appraisals):

(a) Parts 4.4, 7.7, 8.6 and 10.3;

(2) Chapter 7 (New Residential Development):

(b) Part 4.8.

Housing Land Supply and Housing Delivery

5.3.8 The Five-Year Housing Land Supply Statement states as of the 1st April 2022, published in December 2022, the published position is 3.92 years. The 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.

5.3.9 A recent appeal decision, dated 5 January 2023 (ref APP/C1435/W/22/3301104) which approved 58 new homes near Framfield concluded the Council's five year housing supply is closer to 2.78 years, and does not agree with the Council's suggested 3.66 years based on the number of major sites that only have outline consent.

5.3.10 This represents a very substantial shortfall in housing land supply and is a material consideration which should be given significant weight in the determination process. The Appellants will provide further evidence in relation to the five year housing land supply unless a position can be agreed with the Council prior to the appeal event. A consequence of the Council's inability to demonstrate a 5 year housing land supply is that para. 11(d) of the NPPF is engaged. This means that the policies most relevant to the determination of the appeal (GD2, DC17, EN27 and WCS14) 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>

5.3.11 The Council's latest assessment of needs prepared by Iceni Projects in August 2021 [CD6.4] states an annual need for social/affordable rented accommodation of 519 dpa. This equates to 42.8% of the current Standard Method Local Housing Need ("LHN") of 1,212 dpa, which is high.

5.3.12 In terms of delivery, the Council has only managed to deliver 176 dwellings in the last monitoring year 2021/2022 i.e., 34% of the total identified need for social/affordable rented accommodation, which is low.

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

5.3.14 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 1,212 dpa, which is unsustainable.

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

Self-Build and Custom Housing

5.3.16 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.

5.3.17 The latest update to the Council's Self-Build and Custom Housebuilding Register states that as of 31st August 2023 there are 227 individuals enrolled on the self-build and custom housebuilding register.

5.3.18 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 Grounds of Appeal

6.1 Summary

6.1.1 As outlined in section 1.2, notwithstanding the clear recommendation from Officers that the application be approved, members of the Planning Committee North decided to refuse planning permission. In summary, this was due to the perceived harm to landscape character, potential biodiversity impacts, and the inefficient use of land.

6.1.2 This section provides an outline of the Appellant's case that will be presented to the Inspector, and the reasons why outline planning permission should be granted.

6.2 Principle of development

6.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, in conjunction with section 70(2) of the Town and Country Planning Act 1990, requires planning applications to be determined in accordance with the statutory development plan, unless material considerations indicate otherwise.

6.2.2 The appeal site adjoins the built confines of Uckfield and is close to the settlements of Maresfield and Five Ash Down. The appeal site is well connected to Uckfield and further afield, with a footpath in place along London Road and bus stops nearby. Uckfield Town Centre lies approximately 1.3km to the south of the site. 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.

6.2.3 The appeal site is set around 330m north (outside) of the adopted development boundary for Uckfield. However, the development boundary dates back to the 1998 Local Plan and as the Council is not able to demonstrate a five-year supply of housing, the conflict in this regard with GD2 and DC17 is afforded substantially less weight in the planning balance. Paragraph 3.6 of the Core Strategy indicates that there may be an opportunity to consider extending development boundaries where housing growth indicates that it will be required. This is formalised by Policy WCS6 which advises that retained or new development boundaries will be reviewed as part of a Delivery and Site Allocations DPD.

6.2.4 The Core Strategy 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.

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.

6.2.5 The Head of Planning and Environmental Services' committee report [CD 5.1] states that whilst the proposal is in conflict with policies GD2 and DC17 which restrict development in the countryside, the site is acceptable in principle for residential development.

6.2.6 However, Members of the Planning Committee North disagreed with this professional advice and considered that the proposal represents an unjustified and unacceptable form of development of a site that for planning purposes lies in the countryside, outside of the defined development boundary for Uckfield. This is because unsustainable rural housing is resisted under the NPPF and as such the rural restraint policies can be afforded some weight. Their decision goes on to state that the harm from the development of this semi-rural site significantly and demonstrably outweighs the benefits such that even if the presumption in paragraph 11 is applied, the proposal would be in conflict with the NPPF.

6.2.7 The Appellant will, in evidence, respond to the reasons for refusal and demonstrate that:

(1) The appeal site falls within a sustainable location and represents a sustainable form of development; and

(2) There are no adverse impacts of the development that would significantly and demonstrably outweigh the benefits of the development proposal.

Benefits of the Proposed Development

6.2.8 The Appellant will demonstrate the number of community benefits as a result of the development, which include, but are not limited to, the following:

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. • Additional income in Council Tax payments.
Social benefits	• Boosting the Council's supply of housing by 60 homes. • Provision of policy compliant level of affordable housing and self build plots. • Provision of an attractive new development.

	• 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. • Significant new and enhanced landscaping across the site.

Table 6.1: Summary of community benefits of the development

6.2.9 The Appellant will demonstrate that the above, and any other benefits of the development, will outweigh the said harms arising from the development. This is discussed further below.

6.3 Inefficient use of land

6.3.1 The reason for refusal 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).

6.3.2 In June 2021, a proposed scheme of 95 dwellings plus landscaping, open space and access was presented for pre-application advice, representing a gross density of 26 dwellings per hectare. The written response received in July 2021 stated that:

- Relating to the layout, there are areas of the site that with some adjustment could create a sense of place and add to the quality of the area whilst delivering much needed housing.
- There are some parts to the site that have too much development, the flat blocks look awkward and out of place.
- Some of the fine detail work (parking numbers, bays, alignments etc.) together with points of concern (incorporation of SuDS and buffers to the Ancient Woodland etc.), all point to an adjusted layout.
- Fundamentally, it looks like considerably fewer units being realised on this site.

6.3.3 Subsequently and in consideration of the Officer's feedback, the number of dwellings was reduced to 80. The predominant change was a reduction in flats in order to respect the site's peripheral location between Uckfield and Five Ash Down, with clusters of maisonettes provided instead. In addition, the site layout was amended to better reflect the site opportunities and constraints, including landscape, drainage, ecology and trees.

6.3.4 Within a written response dated 13 September 2021, the Officer confirmed that the changes were heading in the right direction, and that the omission of flat blocks was welcome. However, the swapping of flats to maisonettes raised a concern, and although the Appellant could demonstrate sufficient open space and landscape buffers, the feedback given was that the unit numbers needed to be reduced further in order to respect the character of the area. In conclusion, a scheme of about 60 units was considered appropriate for this location.

6.3.5 As a result, the Appellant arranged a further discussion regarding the potential for a scheme of 60 private and affordable units, plus 10 custom and self-build plots. It was acknowledged that there is a lot of open space on the site, and although maisonettes would help to deliver smaller units as evidenced in the Local Housing Needs Assessment, the firm advice from Officers was that there should be a further reduction in unit numbers to reflect the surrounding context. Therefore, it was reiterated that a scheme of 60 units was likely to be considered appropriate for the site.

6.3.6 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. Indeed, Officers acknowledge within the committee report that the development of the scale proposed, "respects the site's setting as a transition between the dense urban area of Uckfield and the wider countryside surrounding the settlement and has been conceived on a landscape led basis providing ample green open spaces".

6.3.7 As referenced by the Council in its reasons for refusal, the Framework states that decisions should support development that makes efficient use of land. However, this should also take into account factors including the desirability of maintaining an area's prevailing character and setting (paragraph 124). The site lies within the Low Weald landscape character area and Saved Policy EN8 seeks to preserve that rural landscape. Indeed, the Council have confirmed the importance of protecting the character of the area throughout the decision notice.

6.3.8 It is clear from the submitted plans and evidence forming part of the application documentation that very careful consideration has been given to optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space), and there are no statutory objections on these grounds. The decision notice implies that a higher density scheme with greater open space would be more appropriate however this would be contrary to saved policy EN8 and the advice received to date from the Council.

6.3.9 Therefore, the Appellant strongly disagrees with the Committee Members' assessment, as set out in the reasons for refusal, that the developable area does not represent an efficient use of land as required by NPPF paragraph 8(c) and 125(c). The Appellant will, in its evidence, respond to the reason for refusal and demonstrate that the application has fully addressed all previous concerns regarding density and the proposed quantum of development, and that such a density is appropriate given the sites' characteristics.

6.4 Ecology

6.4.1 Committee Members have taken the view that insufficient information has been submitted to demonstrate the proposed development would not result in adverse impacts on protected species and that therefore the proposal would be contrary to paragraph 174 of the NPPF. Whilst it is acknowledged that the proposed development includes an area indicated for bat mitigation, Committee Members have suggested it is not clear how this would be affected by lighting, nor how the loss of the land from a foraging perspective is adequately mitigated or compensated.

6.4.2 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, the amended details alleviate concerns raised relating to impacts upon local ecological network, ecological connectivity and local bat populations/fragmentation of habitats. 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'.

6.4.3 6.4.3 The development will deliver a Biodiversity Net Gain equivalent to 0.98% in habitat units, and 68.85% in hedgerow units. Further mitigation can be secured via a condition. For example, suggested condition 27 of the committee report states that a Wildlife Management Plan with 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.

6.4.4 The WDC Biodiversity Officer no longer objects to the application, confirmed within a revised response dated 25th May 2023, which recommends three ecology related conditions.

6.4.5 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.

6.4.6 The Appellant will demonstrate in its evidence that there are no reasons to withhold planning consent on ecological grounds.

6.5 Trees and Hedgerows

6.5.1 The decision notice asserts that the loss of landscape hedge and vegetation to provide the necessary access would 'not add to the overall quality of the area' which is contrary to NPPF paragraph 130(a).

6.5.2 The application is supported by an Arboricultural Development Report and Arboricultural Survey (including RPA) prepared by tree:Fabrik. This identifies that there are two areas where loss of vegetation cannot be avoided, including the site access from London Road. The hedgerows identified for removal are assessed as category 'C2' in accordance with BS5837 (2012).

6.5.3 Although the proposals include the loss of small sections of these hedgerows, new native species-rich planting, particularly at the eastern site boundaries will compensate for this small loss and provide an overall net gain in hedgerows on site. Moreover, as this hedgerow is not well connected to other semi-natural habitats in the north and south, new hedgerow planting will enhance connectivity in this area. As such, the small extent of hedgerow loss is not of ecological significance and this is supported by the Council's Biodiversity Officer who has no objection to the proposals.

6.5.4 All other hedgerows will be retained and protected during the construction phase of the proposals. This can be secured by condition 28 which states that the development shall take place strictly in accordance with the recommendations set out within the Ecological Appraisal produced by Aspect Ecology.

6.5.5 Therefore, the proposed development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development as per the requirements of paragraph 130(a). The Appellant will demonstrate in evidence that there are no reasons to withhold planning consent on arboricultural grounds.

6.6 All other matters

6.6.1 The evidence will deal with other issues as relevant, and necessary, and it will demonstrate that in all respects the proposed development is acceptable in planning terms. The Appellant will adduce such further evidence as is necessary to answer or rebut any written or oral evidence presented at the inquiry.

6.6.2 The evidence will also address any additional issues that arise from other parties' Rule 6 Statements and any other issues that arise from discussions leading up to exchange of evidence.

6.6.3 Other key matters deemed relevant to the consideration of the appeal have been set out below.

Landscape Visual Impact

6.6.4 The application is supported by a Landscape and Visual Impact Assessment (LVIA) prepared by Aspect which assesses the visual impact of the proposed development on the landscape and character of the area.

6.6.5 The LVIA confirms the site is not covered by any qualitative landscape designations at a national or local level, and neither the site nor its immediate setting represents a "valued landscape" with reference to paragraph 174(a) of the NPPF.

6.6.6 The LVIA concludes the site and receiving environment have the capacity to accommodate the proposals. The proposals will not result in a significant change to the landscape character or visual environment over the longer term and, as such, it is considered that the proposed development can be successfully integrated in this location and is supportable from a landscape and visual perspective, and this is confirmed in the Officer's Report to Planning Committee North.

6.6.7 The Appellant will demonstrate in evidence that there are no reasons to withhold planning consent on landscape grounds.

Highways

6.6.8 The application is supported by a Transport Assessment and three subsequent Technical Notes prepared by DHA Transport to address concerns raised by Sussex County Council as the highway authority.

6.6.9 The Transport Assessment and subsequent material submitted concludes that the proposed development should not have any adverse transport impacts and therefore there is no sound transport based objections to the proposals.

6.6.10 The original concerns raised by ESCC have been fully addressed and overcome, and their response dated 17th February 2023 confirms it has no objection subject to the imposition of conditions and s106 agreement.

6.6.11 The Appellant will demonstrate in evidence that there are no reasons to withhold planning consent on highway grounds.

Flood Risk and Drainage

6.6.12 The application is supported by a Flood Risk Assessment (FRA) prepared by Glanville.

6.6.13 This confirms that the appeal site is in flood zone 1 and at low risk of flooding.

6.6.14 The proposed disposal of surface and foul water from the development will include sustainable drainage techniques to accommodate surface water run-off from the site.

6.6.15 The report concludes development will not increase the flood risk, either on this site or to neighbouring properties and therefore complies with the NPPF and PPG.

6.6.16 WDC Flood Risk Officer and ESCC LLFRA within their consultee responses raised no objection subject to planning conditions requiring full drainage details to be submitted prior to commencement of development on site.

6.6.17 The Appellant will demonstrate in evidence that there are no reasons to withhold planning consent on flood risk or drainage grounds.

Heritage and Archaeology

6.6.18 The application is supported by a Heritage Statement prepared by Savills.

6.6.19 The 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. The WDC Conservation officer within their consultee response raises no objection to development.

6.6.20 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 consent. ESCC agree with this and within their consultee responses raise no objection subject to planning conditions requiring the implementation of a programme of archaeological works in accordance with a written scheme of investigation.

6.6.21 The Appellant will demonstrate in evidence that there are no reasons to withhold planning consent on heritage or archaeological grounds.

7 S106 Contributions

7.1 Overview

7.1.1 This section sets out the Appellant's position in respect of development contributions and any S106 Agreement that may arise from the grant of planning permission. A formal S106 Agreement will be progressed as the appeal proceeds and finalised before the inquiry closes.

7.1.2 For the avoidance of doubt, the Appellant is willing to contribute towards community facilities, infrastructure and services needed to mitigate impact and that can reasonably be secured through a S106 Agreement. In this regard, the financial contributions are dependent on the requests from specific service providers and would need to be assessed in relation to the planning policy justification in the NPPF (paragraph 56) i.e., that they are:

(1) necessary to make the development acceptable in planning terms;

(2) directly related to the development; and

(3) fairly and reasonably related in scale and kind to the development.

7.2 Financial Contributions

7.2.1 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:

- Site access and grading;
- Crossing point with refuge;
- Footway on east side of London Road;

- Southbound bus stop and infrastructure (cage, shelter, seating, RTPI, raised kerb);
- Footway widening to minimum of 1.5m between proposed crossing and Paygate/1 Ringles Cottage;
- Footway enhancement Ringles Cross to Snatts Road and double yellow lines (TRO);
- Snatts Road junction realignment;
- Layby to accommodate current on-street parking for 4 spaces;
- Northbound bus stop with infrastructure layby/parking (cage, shelter, seating, RTPI, raised kerb).

7.3 Summary

7.3.1 A formal S106 agreement will be progressed as the appeal proceeds and finalised in line with the Inspector's timeframe and ahead of any formal decision.

8 Conditions

8.1 Requested Conditions

8.1.1 Paragraph 55 of the National Planning Policy Framework (2023), states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

8.1.2 The Appellant will seek discussion, and if possible agreement, with the Council on draft conditions put forward at the inquiry as appropriate for attaching to the planning permission, should the appeal be allowed.

9 Planning Balance

9.1.1 At the heart of the NPPF is the presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. NPPF paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

9.1.2 The Appellant will demonstrate that:

(1) There is a compelling need for more housing to help the Council accord with the NPPF;

(2) The proposed development fully accords with the principles of sustainable development as set out in national policy and provides an appropriate, accessible, and highly sustainable location for new development;

(3) The proposal would make a significant contribution of 60 homes to addressing the shortfall in the five year housing land supply, include the provision of 35% affordable housing for which there is an acute and growing need, and 5% self/custom built units;

(4) The proposal would include significant areas of Public Open Space including food growing areas and children's play areas and additional trees and new hedgerow planting;

(5) The proposal would incorporate sustainable construction and renewable energy generation, equating to a 20% improvement over Part L requirements;

(6) The proposal would create high quality development with sufficient landscaping and open space and protects the amenities of existing residents and for future occupiers;

(7) The development will deliver Biodiversity Net Gain, as set out within the Biodiversity Net Gain Assessment (September 2023) prepared by Aspect Ecology;

(8) The proposed development was supported by the Council's professional Planning and other departmental Officers.

9.1.3 The decision notice states that, having regard to the effect of the development and in accordance with Paragraph 11 (d) (ii) the adverse environmental impacts of the development significantly and demonstrably outweigh its social and economic benefits when assessed against the policies in the NPPF as a whole.

9.1.4 Accordingly, the Appellant will demonstrate 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. The initial application reference WD/2022/0648/MAO is subject to no outstanding objections from statutory consultees.

9.1.5 In this context, the proposal would not conflict with the Development Plan taken as whole or the objectives of the National Planning Policy Framework or the Planning Practice Guidance. It is therefore considered that these point in favour of the development outweighing the policy objections and consequently, for the reasons given above, it is respectfully requested that the appeal should be allowed.

10 Justification for an Inquiry

10.1 Overview

10.1.1 The Appellant considers an Inquiry is the only suitable procedure for the determination of this appeal. This section therefore outlines the justification for this, taking into account the criteria set out in the PINs guidance.

10.2 Need for the evidence to be tested through formal questioning by an advocate

10.2.1 The proposed development is for substantial development requiring detailed investigation and interrogation of evidence by a legal advocate. The evidence will include planning, design, housing land supply, landscape, ecology (in particular bats) and lighting witnesses/evidence to respond to the Council's reasons for refusal. In addition, evidence will be given on highways/transport and other such technical matters as are necessary to address concerns raised by the Parish and Town Council's together with other third parties (including residents).

10.2.2 Detailed scrutiny of the Council's evidence relied on to support its reasons for refusal through formal questioning and testing is vital to the determination of this appeal.

10.3 The issues are Complex

10.3.1 The key matters relating to the reasons for refusal (landscape, ecology, housing land supply and lighting) are technically complex and cannot be properly explored via the written representations or hearing procedure. Additional technical evidence (e.g. highways/transport) may be necessary to address third party objections.

Substantial Local Interest

The development proposals are locally controversial with approx. 50 residents objecting to the scheme together with detailed objections by Buxted Parish Council and Uckfield Town Council. The nature of the objections mean that the Parish Council and/or Town Council will wish to be a Rule 6 party.

10.4 Likely length of the Inquiry

10.4.1 Given the level of interest in the proposed development, we estimate at least 4 - 6 days being needed for this Inquiry.

10.4.2 Given the above, there is limited prospect of the case being completed in a one day or even two-day hearing.

10.5 Summary

10.5.1 For the reasons above, the Appellant consider an Inquiry is the only appropriate procedure for determining the appeal in this case.

11 Notice of Cost Claim

11.1.1 The Appellant reserves its position to make a cost application in respect of the time spent addressing the reasons for refusal.