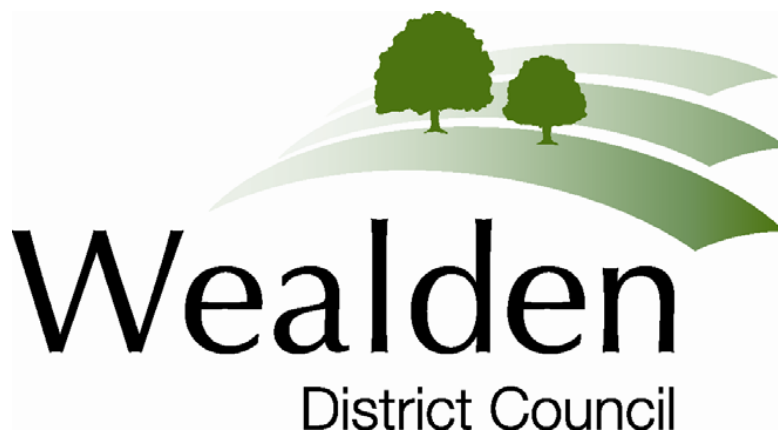




Town and Country Planning Act 1990

Appeal by Hertfordshire Holdings Ltd

DEVELOPMENT OF UP TO 124 NO. RESIDENTIAL DWELLINGS, ASSOCIATED
INFRASTRUCTURE (INCLUDING A NEW ACCESS JUNCTION ONTO THE A271)
AND OPEN SPACE.

**Land South of the A271 and east of the A22, Lower Horsebridge, Hailsham, East
Sussex, BN27 4DN**

Wealden District Council Ref:

WD/2022/3222/MAO

Planning Inspectorate Ref:

APP/C1435/W/23/3335625

PLANNING PROOF OF EVIDENCE

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Appendix to Proof of Evidence (Separate Document)

Comments on Housing Land Supply by Stacey Robins

1 SUMMARY OF PROOF OF EVIDENCE

- 1.1 My name is Claire Andrea Turner. I hold a BSc Honours degree in Environmental Planning and Design, together with a Diploma in Town Planning and MSc in Urban Planning. I am a Chartered Town Planner. I work within the Council as Principal Planning Officer for Major Projects.
- 1.2 My evidence covers the planning issues raised in the consideration of the application and reasons for refusal. This includes consideration of the development plan, the National Planning Policy Framework (NPPF) and other material considerations. My evidence relies on and refers to evidence provided by: Michelle Bolger on landscape impact (**CD13.9**) and Heather Hall on heritage matters (**CD13.10**).
- 1.3 My main proof of evidence concludes that the appeal scheme amounts to a breach of the development plan. In particular, there is a breach of policies GD2, DC17, EN1, EN2, EN8, EN14, EN27 and CS1 of the Wealden Local Plan; Strategic Planning Objectives SPO1, SPO2, SPO3 and SPO13 and SPO15, Policies WCS6, WCS7, WCS9, WCS12, WCS13 and WCS14 of the Core Strategy and Policies LHB1 and LHB2 of the Hellingly Neighbourhood Development Plan. The balance of material considerations also weighs heavily against a grant of planning permission.
- 1.4 My evidence sets out the Council's Case as to why planning permission should be refused for any or all of the reasons for refusal. The issues these raise are summarised as follows:
- (i) **Conflict With Development Plan:** The appeal scheme is not policy compliant in terms of the spatial growth strategy identified in the development plan. It also conflicts with a number of other policies (addressed below). It is accepted that the Council cannot demonstrate a four-year supply of deliverable housing sites. This means that policies most relevant to the decision 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 (a) the particular spatial harm caused by the site being not well related to any settlement, (b) the overdevelopment of the site (c) the effect of the development on the landscape and (d) designated heritage assets, and the resulting environmental/social harm, the proposals would not be sustainable development and its environmental and social impacts would significantly and demonstrably outweigh its social and economic benefits when assessed against the policies in the Framework as a whole.

Section 38 (6) of the Planning and Compulsory Purchase Act requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. The proposal conflicts with the adopted development plan when read as a whole. Here, material considerations do not indicate that a decision should be taken other than in accordance with the development plan (including under the tilted balance). As such, the application should be refused. I briefly summarise each of the issues below.

- (ii) **Spatial Impact:** The appeal site forms part of an area of open countryside situated between the urban settlement boundary of Hailsham to the south and the village of Lower Horsebridge to the north-east. Lower Horsebridge does not have a defined development boundary, the 1998 WLP boundary having been removed under Policy WCS6 of the CSLP with the intention that development boundaries would be reviewed within subsequent DPDs (CSLP para 6.47). Whilst this did not happen, the draft Local Plan, which is currently subject to Regulation 18 consultation, shows the reintroduction of the development boundary around Lower Horsebridge and the extension of the Hailsham development boundary which now includes the Welbury Meadows development. Whilst no weight can be given to this draft plan at the current time, it shows the clear intent to reinstate the development boundary around Lower Horsebridge.

By virtue of the distance of the appeal site from either settlement and clearly separated from both Lower Horsebridge and Hailsham by the intervening river corridors and their associated flood plains of the Lower Horsebridge

Stream and the River Cuckmere, and the public open space of Welbury Meadows, the site is unrelated to either settlement and cannot be argued to be a logical extension of either Lower Horsebridge or Hailsham.

The location of the site is divorced and unrelated to any settlement boundary and the shape of the site and resultant development grain would be discordant to that of the surrounding area, constituting a radical departure from the existing settlement pattern of Lower Horsebridge and the linear sporadic development on the northern side of the A271.

The appeal scheme is contrary to the spatial strategy of the development plan that seeks to accommodate new development within or as sustainable extensions to existing towns whilst allowing for limited growth within those villages capable of accommodating development and contrary to Policies GD2, DC17, EN1 and EN2 of the WLP, strategic objective SPO3 and Policies WCS6, WCS9 and WCS13 of the Core Strategy and Policy LHB1 of the HNP and paragraphs 70d, 73 and 74 of the NPPF.

(iii) **Quantum of Development:** Whilst it is recognised that the application is only for the principle of development and access, it is evident from the proofing layout that it is not possible to accommodate the quantum of development proposed on a site where the built development is constrained to being within Flood Zone 1, provide a high quality environment that meets all the necessary spatial requirements for residential development and deliver a good level of amenity for all future residents. In my judgement, due to the site constraints, these are not matters that can be satisfactorily resolved through design at the reserved matters stage. The development is contrary to Local Plan Policies EN1, EN2, EN8, EN14 and EN27, Strategic Planning Objective SPO13 and WCS13 of the CSLP and Policy LHB2 of the HNP. The proposals also fail to accord with Paragraphs 123, 128, 131, 135, 136 and 139 of the NPPF.

(iv) **Landscape Impact:** In terms of the impact on the character and appearance on the surrounding landscape Michelle Bolger concludes there is a significant level of harm/adverse effect arising from the development in landscape and visual terms. This does not accord with development plan

policies namely Policies EN1, EN2, EN8 and EN27 of the Wealden Local Plan, SPO1 and Policy WCS13 of the CSLP, Policies LHB1 and LBH2 of the Hellingly Neighbourhood Plan, nor does it accord with paragraphs 8c, 9, 104, 130b, 130d, 135, 180a and 180b of the NPPF. These are not matters that can be satisfactorily resolved through design at the reserved matters stage.

- (v) **Heritage Impact:** The heritage impact of the proposals has been assessed by Heather Hall who concludes that the proposals would result in less than substantial harm to the setting of two designated assets: Brook House and Boship Farm Hotel. This breaches local policy EN1 and EN27 of the WLP SPO2 and SPO13 of the CSLP and Policy LHB1 and LHB2 of the HNP and paragraphs 135c, 139, 203, 205, 206, 208 and 212 of the NPPF. The harm to the significance of designated heritage assets is an issue which should be given considerable importance and weight.

- 1.5 In my assessment of the Development Plan policies I have concluded that the proposal does not accord with a number of relevant policies, and it is my view that the development does not accord with the Development Plan as a whole.
- 1.6 I have undertaken an assessment of the benefits and harms of the proposal which are fully set out in Section 7 of my proof of evidence. I recognise the importance of providing market and affordable housing within the district which would meet the Council's objectively assessed need, to which I give significant weight. I have also considered the other benefits raised by the appellant and conclude that there would be minor benefits arising from the proposed ecological enhancements and temporary economic benefits from the construction jobs, however this must be balanced against the harms caused by the appeal scheme.
- 1.7 The proposals result in adverse landscape and visual impacts. These attract significant weight such that they significantly and demonstrably outweigh the benefits of the proposal.
- 1.8 Harm to heritage assets is an issue which must be given considerable importance and weight. It is common ground that the proposal results in "less than substantial" harm to the heritage asset of Brook House. The evidence of

Heather Hall also considers there will be an impact of “less than substantial harm” to Boship Farm Hotel. The appellant disagrees with this. Whether or not the Inspector agrees there is harm to Boship Farm Hotel, the agreement of both parties that there will be a “less than substantial harm” to Brook House, irrespective of the disagreement relating to the level of harm means that for the identified harm to be acceptable, that public benefits must outweigh it, as required by Paragraph 208 of the NPPF. It is my view that the public benefits do not outweigh the resultant harm which indicates there is a clear reason for refusing the proposed development (paragraph 11(d)(i) NPPF).

1.9 My overall conclusion is that the appeal scheme was a breach of the development plan as a whole by virtue of a breach of the policies set out above. Whilst there are material considerations which weigh in favour of the scheme in particular, the benefits of provision affordable and market housing, those benefits are significantly and demonstrably outweighed by the harms. In particular these include the:

- breach of the various development plan policies;
- the breach of various NPPF policies;
- impact on the landscape;
- impact on the significance of heritage assets; and
- failure to mitigate the impacts of the development through the provision of necessary infrastructure (in the absence of a legal agreement).

1.10 Furthermore, the impact upon the designated heritage assets represents a clear reason for refusing the proposal such that the tilted balance would not apply.

1.11 I do not consider that the development could be defined as sustainable.

1.12 For all the above reasons I considered that the appeal scheme should be refused.

2 INTRODUCTION

- 2.1 My name is Claire Andrea Turner. I hold a BSc Honours degree in Environmental Planning and Design, together with a Diploma in Town Planning and MSc in Urban Planning. I am a Chartered Town Planner. I have over 38 years of town and country planning experience within multi-disciplinary private practices and since 2004 within local government. I work within the Council as Principal Planning Officer for Major Projects.
- 2.2 The evidence which I have prepared and provided within this proof is true and is given in accordance with the code of conduct of my membership of the Royal Town Planning Institute. I can confirm that the opinions expressed are my true and professional opinions.
- 2.3 This appeal is against the Council's refusal of the outline application with all matters reserved, except for the means of access, for the construction of up to 124 residential dwellings, associated infrastructure (including a new access junction onto the A271 and open space, on the 7.67 hectare site at Land to the South of the A271 and east of the A22, Lower Horsebridge, Hailsham.
- 2.4 The Council's Statement of Case (**CD13.5**) sets out the reasons as to why planning permission should be refused, which are summarised below:
- Location of site beyond development boundary;
 - Whether the appeal site can realistically accommodate up to 124 homes without unacceptable adverse impacts;
 - The effect of the development on the landscape character and appearance of the site and the surrounding area; and
 - The effect of the scheme upon designated heritage assets.
- 2.5 My Proof of Evidence relates to planning issues and the overall planning balance is set out as follows:
- Section 3 describes the site and its surroundings;

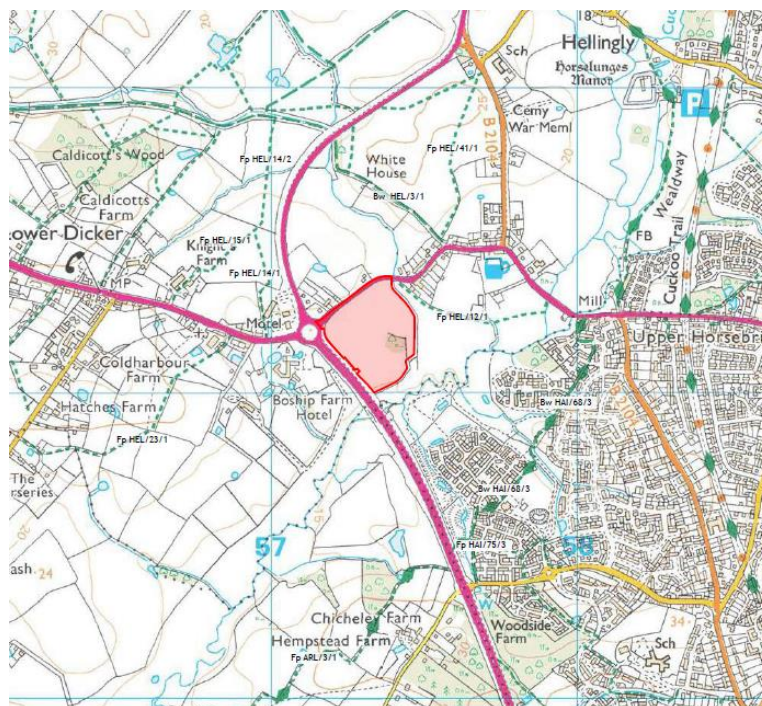
- Section 4 sets out the relevant planning policy policies applicable to the appeal site;
- Section 5 sets out the housing land supply position;
- Section 6 sets out the main issues relevant to the Appeal;
- Section 7 analyses the benefits, harm and the appropriate planning balance required for the determination of the appeal; and
- Section 8 provides a summary and conclusions.

2.6 My evidence should be read alongside that of:

- Michele Bolger in relation to the landscape impact of the development (**CD13.9**); and
- Heather Hall in relation to heritage matters (**CD13.10**).

3 SITE & SURROUNDING AREA

- 3.1 The appeal site lies in a predominantly rural landscape to the south-west of Lower Horsebridge and north of Hailsham, adjacent to the Boship roundabout junction that connects the A22, A267 and A271. The A22 Hailsham Bypass extends along the southwestern boundary of the site and the A271 lies to the north of the site.
- 3.2 The River Cuckmere lies south of the appeal site. The Lower Horsebridge Stream runs east and south of the appeal site defining the boundaries of the site.



- 3.3 The site is currently accessed from the A22 bypass or A271 via gated field accesses. A narrow (around 1m) footway extends along the site frontage south of the A271.
- 3.4 The northern and western boundaries of the site are defined by existing hedgerows. The native hedgerows on site comprise 80% or more cover of at least one woody UK native species which qualifies them as UK BAP Hedgerow habitat. The hedgerow along the western boundary of the site adjacent to the A22 Bypass is classified as 'Important' under the Hedgerow Regulations 1997. The appeal site is clearly visible from the A271 over the existing field hedgerow.

- 3.5 The site consists of improved pasture grassland (low botanical value), marshy grassland (ecological value), native broadleaved woodland (ecological value), scrub and river habitat (ecological value).
- 3.6 To the south of the River Cuckmere lies the housing development of Welbury and Woodholm known as Welbury Meadows both allocated housing sites, approved for 460 dwellings (WD/2008/2354/MAJ) in January 2009 under the Non-Statutory Wealden Local Plan 2005.

4 PLANNING POLICY OVERVIEW

THE DEVELOPMENT PLAN

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.
- 4.2 The adopted development plan documents relevant to the application proposals are the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan (2013) **(CD 5.2)**, the Affordable Housing Delivery Local Plan (2016) **(CD 5.5)**, the 'saved' policies of the Wealden Local Plan (1998) **(CD5.1)** and the Hellingly Neighbourhood Plan 2021 **(CD5.4)**.

Local Plan 1998

- 4.3 The Wealden Local Plan was adopted in December 1998 **(CD5.1)**. A number of the policies have been 'saved' by approval of the Secretary of State under paragraph 1(3) of Schedule 8 of the Planning and Compulsory Purchase Act 2004. The policies of particular relevance to the proposed development are set out below:
- **GD2 Development outside development boundaries:** advises that development will be resisted unless in accordance with specific policies of the plan.
 - **EN1 Sustainable development:** states that the Council will pursue sustainable development, having regard to the principles contained in Government guidance and in considering development makes specific reference to the location of development and assessing the effects of proposals on the environment.
 - **EN2 Development pattern:** seeks to maintain settlement patterns and ensure that major new development generating significant traffic

movements is located efficiently in relating to existing development and to public transport.

- **EN8 Landscape conservation of the Low Weald** states that development will only be permitted if it conserves the low rolling agricultural character of the landscape and sets out that particular regard will be given to the setting of settlements.
- **EN14 Landscaping within developments** seeks to retain existing trees and significant hedgerows and complement the scale and character of the proposed development and locality.
- **EN27 Layout and design of development** requires development inter alia to respect the context, character, landscape characteristics and local distinctiveness of the site and the immediate environs.
- **DC17 Housing Development in the Countryside:** states that development will not be allowed outside development boundaries unless it complies with other policies of the plan.
- **CS1 Provision of Capital Works and Services:** seeks to ensure that the capital works directly required to service the development are provided at the time the development takes place or will be provided at an appropriate time.

Core Strategy Local Plan

4.4 The Core Strategy was adopted on 19th February 2013 (**CD5.2**). The Core Strategy is the overarching planning policy document for the Wealden District area, setting out the Council's vision for the future development of the area over the period to 2027. It sets down a number of strategic objectives, and key planning policies for the area together with the broad locations, amounts and types of development that will take place within Wealden over this period. The strategic planning objectives (SPO) and policies (WCS) of particular relevance to the proposed development are set out below:

- **SPO1 Countryside** sets the overarching vision of management of the countryside as a resource to be protected and enhanced.

- **SPO2 Historic Environment** seeks to ensure that the intrinsic quality of the historic environment is protected.
- **SPO3 Need for Homes:** sets out the quantum and distribution of development that the Core Strategy seeks to deliver with the majority of housing to be provided as sustainable extensions to existing towns with limited growth in villages for development capable of accommodating development sustainably;
- **SPO13 High Quality and Sustainable Development:** encourages the creation of high quality sustainable developments;
- **WCS6 Rural Areas Strategy:** sets out the rural strategy, the classification of settlements, where development boundaries have been retained and those settlements which are identified for additional housing development up until 2027.
- **WCS7 Effective Provision of Infrastructure:** sets out 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;
- **WCS9 Rural Exception Affordable Housing** states that in exceptional circumstances permission may be granted for small scale affordable housing in rural areas outside development boundaries;
- **WCS12 Biodiversity:** seeks to prevent a net loss of biodiversity, ensure a comprehensive network of habitats, and work with partners to maximise opportunities to ensure 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. The policy also seeks to avoid adverse impacts to the Ashdown Forest Special Protection Area and Special Area of Conservation.
- **WCS13 Green Infrastructure:** states that development proposals will not be permitted which would result in the loss of existing open space or harm to Wealden's network of green spaces unless measures are incorporated

within the development that will either mitigate the effects of development or alternative and suitable provision is made that is accessible, of good quality and value to its users, in an appropriate location, at an appropriate scale and nature and would positively contribute to the overall network of green space.

- **WCS14 Presumption in Favour of Sustainable** Development notes a positive approach reflecting the presumption in favour of sustainable development contained within the NPPF. Where there are no relevant policies or such policies are out of date, the Council will grant planning permission unless material considerations indicate otherwise.

Affordable Housing Delivery Local Plan 2016

- 4.5 The Affordable Housing Delivery Local Plan was adopted on 18th May 2016 **(CD5.5)** and supersedes Policy WCS8 in the adopted Core Strategy Local Plan and associated text in paragraphs 7.10 to 7.14 concerning affordable housing. Policy AFH1 sets out the Council's requirements for the provision of affordable housing in new housing developments.
- 4.6 Policy AFH1 sets out the requirement for a provision of 35% affordable housing provision.

Hellingly Neighbourhood Plan July 2021

- 4.7 The Hellingly Neighbourhood Plan (HNP) **(CD5.4)** was formally 'made' by Wealden District Council at Full Council on 21 July 2021 and now forms part of Wealden District Council's Development Plan. Whilst the HNP is one of the most up to date documents in the suite of development plan documents, it does not allocate policies in its plan for housing.
- **Policy LHB1** sets out that where the principle of new development is considered acceptable that proposals will need to demonstrate how it supports the preservation and enhancement of designated heritage assets and their settings, protects the historic development pattern and does not erode the sense of openness and rural character of the setting of Lower Horsebridge

- **Policy LHB2** set out specific design criteria relating to the Lower Horsebridge area. Whilst related mainly to detailed design, it emphasises (i) the importance of designs responding to local character, identify and distinctiveness would not be supported and that new dwellings should not exceed two storeys high.

WEALDEN DESIGN GUIDE

4.8 The Wealden Design Guide (**CD6.5**) is to encourage a higher standard of design for development within the district. Wealden is predominantly a rural district whose character is drawn from the local landscape and building materials (1.1) which derive from that landscape. These elements contribute significantly to the local distinctiveness, and it is the aim of the design guide to ensure that new development (in particular, the larger schemes) does not dilute this distinctiveness. (Section 1 Para 1.3). Key points set out include:

- Considerations to the constraints of the Low Weald including safeguarding rivers, streams and ponds and safeguarding the settings of villages (Section 2 Para 3.5);
- Concerns that the Low Weald landscape is particularly vulnerable to pressure for the expansion of existing towns and village settlements and the erosion of their character through insensitive infilling (Section 2 Para 3.6);
- Development is required to make a positive contribution to the character and identity of a place (Section 2 Para 6.2);
- The need for development to respect established landscape character and preserve local distinctiveness (Section 2 Para 8.2);
- Outside development boundaries and in the countryside, local and national Policies seek to restrict development unless, related to the justified needs of established agricultural or forestry enterprises or an established business. Where development is exceptionally allowed in accordance with current national and local Policies, the location of new buildings should read as part of the landscape, as opposed to appearing overly dominant or uncharacteristic. (Section 5, Para 8.7)

THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

- 4.9 The latest iteration of the NPPF came into force in December 2023, I will draw attention to specific references within the NPPF as applicable.

NATIONAL PLANNING POLICY GUIDANCE (NPPG)

- 4.10 The NPPG provides key guidance for the implementation of the NPPF. It is hosted on the .Gov website and will be referred to where relevant.

NATIONAL DESIGN GUIDE

- 4.11 This guide explains the characteristics of well-designed places and what good design means in practice. It forms part of the government's suite of planning guidance and should be read in conjunction with National Model Design Code and the Guidance Notes for Design Code

NATIONAL MODEL DESIGN CODE (NMDC)

- 4.12 Paragraph 11 of the document sets out the purpose and objective of the NMDC
"The National Model Design Code sets a baseline standard of quality and practice which local planning authorities are expected to take into account when developing local design codes and guides and when determining planning applications, including;
- *The layout of new development, including street pattern;*
 - *How landscaping should be approached including the importance of streets being tree-lined;*
 - *The factors to be considered when determining whether façades of buildings are of sufficiently high quality;*
 - *The environmental performance of place and buildings ensuring they contribute to net zero targets;*
 - *That developments should clearly take account of local vernacular and heritage, architecture and materials".*

DRAFT LOCAL PLAN

- 4.13 The new Local Plan will cover the period up to 2040 and will provide the long-term spatial strategy for growth including the locations where development will take place. Regulation 18 consultation on the plan commenced at 17:00hrs Friday 15th March 2024 and will run until 17:00hrs on Friday 10th May 2024.
- 4.14 Paragraph 226 of the NPPF sets out criteria where, for a period of two years from the date of publication of the NPPF published on 19 December, an authority only needs, for the purposes of decision-making, to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable) against either its housing requirement figure or as in the case of the Council, against local housing need as the strategic policies are more than five years old instead of a minimum of five years as set out Paragraph 77 as appropriate.
- 4.15 As the emerging local plan has been submitted for Regulation 18 consultation, the Council needs to demonstrate a four-year supply of housing land as opposed to five years to prevent its policies most important for determining the application being deemed out of date and the tilted balance from applying (save for where paragraph 11(d)(i) NPPF applies).

5 PRELIMINARY MATTER: HOUSING LAND SUPPLY

- 5.1 Paragraph 77 of the NPPF requires local authorities to identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 of the NPPF apply. The supply should be demonstrated either against the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period)
- 5.2 To maintain the supply of housing, local authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test (HDT) indicates that delivery has fallen below the local planning authority's housing requirement over the previous three years, there are policy consequences in paragraph 79 of the NPPF.
- 5.3 The Council has a HDT result of 78% delivery against its housing requirement for the HDT measurement for 2022. This calculated figure has resulted in a 20% buffer being applied to Wealden's five year land supply requirement. Due to the HDT result from the 2021/22 monitoring period, the Council was required to produce a Housing Action Plan.
- 5.4 As at December 2023, there are 5,513 (net) dwellings on identified sites that are considered available, suitable and achievable now for the five-year period, which is some 1,687 (net) dwellings less than the 7,200 (net) dwellings required to be deliverable (inclusive of a 20% buffer). This is a supply of 3.83 years or 76.6% of the requirement.
- 5.5 The Council accepts that it cannot demonstrate a four-year housing land supply in line with paragraph 226 of the NPPF, and therefore its policies which are most important for the supply of housing are out of date.

5.6 The Council considers that a proportionate means of addressing the level of housing land supply would be to adopt a range between that which the Council considers to be correct, 3.78 years (as updated in the Housing Land Supply Appendix by Stacey Robins) and that which the Appellant considers to be correct, 3.13 years. However, if the Inspector considers that it is necessary to definitively determine the level of housing land supply then Mr Robins has set out in an Appendix to this proof of evidence comments on housing land supply and the Council's position in relation to this. This document will be spoken to by Stacey Robbins at the round table on this issue.

6 THE COUNCIL'S CASE

- 6.1 Below I set out the Council's case on each reason for refusal. As will be seen below, the Council considers that the scheme should be refused for each reason for refusal taken either individually or cumulatively.

Reason for Refusal 1: Conflict with Development Plan

- 6.2 The main issues as set out in the reason for refusal are:

- (i) whether the appeal site is in a suitable location for the proposed development having regard to the development plan's spatial strategy;
- (ii) whether the quantum of development proposed can be satisfactorily accommodated on site; and
- (iii) the effect of the proposed development on the landscape character and appearance of the site and the surrounding area and the visual impact;

- 6.3 These are addressed sequentially below:

Whether the appeal site is in a suitable location for the proposed development having regard to the development plan's spatial strategy

- 6.4 The spatial strategy for the district is set out in the Wealden Local Plan (LP) (**CD5.1**), the Wealden (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (the CS) (**CD5.2**).
- 6.5 To the extent that development plan policies are material to this appeal, the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 6.6 The appeal site is located outside any defined settlement boundary, in an area which is treated as countryside for purposes of the development plan.
- 6.7 Saved Policies GD2 and DC17 of the LP resist new housing development in the countryside which is not essential for agriculture or forestry needs or has some

other similar justification for a rural location (such as rural affordable housing exception sites) as set out in saved Policies GD2 and DC17 of the Wealden Local Plan 1998 but also in national guidance through the NPPF. The supporting text of Paragraph 5.91 to Policy DC17 sets out the range of special justifications for allowing development outside development boundaries. The proposed application does not comply with any of these exceptions, nor does the site qualify as a Rural Exceptions site under Policy WCS9 of the Core Strategy Local Plan 2013.

- 6.8 Lower Horsebridge is a small linear village on the A271 north of Hailsham located to the east of the appeal site. The village has evolved over time to its present form, which is a combination of a nucleated settlement in the vicinity of North Street and primarily frontage development along the A271. Over time the village has seen additional development extending northwards (along North Street) and to the southwest on both sides of the A271. A key feature of the settlement is its rural setting and context. This is very pronounced on the approach to the village from the west and within its core where the southern side of the road is largely undeveloped and permits long views over the recreation ground and Low Weald landscape. The 1998 Wealden Local Plan development boundary was drawn around the well-defined edge of the existing settlement to prevent an outward extension of Lower Horsebridge, including further ribbon or backland development. This, as set out in the explanatory text at Paragraph 19.23.3, was to prevent undesirable encroachment into the surrounding countryside, and specifically to the south to prevent the coalescence of the Hailsham with the surrounding settlements including Lower Horsebridge.
- 6.9 The Core Strategy removed the development boundary for Lower Horsebridge, formalised by Policy WCS6 which advises that retained or new development boundaries would be reviewed as part of the Delivery and Site Allocations DPD as appropriate. The CSLP confirms that development boundaries are used to define built up areas (within the development boundary) and the countryside (outside the development boundary) and that in principle development in the countryside is subject to greater restrictions, to preserve the character of the rural area (Paragraph 3.6).

- 6.10 The adopted CSLP accepted that the development boundaries contained within the 1998 Local Plan would have to be breached to deliver the level of housing required. Notwithstanding this, the Core Strategy is clear that the majority of new housing should be accommodated within, or as sustainable extensions to existing towns, whilst allowing for limited growth within those villages capable of accommodating development in a sustainable fashion (SPO3).
- 6.11 Policy WCS6 of the CSLP identified a range of rural villages suitable for some growth, but no provision of housing was made at Lower Horsebridge. Within the CSLP Lower Horsebridge is designated as a neighbourhood centre. This includes a wide range of settlements with limited, basic or no facilities but with access to another centre, or a settlement with facilities but poor accessibility or access only to a service or local centre, and where further development would be unsustainable (see Table 1 Settlement Hierarchy at page 10 of Core Strategy Local Plan). Policy WCS6 seeks provision of at least 455 dwellings within Service Centres, Local Centres and Neighbourhood Centres. Development was not identified for Lower Horsebridge and the figure of 455 homes has long since been met. The appeal site's location within open countryside would be at odds with the spatial strategy in the adopted development plan for Lower Horsebridge.
- 6.12 The location of the appeal scheme within the open countryside is not policy compliant in terms of the spatial growth strategy identified in the development plan. Further, the location of the development on this site is particularly spatially harmful for the following reasons:
- (i) Not only does the appeal site lie outside of a settlement boundary, the site does not abut the edge of the existing village of Lower Horsebridge, nor to any other settlement. This is contrary to good planning practice and the advice set out in the NPPF:
- Windfall sites - great weight should be given to the benefits of using suitable sites within existing settlements for homes (Para 70 (d)).
 - Exception sites – should be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to

assets of particular importance as set out in the Framework and comply with any local design policies and standards. (Para 73)

- For large numbers of homes – best achieved through planning for new development as new settlements or significant urban extensions to existing villages and towns (Para 74).

The appeal site does not accord with any of these spatial planning parameters.

- (ii) Its particular, the location separate from the village and within open fields would erode the important landscape and visual gap between Lower Horsebridge and Hailsham, the edge of Hailsham being clearly defined by Welbury Meadows to the south of the River Cuckmere. This was an allocated site for 400 dwellings in the Non-Statutory Wealden Local Plan 2005 which was approved for development purposes. The allocation incorporated specific requirements for the provision of substantial landscape buffers to soften the urban edge.

The appeal scheme would erode an important gap between two settlements, namely the village of Lower Horsebridge and the district centre of Hailsham. Gaps between settlements help define and maintain the separate identity of individual settlements. They are important in maintaining the settlement pattern, keeping individual settlements separate and providing opportunities for green infrastructure/green corridors. Policy EN2 of the Wealden Local Plan is clear that the Council will seek to maintain the existing settlement pattern and this is supported by Policy EN8 which states that development in the Low Weald will only be permitted if it conserves the rolling agricultural character of the landscape and highlights that among other things particular regard will be given the setting of settlements. Policy WCS13 seeks to protect, improve and enhance the district existing network of green infrastructure. The policy is clear that *“Development proposals will not be permitted which would result in the loss of existing open space or harm to Wealden’s network of green spaces unless measures are incorporated within the development that will either mitigate the effects of development or alternative and suitable provision is*

made that is accessible, of good quality and value to its users, in an appropriate location, at an appropriate scale and nature and would positively contribute to the overall network of green space” Although the appeal site and adjoining land is not designated as a “gap” it is recognised as important in the Local Plan and is clearly important when appreciated on the ground. Whilst Lower Horsebridge and Hailsham would remain physically separate, the contribution of this area to the sense of separation provided by the gap would be greatly diminished. The erosion of the gap will lead to the perception of coalescence. I consider that the proposals would cause significant harm to the integrity of the gap and the physical and visual separation of the two settlements.

6.13 The Appellant states that the development plan does not deal with sufficient growth and also that other sites locally and elsewhere have been approved outside development boundary locations.

6.14 I will address these in turn below:

(i) that the development plan does not deal with sufficient growth

6.15 The Council accepts that under the standard method set out in the NPPF, the Council cannot demonstrate a four-year housing land supply (as agreed in the SoCG **(CD13.8)** and there is a clear need for housing within the housing market area, including a need for affordable housing. However, that does not mean that all applications for housing must be delivered. The test in s38(6) Planning and Compulsory Purchase Act 2004 must still be applied (together with the tilted balance, if applicable).

6.16 As I have set out above, the Council’s position on its housing land supply is set out at Appendix 1 to this proof, with a particular focus on the sites which the Appellant contends should not form part of the supply.

(i) that other sites locally and elsewhere have been approved outside development boundary locations.

6.17 I confirm that indeed development has been approved outside of the development boundary locations in the district, but this does not mean that all development outside of settlement boundaries is necessarily acceptable. All

applications are assessed on their individual merits against the development plan policies and the NPPF.

- 6.18 The SHELAA involves a technical, high-level assessment of sites which could contribute towards the future supply of housing and employment land within Wealden District. It provides background evidence on the potential availability of sites. The latest SHELAA document was published in February 2024.
- 6.19 As set out in the Council's Statement of Case the appeal site forms part of the 16.43 hectare site submitted under SHELAA (Site ref 780/3100). The site was considered unsuitable for both housing or employment in the Strategic Housing and Economic Land Availability Assessment January 2019. The assessment stated that *"This corridor is an important swathe of undeveloped land which separates the village of Lower Horsebridge from the urban area of Upper Horsebridge and Hailsham. It is a low-lying area and most of the site is within flood zones 2 or 3 and therefore at risk from flooding which precludes development in this location."*
- 6.20 The recently published SHELAA assessment (February 2024) **(CD6.8)** reaffirms the unsuitability of the site for either residential or employment development. In considering the suitability of the site for development, reference is made to *"the 2023 Landscape Sensitivity Assessment which states that the site is of moderate to high sensitivity to residential development, in part due to the area's role in separation between the settlements of Hailsham and Lower Horsebridge, the areas of deciduous woodland and the undulating course of the River Cuckmere and open views into the site from the A271. The site forms part of the wider River Cuckmere corridor, which continues to the north towards Hellingly and to the south towards Upper Dicker. This corridor is an important swathe of undeveloped land which separates the village of Lower Horsebridge from the urban area of Upper Horsebridge and Hailsham."*
- 6.21 The Strategic Housing and Economic Land Availability Assessment (SHELAA) provides up-to-date evidence on the availability of land for new development within the district, to support the development of options for consideration later in the Local Plan process. It is used as an aid to plan making but does not in itself determine whether a site should be allocated for development. Once the assessment is finalised it is used to assess the relative merits of the most

suitable, sustainable and deliverable sites in order to establish which sites should be put forward for allocation. I would highlight the fact that the appeal site has consistently been considered unsuitable for both housing or employment in both the 2019 and 2024 SHELAA and the site has not been carried forward either as an allocation in the previous Submission Wealden Local Plan 2019 which was withdrawn in February 2020 nor is it included in the Draft Regulation 18 Draft Plan which commenced consultation on 15th March 2024, albeit that no weight can be attributed to either of these documents.

6.22 At Lower Horsebridge outline planning permission has been granted for two major developments along North Street:

- Land east of North Street, Lower Horsebridge, Hailsham, BN27 4DR (WD/2019/1575/MAO): Outline planning permission for development of 130 units was granted on 27 August 2021; and
- Land West of North Street, Lower Horsebridge, BN27 4DR: Outline planning permission was granted for 55 dwellings on 31 March 2023.

6.23 Like the appeal site these sites were outside any development boundary. However, unlike the appeal site, they immediately abutted the existing built development of the village of Lower Horsebridge thereby forming logical extensions to the existing village, concentrated development to the north of the settlement, avoided the sensitive open landscape to the south of the village that separates Lower Horsebridge from Hailsham and did not impact on the setting of any listed buildings.

6.24 The Council has also approved a number of sites around Hailsham which included the majority of the Strategic Development Sites set out under Policy WCS2 and WCS4 of the CSLP but more importantly other major development sites in addition to those identified in the CSLP. These sites lie to the North, East and South of Hailsham, and were all outside the defined development boundary of Hailsham as set out in the adopted development plan. Importantly these sites were all sustainable extensions to the district centre of Hailsham. Many of them had already been identified as Potentially Suitable Sites under earlier iterations of the SHELAA and/or were identified as housing allocation sites in the Submission Wealden Local Plan which was subsequently withdrawn

in February 2020. The Draft Policies Map for Hailsham, Hellingly and Lower Horsebridge (**CD6.7**), which is an extract from the Regulation 18 Consultation on the Draft Local Plan, usefully shows the location of those major development sites around Lower Horsebridge and Hailsham that have been consented. For clarification the site annotated as HEL2 on that plan was granted outline planning consent (WD/2022/0294/MAO) in December 2023 for 360 dwellings (decision notice **CD11.2**). Furthermore, the site indicated as HA3 secured a resolution to approve full planning consent for 95 dwellings (WD/2019/2685/MAJ) pending completion of a legal agreement at Planning Committee in February 2024. In addition, an outline application (WD/2023/1684/MAO) for site HA2 has been submitted to the Council and is pending determination with it being reported to Planning Committee on April 11th 2024 with a recommendation for approval. For the avoidance of doubt both sites HA2 and HA3 comprised part of the Strategic Development Area SD2 Land East of Hailsham of the CSLP.

- 6.25 All these sites whilst outside the development boundary, followed the spatial strategy of the development plan, whereby major new development would be in the form of sustainable extensions to existing towns.
- 6.26 To the extent that development plan policies are material to this appeal, the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. The Council acknowledges that in the absence of a four-year supply of deliverable housing land the effect of policies GD2 and DC17 would be to restrict the supply of housing and prevent local housing needs being met. It also does not dispute that less weight should be given to these two policies when considering applications outside development boundaries due to the lack of a four-year housing land supply. Despite this, there is conflict with the development plan as a result of the development's location. The development plan is the starting point for the decision. Conflict with the development plan is capable of being outweighed by other material considerations. These are addressed below.

- 6.27 One such material consideration includes the NPPF which, at paragraph 11 sets out the presumption in favour of sustainable development. Paragraph 11d of the NPPF advises that where there are no relevant development plan policies, or the policies which are most important for determining the applications are out of date, which includes applications for housing where the local planning authority cannot demonstrate a five-year (or four, as applicable) supply of deliverable housing sites, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.
- 6.28 I address this in more detail under the planning balance below. However, in short, the proposed development would bring significant benefits in terms of housing supply and the provision of market and affordable housing (assuming a legally compliant s106 agreement is forthcoming) in the context of the Council's shortfall in housing land supply and the Government imperative to boost the supply of housing. These and other benefits of the scheme as submitted by the appellant are addressed later in Section 7 of this proof of evidence.
- 6.29 However, as set out in the Council's Statement of Case (**CD13.5**) there are very significant harms arising from the appeal scheme which include adverse impacts relating to the location of the appeal site outside of any development boundary and not contiguous to any settlement, the overdevelopment of the site, the erosion of the landscape gap between settlements, the landscape and visual impacts on the character of the site and surrounding area and the impact on designated heritage assets. I will address these impacts later but will firstly deal with the matter regarding the ability of the site to satisfactorily accommodate the quantum of development proposed.

(ii) whether the quantum of development proposed can be satisfactorily accommodated on site.

- 6.30 In addition to the Council's position that the development of the site is in principle unacceptable, the Council also considers that the quantum of development proposed cannot be satisfactorily accommodated within the indicated developable area. As an outline application with all matters reserved other than

access to the site (i.e. appearance, landscaping, layout and scale), the detailed position of particular buildings (including type and size), internal roadways, parking, amenity space and proposed planting are all matters for later consideration in the event the appeal is allowed. However, at outline stage the applicant must demonstrate that the quantum of development proposed can be adequately accommodated within the constraints of the site.

- 6.31 It is noted that the Appellant states in Paragraph 4.36 of their Statement of Case (SoC) that *“the number of units is expressed in the application as an ‘up to’ figure, giving flexibility to reduce the number of units delivered at detailed design stage if/where needed.”* The Council considers that as a maximum number of dwellings is referred to in the description of development, it is important that the Appellant demonstrates that the proposed maximum number of units can be accommodated on site in an appropriate layout and form. The Council is of the view that the site cannot accommodate that level of development within the net developable area of the site (the developable area being strictly defined by the extents of the land within Flood Zone 1, otherwise the appeal site would be required to undertake a sequential test) and meet the necessary spatial design requirements as set out in adopted local design guidance and policy.
- 6.32 The Planning, Design and Access statement (PDAS) (**Page 6 CD1.7**) states that: *“Following assessment of the developable area as defined by the site extent beyond flood risk zones, the location of the proposed site access and the need to create landscape buffers, a potential built developable area of approximately 2.9 ha is established. This area would contain dwellings, garages, associated vehicle and pedestrian access routes. An additional approximately 0.9ha within flood zone 2 has been identified as suitable for surface water drainage features, landscape planting and ecological enhancements. A further 2.8ha of the site in flood zone 3 with has additional planting and ecological enhancements.”*
- 6.33 There are discrepancies in the descriptions of the extent of the proposed developable area and whilst the application’s PDAS refers to 2.9 hectares the Appellant’s Statement of Case (paragraph 4.36 **CD13.4**) refers to a net developable area of approximately 2.77 hectares. Based on the provision of 124 dwellings this equates to a net density of between 42.7dph and 44.8 dph

depending on the net developable area used. This is significantly higher than any of the major housing schemes that have been approved and built out in recent years around the Hellingly and Hailsham area, but more importantly is completely alien to the density of both the existing development at Lower Horsebridge and the two outline planning consents granted to the east and west of North Street which have net densities of 27.7dph and 28.9 dph respectively.

- 6.34 Whilst it is recognised that there is a need to make effective use of land as advocated by Paragraphs 123 and 128 of the NPPF, it is equally important that new development should be of quality design securing well-designed and beautiful, attractive and healthy places (p128e), respect the prevailing character and setting of the area (128d), safeguard and improve the environment (p123) and ensure safe and healthy living conditions (p123). The Council's Statement of Case clearly acknowledged that density can be calculated in a variety of ways and, whether based on units per hectare or habitable rooms per hectare, only provides a broad indication of the intensity of development and is sometimes not particularly effective in predicting or controlling the form of development.
- 6.35 Here, I consider it is necessary to consider both density and also the relationship of the proposal to its surrounding context, including the densities of surrounding development. As demonstrated by the Illustrative Masterplan, no regard has been given to the character, urban grain or scale of nearby existing development either north of the A271 or the village of Lower Horsebridge to the east, which should inform the layout of any proposal. The density of the scheme is markedly higher than the surrounding development. The high-density form and layout of the appeal scheme, does not safeguard or improve the environment (Para 123 of the NPPF), with regard to landscape and heritage impact, nor does it maintain the area's prevailing character and setting.
- 6.36 The proofing layout in the form of the Illustrative Masterplan Dwg TOR-XX-ZZ-DR-A-P010 Rev C (**CD1.4**) provides an effective mechanism of assessing the overall capacity of the site, as well as the ability of the site deliver a cohesive sense of place, high quality living environment for all future residents and whether it will contribute positively to the local context.

- 6.37 The Illustrative Masterplan shows three substantial apartment blocks located along the northern and northwestern boundaries. These are set back from the A271 (from the back of proposed new footpath along the A271) at varying distances of between approximately 12.5m and 18.5m. The two blocks which front the A271 Lower Horsebridge Road are L-shaped, between around 42 and 46m in length. The third block on the western side of the site is described in the PDAS (Page 8 **CD1.7**) as *“an inward facing perimeter apartment block adjacent to the Boship roundabout that seeks to provide acoustic buffer to the wider development”*. The Noise Impact Assessment (**CD1.2**) that accompanied the original application indicates that within 47m of the A22 and within 25m of the A271, the daytime noise levels are greater than 60dB L_{Aeq16h} which is considered a “medium noise risk” according to ProPG. Night-time sound levels are 56dB L_{Aeq16h} within 25m of the A22 and 13m of the A271 and again considered “medium noise risk” according to ProPG.
- 6.38 Paragraph 4.3.6 of the Noise Assessment states that when sites are deemed to be in the ‘medium noise risk’ category, ProPG advises that: *“The site is likely to be less suitable from a noise perspective and any subsequent application may be refused unless a good acoustic design process is followed and is demonstrated in an Acoustic Design Statement which confirms how the adverse impacts of noise will be mitigated and minimised, and which clearly demonstrate that a significant adverse noise impact will be avoided in the finished development.”*
- 6.39 Paragraph 4.7.6 of the Noise Impact Assessment sets out some of design measures:
- orientation of buildings to ensure private amenity areas are screened from road network;
 - sleeping and other habitable areas oriented away from the A22 Hailsham Bypass and the A271 Horsebridge. This would result in these areas being exposed to lower external sound levels; and
 - the use of continuous buildings adjacent to the surrounding road network to maximise acoustic screening to other areas of the site which do not front

onto the A22 and A271 (the report incorrectly refers to the A37). If this is not practicable, reducing gaps between dwellings should be considered.

- 6.40 It is clear that whilst a Reserved Matters application (in the event the appeal was granted) would need to be informed by a detailed noise assessment to inform the mitigation strategy, the noise assessment supporting the appeal scheme clearly advocates the use of continuous buildings adjacent to the road network to maximise acoustic screening or if not possible, to reduce gaps between buildings.
- 6.41 For the avoidance of doubt, the application was not refused on the grounds of noise impact, and nor is this proof of evidence raising it as a reason of objection. What is important however, is that the need for noise mitigation and the type of mitigation recommended, will be determinative of the building form and ultimately layout of the development. Continuous frontage development in the form of apartment blocks, arising from the need to mitigate noise, will not result in a high-quality living environment for all future residents (irrespective of the wider landscape and heritage impacts, though it is clearly relevant to these issues). The scope to address this issue at subsequent planning stages is limited.
- 6.42 The Illustrative Masterplan shows only two breaks in this frontage development of apartment blocks with a gap of around 7.5m between the block addressing the Boship Roundabout and the adjacent block fronting the A271 and around 14.5m between the two blocks fronting Horsebridge Road. These blocks are indicated as being up to 12m high above finished floor levels in the Parameters Plan. The proposed buildings would appear overly large and monolithic in appearance. No amount of articulation achieved in the building design would be able to address the dominant building frontages along the A271 and at Boship roundabout, the latter being even more uncharacteristic by virtue of its purpose as an acoustic buffer, which will mean minimal/small windows in the elevations and effectively a single aspect block. The two relatively small spaces between the blocks would be small in comparison to the overall width and height of the buildings. There would be insufficient visual separation between the buildings to prevent them from being perceived as one long frontage or that they represent a spacious and open feel. As a result, the scale, siting and

appearance of the buildings would appear obtrusive and overly dominant. This is completely inappropriate in the context of the surrounding area and existing built development typified by two storey ribbon development along the A271 comprising detached residential properties set within large plots and landscaped gardens well set back from the road. It is extremely doubtful having regard to the supporting noise assessment that the continuous built frontage could be satisfactorily reduced to provide a lower density sympathetic form of development along the site frontages without having a significant reduction in the number of units that could be accommodated on the developable area of the site.

- 6.43 I would also highlight the fact that a development predicated on a scheme that 50% of the site is proposed as buildings being 2.5 to 3 storeys high as shown on the amended Parameter Plan **(CD1.5)**, means that it would not comply with Policy LHB2 of the HNP, which states that new dwellings should not exceed two storeys in height.
- 6.44 Further, the Illustrative Masterplan does not show any communal amenity space to the proposed apartment blocks. Chapter 7 Paragraph 11.21 of the WDG is clear *“All flats should have access to a private usable area for sitting out or other activities with a reasonable amount of hard and soft landscaped space. As an alternative to individual gardens, new flats may include a communal garden based on the provision of a minimum area of 100sqm for up to 4 one-bedroom flats and 15sqm for each additional flat. For two bedroom flats an allowance of 25sqm per flat is recommended. Communal gardens below 75sqm will not normally be acceptable. Unusable space between car parks, roads and buildings will not be considered as part of any communal garden provision”*. No communal amenity space for the flat blocks is indicated on the Illustrative Masterplan and therefore would not be in compliance with the requirements of the adopted Wealden Design Guide. The amenity spaces for flats cannot be located to the north of the apartment blocks having regard to noise impact. Furthermore, overshadowing from the buildings would render them unattractive and offer a poor level of amenity to occupants. The amount of amenity space required will be very much dependent on the proposed mix of the apartment blocks, but based on the lowest level of requirement which would be for one bed flats and assuming 70 flats this would equate to a minimum requirement of 1,170

sq metres of communal gardens for the flats. This requirement would displace a large proportion of the parking courtyard to the south of the blocks as currently shown in the Illustrative Layout with again a resultant knock-on effect on the number of units that can be accommodated on site. The inclusion of two bed flats would result in the need for this provision to be increased.

- 6.45 The negative impact of the provision of these flatted blocks in the development is further exacerbated by the introduction of vast amounts of hardstanding to facilitate parking in the form of large courtyard areas. It is acknowledged that there is tree planting within the courtyard but overall, the quality of the public realm would be poor, and no space has been allowed for defensible space or planting to the ground floor units of the apartment blocks. This would not represent good design and results in excessive and overly dominant levels of hardstanding and parking which would compromise the appearance of the development.
- 6.46 Further concerns relate to the inadequate provision of visitor parking which does not accord with the Council's parking standards of one visitor space per three dwellings (Appendix 6 Wealden Local Plan 1998 - for the avoidance of doubt the District Council has not adopted the parking standards of ESCC Highways) and overall lack of significant structural landscaping within the developed area which would be expected of a development in this location. Instead, the quantum of development means that any eventual reserved matters proposal will be very much building dominated, characterised by roads and parking courts with little or no provision for tree planting within the developable area other than that proposed around the periphery of the scheme and many buildings having minimal front gardens/buffer zones and therefore little opportunity to provide any significant landscaping. The importance of trees is emphasised in the NPPF Paragraph 136 not only with regard to the character and quality of the environment but also their contribution to mitigating and adapting to climate change. The importance of new tree lined streets is specifically highlighted.
- 6.47 Points regarding layout and building typology are for reserved matters. However, the quantum of development proposed together with the constraints on layout and design imposed by the noise environment of the site and the extents of Flood Zone 1 means that these cannot be satisfactorily addressed at

the reserved matters stage. The spatial requirements as set out in local policies and the Wealden Design Guide, cumulatively impact on the ability of the site to accommodate the proposed number of units. Having regard to the constraints of the site namely that all built development is to be within Flood Zone 1, the Illustrative Layout does not demonstrate that an acceptable development is achievable. Furthermore, it is noted that the appeal scheme indicated that the attenuation ponds are to be located in Flood Zone 2, yet the consultation response from the Council's Drainage Officer recommended a condition that specifically required the attenuation ponds to be sited within Flood Zone 1, allowing for future climate change. If such a condition were imposed, then this would have a further impact on the quantum of development that could be accommodated.

- 6.48 National policy expressed in the "National Planning Policy Framework" places emphasis on the importance of good design in the broadest sense. Chapter 12 of the NPPF sets out clear guidance relating to "Achieving well designed places." Paragraph 135 of the NPPF emphasises that developments should function well, add to the overall quality of the area and be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Developments should be sympathetic to local character, built environment and landscape setting. Establishing a strong sense of place using the arrangement of streets, building types and materials to create attractive, welcoming and distinctive places are emphasised. Saved Policy EN27 in the Wealden Local Plan also aims at achieving good design standards. The quantum of development proposed on this constrained site would not be able to achieve this.
- 6.49 The appeal scheme is therefore contrary to the aims and objectives of the Framework and Local Plan Policies EN2, EN8 and EN27 of the Wealden Local Plan 1998; SPO13 and Policy WCS13 of the CSLP and Policy LHB1 and LHB2 of the HNP which seeks to ensure that developments add to the overall quality of an area, are sympathetic to local character, built environment and landscape setting and contribute to and enhance the natural and local environment, including by recognising the intrinsic character and beauty of the countryside.

6.50 The advice in Paragraph 139 of the NPPF is clear that *“Development that is not well designed should be refused especially where it fails to reflect local design policies and government guidance, taking into account any local design guidance and supplementary planning documents...”*

(iii) the effect of the proposed development on the landscape character and appearance of the site and the surrounding area;

6.51 Paragraph 180 of the NPPF requires planning decisions to “contribute to and enhance the natural and local environment” by (a) protecting and enhancing valued landscapes and (b) “recognising the intrinsic character and beauty of the countryside.”

6.52 The Appellant acknowledges in Paragraph 4.31 of their Statement of Case that the development of the site would have *“visual impacts and would reduce the width of the field area that contributes to the setting of Lower Horsebridge.”* It is the extent of the landscape impacts that are in dispute between the Appellant and the Council

6.53 I rely upon the detailed and expert evidence of Michelle Bolger in relation to the impacts upon the landscape, which are fully and comprehensively set out in her proof of evidence **(CD13.9)**.

6.54 Michelle Bolger’s proof of evidence sets out the landscape value of the appeal site and the immediate surroundings at Paragraph 10.6 and 10.6.1. She has assessed that the value of the immediate landscape in which the site is located is assessed as medium and it is not considered to be a valued landscape for the purposes of the NPPF. However, she indicates that it contains landscape qualities that are valued, such as the Lower Horsebridge Stream and its role as a backdrop to the River Cuckmere corridor. Importantly she considers that the adjacent River Cuckmere corridor is a valued landscape for the purposes of the NPPF. Paragraph 180 of the NPPF requires planning decisions to “contribute to and enhance the natural and local environment” and makes specific reference to the need to protect and enhance valued landscapes.

6.55 Paragraph 10.7.4 of her proof states that *“The immediate landscape in which the site is located has medium value and medium/high susceptibility to the*

*development proposed and I consider that the sensitivity of the site to the proposed development is medium/high. The magnitude of change is medium/high adverse and the overall effect on the site and its immediate landscape, would be **moderate/major adverse**.*”

- 6.56 Paragraph 10.8.5 states that: “*The River Cuckmere corridor has **high** value and **medium/high** susceptibility to the development proposed and I consider that the sensitivity of the site to the proposed development is **high**. The magnitude of change is medium/low adverse and the overall effect on the River Cuckmere corridor would be **moderate adverse**. The proposed planting would not mitigate the harm*”
- 6.57 The evidence of Michelle Bolger regarding the visual effect of the appeal scheme is conclusive: “*the development on the appeal site would be widely visible from the PRoW to the east, the POS to the south and the A271 to the north. It would appear as an isolated block of development unrelated to existing settlements. The effect on visual amenity would include major adverse effects from the PRoW and the POS.*”
- 6.58 The landscape and visual effects of the appeal scheme conflict with policy tests at both Local Plan and NPPF levels. These policies expect development to respect local natural built and historic character in order to maintain a strong sense of place. Michelle Bolger’s assessment of the landscape impact is that rather than recognising the intrinsic character and beauty of the River Cuckmere corridor the proposed development would harm this valued landscape.
- 6.59 In summary, the appeal scheme would be contrary to development plan policies in that it:
- does not maintain the existing settlement pattern and therefore contrary to Policy EN2 of the WLP;
 - does not conserve the setting of Hailsham or Lower Horsebridge, both settlements within the Low Weald and therefore contrary to Policy EN8 of the WLP;
 - does not respect the character of adjoining development and harms local distinctiveness and therefore contrary to Policy EN27 of the WLP;
 - does not maintain landscape character and therefore contrary to Policy WCS 13 of the CSLP;

- does not protect the rural character of the neighbourhood plan area (HNP objective) or the historic development pattern of Lower Horsebridge and therefore contrary to Policy LHB1 of the HNP;
- erodes the sense of openness and rural character of the existing setting of Lower Horsebridge and therefore contrary to Policy LHB1 of the HNP; and
- does not respect the local character, identity and distinctiveness of Lower Horsebridge and therefore contrary to Policy LHB2 of the HNP.

6.60 The appeal scheme would also be contrary to NPPF as it would:

- not protect or enhance the natural, built or historic environment (Paragraph 8c);
- not be sympathetic to local circumstances and does not reflect the character, of the. local area (Paragraph 9);
- not enhance Public Rights of Way (PRoW) (Paragraph 104);
- not be sympathetic to local character or history, or the surrounding built environment and landscape setting. (Paragraph 130b);
- harm the strong sense of place associated with the River Cuckmere corridor (Paragraph 130d);
- not protect or enhance the valued landscape of the River Cuckmere corridor (Paragraph 180a); and
- harm the intrinsic character and beauty of the countryside (Paragraph 180b).

6.61 The landscape and visual impacts arising from the proposed development are significant and the level of harm from these impacts alone are sufficient on their own to warrant a refusal of the appeal scheme. In short, they alone significantly and demonstrably outweigh the benefits of the proposal.

Reason for Refusal 2: Heritage Assets

6.62 There are two Grade II listed buildings in close proximity to the appeal site, Brook House (1353343) which lies to the north of the A271 opposite the appeal site and the Boship Farm Hotel (1180372) which lies to the west of the A22 and the appeal site.

6.63 Decision makers have a duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural

or historic interest which it possesses (Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990).

- 6.64 The requirements of the statute are reinforced by the NPPF, which at Chapter 16, sets the national agenda for 'Conserving and enhancing the historic environment'. This requires the significance of any heritage asset to be identified and assessed that may be affected by a proposal (including by development affecting the setting of a heritage asset) and for this to inform future change in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 206 of the NPPF states that significance of a designated heritage asset can be harmed or lost through alteration or destruction of the heritage asset or through development within its setting. Paragraph 195 of the NPPF states that planning should conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 205 affords 'great weight' to the conservation of designated heritage assets through an understanding of the impact of a proposed development on their significance and this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.65 The Council agrees that the proposed development would not cause direct harm to the fabric of the two listed buildings, but that harm would result from the introduction of built form into a part of the identified assets' setting. This level of harm is agreed to be in the spectrum of less than substantial harm.
- 6.66 The Inspector will know the Courts have held that 'preserve' means an absence of harm. The NPPF points out that harm can be either 'substantial' or 'less than substantial' and where harm occurs, it should be given considerable weight as a material consideration in the assessment of planning applications and as part of the balance exercise and in ascertaining if any public benefits would outweigh that harm. This national policy intent is addressed by 'saved' WLP Policies EN1 and EN27; Core Strategy Policy SP02; as well as Chapter 12 of the Wealden Design Guide.

Considering the Effect of the Proposals

- 6.67 The heritage issue for consideration is the impact of the proposed development on the significance of heritage assets. The NPPF glossary defines significance as 'the value of a heritage asset to this and future generations because of its heritage interest'. Such interest may be archaeological, architectural, artistic or historic and it may derive 'not only from a heritage asset's physical presence, but also from its setting'. Historic England's Good Practice Advice Note 3: The Setting of Heritage (GPA3) (copy at **CD7.2**) gives general advice on understanding setting.
- 6.68 Any impact on the setting of the listed buildings would not necessarily detract from the significance of the designated heritage assets, because that depends on the extent to which their settings contribute to their significance. Their settings are not designations in themselves. As defined by the framework, setting comprises the surroundings in which a heritage asset is experienced. In essence, if the development proposed could be seen from, or in conjunction with, any of the heritage assets close to the appeal site, then there would be an impact on their setting. An assessment is then required as to whether that impact would harm the heritage significance of the asset.
- 6.69 Under Step 2 of GPA3's methodology a settings assessment should consider the way attributes of an asset's setting have contributed to its significance in the past (particularly when it was first built, constructed or laid out), the implications of change over time, and their contribution in the present.
- 6.70 I rely upon the detailed and expert evidence of Heather Hall (**CD13.10**) in relation to the impacts upon the designated heritage assets, which I do not repeat here. In summary:
- a) Brook House, (Grade II listed) would be subject to less than substantial harm at the moderate level; and
 - b) Boship Farm Hotel (grade II listed) would be subject to less than substantial harm at the lower end of the scale.
- 6.71 Heather Hall's evidence regarding the overall level of harm to the special interest of Brook House is that the harm would be moderate because of the

degradation to the overall setting and consequent effect on the heritage significance as a listed building. Such harm would be “less than substantial” in terms of Paragraph 205. Less than substantial harm does not equate to a less than substantial planning objection. The conclusion that the appeal proposal would fail to preserve the setting of a listed building, is a consideration that must carry considerable weight and importance in the overall planning balance. Similarly, the overall harm to the significance of Boship Farm Hotel would be less than substantial harm at a lower level to that of Brook House, but nonetheless, and as set out above, such harm attracts considerable weight.

- 6.72 The NPPF sets out, at paragraph 208, that where a development proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.73 The scheme would provide up to 124 new homes, 35% of which would be affordable which would be a significant public social benefit to which substantial weight can be attached having regard to the lack of a five-year housing land supply in the district. It is acknowledged that the development will provide economic benefits in the form of construction jobs during the building of new dwellings and likely on-going multiplier effects on spending in/at local businesses and facilities. There would also be some ecological improvements made to the appeal site through the proposed planting and the areas of open space would be accessible to both occupiers of the development but also other residents in the surrounding area, these would comprise environmental benefits.
- 6.74 However, these benefits (as set out under the overall planning balance (Section 7.0) are no more than would be expected of almost any similar sized housing development and do not provide specific justification for the proposed development on the appeal site.
- 6.75 More fundamentally, considerable importance and weight is to be given to any harm to designated heritage assets. The harm to Brook House would be moderate and that to Boship Farm Hotel minor, both being “less than substantial harm” in terms of paragraph 205. Both listed buildings are important in the area and the harm to their settings has not been clearly and convincingly justified as

required by the NPPF paragraph 206. Consequently, it is concluded that the harm to these designated heritage assets is not outweighed by the scheme's public benefits.

- 6.76 The scheme would fail to preserve the significance and setting of heritage assets under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act and does not meet a number of national and local policies. Namely paragraphs 135c, 139, 203 and 212 of the NPPF, amounting to less than substantial harm under paragraph 208; local policies EN1 and EN27 of the Saved Local Plan 1998 relating to sustainable development and the layout and design of development; broader policies relating to the intrinsic quality of the historic environment in the Core Strategy SP02; and Policy LHB1 of the Hellingly Neighbourhood Plan.
- 6.77 Further, as the public benefits do not outweigh the heritage harm (applying the test in paragraph 206 NPPF) this represents a clear reason for refusing the development proposed under paragraph 11(d)(i) NPPF such that the tilted balance does not apply. Further, and in any event, the heritage harm significantly and demonstrably outweighs the benefits of the proposal.

Reason 3 and 4 Infrastructure improvements and Affordable Housing

- 6.78 Saved Policy CS1 of the WLP and Policy WCS7 of the CSLP provide for contributions to be secured towards the costs of providing the infrastructure required to serve the additional needs it will generate. Policy AFH1 requires the provision of affordable housing.
- 6.79 It is acknowledged that the appeal proposal would, if approved, be liable to pay CIL contributions providing revenue to the Council's infrastructure fund that can then be utilised to assist in providing additional services for the area.
- 6.80 However, there are infrastructure needs associated with this development which are not currently provided for and that in the absence of a section 106 obligation there is no mechanism to secure any necessary off-site highway works directly related to the provision of the new access and accessibility improvements

including bus service and infrastructure improvements, provision of 35% affordable housing and custom-built homes.

- 6.81 At the time of compiling this Proof, no detailed S106/unilateral agreement has been either submitted to the Council for comment or agreed between the parties. Thus, without such a legal agreement, refusal 3 and 4 have not yet been overcome.
- 6.82 Consequently, as submitted, it is considered that the proposals would be contrary to saved Policies CS1 of the WLP, Policies WCS7 and WCS14 of the CSLP and Policy AFH1 of the AHDLP. There would therefore be a breach of the development plan as a whole and the guidance given in the NPPF regarding planning obligations and the provision of sustainable development which mitigates its impacts. Having regard to the tilted balance, the failure of the scheme to mitigate its impacts significantly and demonstrably outweighs the benefits of the proposal when considered against the NPPF read as a whole. Reason for refusal 3 and 4 remains justified.

7 THE OVERALL PLANNING BALANCE

- 7.1 At the heart of the NPPF is the presumption in favour of sustainable development as set out Paragraph 11. In this regard the starting point for the determination is the development plan and thereafter the consideration of material considerations including the tests set out in paragraph 11 of the NPPF.

THE DEVELOPMENT PLAN

- 7.2 The adopted development plan documents relevant to the appeal site are the “saved policies” of the Wealden Local Plan (1998), The Wealden District Core Strategy Local Plan (2013), the Affordable Housing Delivery Local Plan (2016) and Hellingly Neighbourhood Plan July 2021. Many aspects of the development plan are consistent with the NPPF when read as a whole.
- 7.3 Policy WCS6 (Rural Areas Strategy) of the CS is in accordance with the Framework’s approach to locate development according to the range of facilities within settlements and the need to encourage the use of sustainable modes of transport to access them. There are no policies in the development plan that support development in this location. As has been set out in this proof of evidence and the proofs of evidence of Michelle Bolger and Heather Hall, the proposals would be in conflict with all the other most relevant development plan policies including Policy GD2, DC17, EN1, EN2, EN8, EN14, EN27, TR13, CS1 of the LP and Strategic Planning Objectives SPO3, SPO7, SPO12, SPO13 and SPO15 and Policies WCS6, WCS7, WCS9, WCS13 and WCS14 of the CS which promotes sustainable development. It is therefore clear that this application breaches the development plan when considered as a whole.
- 7.4 The Council cannot demonstrate a four-year supply of deliverable housing land and therefore the provisions of paragraph 11(d) NPPF apply. As set out above, in this case the tilted balance does not apply because the heritage harm (which is not outweighed by public benefits) provides a clear reason for refusal.
- 7.5 In the event that the Inspector disagrees that paragraph 11(d)(i) applies then paragraph 11(d)(ii) will apply. This 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, that planning permission should be

granted unless any adverse impacts of doing so would demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole ('the tilted balance').

- 7.6 I now turn to assess the benefits and harm arising from the appeal proposals and for the purposes of this I have weighted the extent of the benefit or harm by using the categories of Very Substantial, Substantial, Moderate, Limited, and Nil.

THE BENEFITS

- 7.7 Section 4.10 of the Appellant's Statement of Case (**CD13.4**) sets out the key benefits they consider are delivered by the appeal scheme:

- (i) Provision of market and affordable housing (in light of WDC's current and on-going position with regards to a lack of housing land supply);
- (ii) Provision of a substantial area of open space;
- (iii) Landscape enhancements;
- (iv) Net gain in biodiversity

- 7.8 In Paragraph 4.39 of the Appellant's Statement of Case they set out the Public Benefits which broadly echoes those set out above but also includes:

- (vi) The economic benefits from the construction of the scheme;
- (vi) providing public access to the enhanced green space

- 7.9 I address each of these benefits sequentially below:

(i) The provision of market and affordable housing;

- 7.10 It is acknowledged that the Government seeks to significantly boost the supply of housing. It is not disputed that the existing housing land supply and delivery position within the district is below four years. If the appeal scheme was approved, then it would clearly contribute to housing land supply.

- 7.11 Table 5 of the Five Year Housing Land Supply Statement (**CD10.1**) sets out Housing Requirement and Supply for the period between 1 April 2023 and 31 March 2028. Paragraph 2.44 highlights that *“the Council does have a total housing land supply of 8,132 (net) dwellings but can only demonstrate that it can deliver 5,513 (net) dwellings over the next five year period between 2023/24 and 2027/28. This stresses the importance of both delivery rates and lead-in times for housing development and the requirement to have a rolling supply of new homes on a yearly basis”*.
- 7.12 The Council recognises that the provision of housing in all forms can be a benefit which is capable of being given very substantial or very significant weight under normal circumstances, particularly in the context of the Council’s housing land supply deficit for both market and affordable homes. However, in assessing the weighting to be applied to the benefit of the appeal proposals in providing much needed housing and meeting identified housing needs, I also consider regard should be given whether the proposed scheme will provide an appropriate mix of housing having regard to the local housing needs.
- 7.13 Whilst the mix of dwelling types and sizes would be determined as part of any reserved matters application, it is evident from the form of development indicated in the Illustrative Masterplan that a significant percentage of the development will be comprised of flats, indeed based on the illustrative plan which indicates 54 houses, and assuming the maximum number of 124 units are delivered, flats would account for over 56% of the development. With a high proportion of flats this will mean that the proposed housing mix will be strongly skewed towards one and two bed units. The Wealden Local Housing Needs Assessment (WLHNA) looks at housing mix (paragraph 13.50 **CD10.9**) and based on an analysis linked to long-term (20-year) demographic change concludes on an appropriate mix of affordable and market homes, taking into account both household changes and the ageing of the population. This is set out in Table 13.1 reproduced below:

Table 13.1 Suggested Mix of Housing by Size and Tenure

	1-bedroom	2-bedrooms	3-bedrooms	4+-bedrooms
Market	5%	30%	40%	25%
Affordable home ownership	20%	40%	30%	10%
Affordable housing (rented)	40%	30%	25%	5%

- 7.14 The consultation response in February 2023 (**CD3.18**) from the Council's Housing Officer sets out the breakdown of the 43 (35%) affordable housing units that would be expected from the development which would comprise 11 First Homes, 17 Social Rented, 10 Affordable Rented and 5 Shared Ownership. This equates to 27 Affordable Rented (AR) and 16 Affordable Home Ownership (AHO).
- 7.15 Based on the provision of 124 units as proposed in the appeal scheme and having regard to the suggested mix from the WLHNA, this would suggest the following mix on the appeal scheme:

Tenure	1 bedroom	2 bedrooms	3 bedrooms	4+ bedrooms
Market	5	24	32	20
Affordable Home Ownership	3	6	5	2
Affordable Housing Rented	11	8	7	1
TOTAL	19	38	44	23

- 7.16 Paragraph 13.51 of the WLHNA highlights the difficulties Registered Providers have in selling 1-bedroom affordable home ownership and indicates that 1-bedroom elements of AHO would be better provided as 2-bedroom accommodation. Paragraph 13.54 states that based on the evidence, it is expected that the focus of new market housing will be on two and three bed properties. This is certainly evidenced by the housing mix for market housing on major development sites that have come forward in recent years. Many developers are not wishing to provide flatted accommodation for the market homes and where flatted units have been provided, they are only two bed units and comprise a very small percentage of the overall two bed market homes which are predominantly houses.

- 7.17 The Council's Housing Service's consultation response indicates that whilst there is overwhelming need for smaller properties, evidenced by the need on the housing register across the district, there is still a need for larger family homes. The Housing Officer recommended *that "for affordability purposes that 1 and 2 bed units are designated as First Homes properties and that the rented units include a mix of smaller homes as well as larger 3 and 4 bed family sized accommodation."*
- 7.18 With regard to the type of units the Housing Officer's advice is clear *"In respect of the design of the units we would recommend that any 1 bed units are provided in a maisonette style with separate external entrances and that any 2-bed provision is through houses as opposed to flats which are difficult to let in the district."* The preference for two bed units to be in the form of houses is a constant theme in the Housing Service consultation responses on major developments. Not only is it an issue for ease of letting but more fundamentally it relates to the suitability of flatted accommodation as two bed units will have children. It is important that children have safe and secure access to gardens and flatted accommodation cannot provide this fundamental need.
- 7.19 Having regard to the above, and the three significant apartment blocks which from the Illustrative layout indicates around 70 flats out of the 124 units, I do not consider that the resulting mix will reflect the local housing needs and therefore I have reduced the benefits from the provision of market and affordable housing from "Very Substantial" to "Substantial".
- 7.20 Therefore, having regard to the amount of housing proposed (up to 124 units), the mix of market (65%) and affordable housing (35%) and the shortfall of affordable housing supply across the district, I consider the market housing benefits may be categorised as "Substantial".
- 7.21 Provided there is a legal obligation in place to ensure delivery of the 35% requirement for affordable housing (as set out under Policy AFH1 of the Affordable Housing Delivery Plan) this would also be a "Substantial" benefit in favour of approving the scheme.

(ii) Provision of substantial area of open space and (vi) providing public access to the enhanced green space.

- 7.22 The development includes provision of open space including a small, equipped play area for future residents of the application site. However, all large housing developments have to provide commensurate levels of open space, recreation and play facilities in accordance with local planning policies (Policies LR1, LR3 and LR5 of the WLP, Draft SPG Outdoor Playing Space). The actual level of amenity space provided can only be ascertained once a reserved matters application has been submitted and the competing spatial requirements addressed in an acceptable layout and design, but the provision is directly proportional to the number and size of dwellings proposed. Furthermore, unless the actual provision is secured through an appropriately worded legal agreement, there is no assurance that the level of open space will be delivered, managed and retained in perpetuity.
- 7.23 I believe no weight should be given to this benefit as it is directly related to the development and serves the specific needs of the development. This is in accordance with the recent appeal decision at Mornings Mill (**CD11.11** paragraph 51) whereby the Inspector in considering the benefits of public open space was of the view that *“such commitments are to be expected of a scheme of the scale proposed and they thus represent neutral factors”*.
- 7.24 Indeed subject to the final housing mix, there is potentially an issue of whether the policy requirement for outdoor recreation space can be satisfactorily accommodated on site.
- 7.25 With regard to the public access to the proposed play area and on-site open space, this would be welcomed anywhere and must be balanced against the loss of greenfield land in the countryside, furthermore any perceived benefit would be outweighed by the negative impact experienced by users of the PROW FpHEL 12/1. This is directly related to the urbanisation of site by the appeal scheme and is primarily to serve the future occupants of the scheme. Furthermore, having regard to the location of much of the open space for recreation in Flood Zones 2 and 3, the usability of the land is restricted when inaccessible due to flooding. I give this benefit no weight.

(ii) Landscape Enhancements

- 7.26 Details of landscaping are matters reserved for future consideration and any development would be required to provide appropriate landscaping in accordance with development plan policies in producing the detailed design at Reserved Matters.
- 7.27 Whilst the proposal seeks to mitigate its adverse effects in the form of the planting of new hedgerows and woodland, the residual effects would remain adverse – the Council does not agree that there would be a net benefit in landscape/visual terms. The intrinsic character and beauty of the countryside in this location cannot be protected by covering it with a high-density residential development and attempting to mitigate landscape impacts by planting. Even though the retention of the existing woodland, replacement hedgerow planting to compensate for the loss and additional planting, the proposed mitigation would itself harm openness, views and the Cuckmere corridor.
- 7.28 I therefore give this benefit no weight. Indeed, having regard to the evidence of the Council's expert witness Michelle Bolger on landscape impact, the scheme constitutes a significant and irreversible harm to the landscape.

(iv) Net Gain in Biodiversity

- 7.29 With regard to ecology, the areas of the site proposed to be developed have a relatively low biodiversity baseline with features of higher ecological value proposed for retention and enhancement. Losses include largely what has been identified as poor semi-improved grassland and sections of hedgerow. Habitat creation/enhancement proposals include native urban tree planting, native hedgerow, pond, scrub, woodland and grassland creation.
- 7.30 Paragraph 180(d) of the Framework states that proposals should minimise impacts on and secure net gains for biodiversity. The Environment Act has introduced a 10% mandatory requirement for BNG for most development proposals in England. However, this does not apply to this appeal scheme.
- 7.31 The biodiversity net-gain (BNG) assessment that accompanied the application concludes that the development would deliver a 29% gain in habitat units and a

40% gain in hedgerow units. However, Paragraph 5.5 of the Biodiversity Net Gain Report (**CD1.18**) states:

“Proposals for new habitat creation have not been finalised within the application area but the current specification shown demonstrates a net gain of 28.46% habitat units and 39.13% hedgerow units will be achieved. This value is likely to be subject to some variation following the finalisation of the landscaping specification for these areas as the target condition of the habitats can be more closely managed and habitat created in advance of operations. It is highly unlikely that there will be a failure in habitats on a scale large enough to cause the value of net gain to fall below the 10% net gain value targeted by the development.”

- 7.32 Having regard to the above it is evident that the proposed BNG report concludes that the level of gain is not definitive and whilst indicated in the BNG report as being practical and achievable, this would be needed to be secured through either condition or legal agreement. As advised in the BNG report to achieve the net gain it will be necessary to ensure that habitats are created and enhanced and managed correctly for the perpetuity of the development.
- 7.33 I therefore give limited weight to the net gain in biodiversity which will be dependent on the amount of BNG that is delivered.
- 7.34 To ensure such biodiversity enhancements are delivered, appropriate condition(s) would need to be attached to any consent along with a condition for ongoing management and maintenance of ecological features.

(v) The economic benefits from the construction of the scheme.

- 7.35 It is acknowledged that during construction there are the opportunities for employment, but these are only temporary and there is no guarantee that these jobs will be available to the local communities. Wealden has no policy basis for requiring that a proportion of the jobs generated by the construction phase be set aside for local labour, or that a certain number of apprenticeships be provided. Having regard to this I consider that the weight to be afforded to job creation must take account of the fact that there is no direct correlation that these jobs will be available to local residents and the fact that the construction

jobs are only temporary. Furthermore, the economic benefits derived from the appeal proposal would be forthcoming from any development of this scale. I therefore give this benefit limited weight in favour of the proposal.

THE HARM

- 7.36 To complete the balancing exercise, I will address the adverse impacts arising from the development proposals as already set out earlier in my proof of evidence and amplified in the proof of evidence by Michelle Bolger and Heather Hall
- 7.37 The Council's reasons for refusal as set out in the Statement of Case **(CD13.4)** and further clarified through the Planning Statement of Common Ground **(CD13.8)** and evidence indicates that the appeal proposal would cause the following harm.

(i) Spatial Harm

- 7.38 The appeal scheme is not policy compliant in terms of the spatial growth strategy identified in the development plan which seeks to ensure that new development is located having regard to the established settlement hierarchy and to ensure maximum sustainability, ease of access to services and to reduce the carbon footprint of development by locating the majority of growth in the form of sustainable urban extensions. The appeal scheme is sited outside of any development boundary, away from the edge of any settlement boundary and within open countryside.
- 7.39 Notwithstanding the detail that would come through reserved matters, the appeal scheme would unmistakably have a harmful spatial impact. Even with replacement boundary planting along the A271, retention of the land in flood Zones 2 and 3 as open space and related landscaping and ecological improvements, the introduction of up to 124 dwellings would have an acute effect on the function of the appeal site separating Lower Horsebridge from Hailsham. Whilst a large part of the site would remain open space, the proposals would completely change the agricultural character and openness of the site, which would become suburbanised and dominated by housing, roads and associated residential activity. Whether or not measures could help soften the

visual impact at the development's edges (which for the avoidance of doubt, as set out in the evidence of Michelle Bolger, planting would not mitigate the landscape impact), the openness of the site would plainly not be preserved. This is a fundamental feature that forms the setting of the village of Lower Horsebridge and also the visual and physical separation of the village from the district centre of Hailsham further south. The appeal proposals would significantly weaken the landscape buffering effect that the appeal site offers between the two settlements.

7.40 I give this **very substantial weight** in the planning balance against the scheme.

(iii) Overdevelopment of the Site

7.41 The illustrative layout as shown would not be acceptable with regard to a number of issues. There is a heavy reliance on substantial flat blocks and whilst it is noted there are public open spaces, no provision has been made for the communal amenity spaces that are required to be provided for flats in accordance with the Wealden Design Guide. The extensive use of internal parking courtyards is unacceptable with regard to quality of public realm and the lack of significant landscaping within the developable area as a whole will result in harsh and austere building dominated environment unrelated and inappropriate to the rural context. The layout as shown would not be able to accommodate the parking provision that would be required including the Council's requirement for visitor parking of one space per three dwellings. Whilst it superficially appears that there is a lot of open space this is outside the built development and much of this lies within flood Zones 2 and 3 which in itself impacts on usability of the space.

7.42 Notwithstanding the detail that would come through reserved matters, the quantum of development proposed constitutes overdevelopment of the site, which will inevitably result in a development that is overly urbanised and highly uncharacteristic of the existing settlement pattern. The development would not:

- add to the overall quality of the area (para 135(a) of the NPPF);
- be visually attractive (as a result of layout and appropriate and effective landscaping) (para 135(b) of the NPPF);

- sympathetic to local character and history including the surrounding built environment and landscape setting (para 135(c) of the NPPF);
- establish a strong sense of place to create an attractive and welcoming place to live (para 135(a) of the NPPF)
- provide an appropriate mix of development (including green and public spaces) (para 135(e) of the NPPF); and
- deliver a high standard of living conditions for the occupiers of these blocks, having regard to the proposed apartment blocks, one of which would be single aspect (the inward facing block by the Boship roundabout) and the lack of the required private amenity space for these blocks (para 135(f) of the NPPF). The development would also be contrary to Policy EN27 of the Wealden Local Plan which requires development not to have an unacceptable impact on residential amenities of new residents.

7.43 In summary, to accommodate 124 units on this heavily constrained site will mean that a number of spatial requirements cannot be met which will severely compromise on the quality and attractiveness of the residential scheme and the delivery of a quality living environment for future occupiers. I give this **very substantial weight** in the planning balance against the scheme.

(iii) Impact on Landscape Character

7.44 The NPPF seeks to ensure planning decisions contribute to and enhance the local environments (para 180) and that development proposals should add to the quality of the area (130a), are visually attractive (130b) and are sympathetic to local character and history including the surrounding built environment and landscape setting (130c).

7.45 The change from a predominantly rural character to an urban environment, would fundamentally change the character of the area. The proposed development would not be perceived as a logical extension to an existing built-up area. Michelle Bolger's evidence concludes that there would be a significant level of harm/adverse effect arising from the development in landscape and visual terms. The harm is permanent. No amount of landscape planting will

mitigate the harmful impact of the appeal proposal on the character and appearance of the landscape and the setting of Lower Horsebridge. Furthermore, the proposed development would have an adverse visual effect on the users of the PROW and the public open space to the north of Welbury Meadows. The scheme would not protect and enhance the valued landscape of the River Cuckmere Corridor and so would not contribute to and enhance the natural and local environment in accordance with NPPF paragraph 180. This would also bring the development into conflict with development plan policy EN8.

- 7.46 Unacceptable harm to the character and appearance of the area, which includes a valued landscape. I give this **very substantial weight** in the planning balance against the scheme.

(iv) Impact on Setting of Listed Buildings

- 7.47 The level of harm to heritage assets would be “less than substantial”. With regard to Brook House, the evidence of Heather Hall considers this to be “Moderate” which is enough to be described as significant, noticeable or material. Paragraph 205 of the Framework advises that great weight should be given to the conservation of designated heritage assets irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm. Even where the heritage harm falls in the “less than substantial” category, as is the case here, this still requires being given considerable weight and importance in the planning balance.
- 7.48 NPPF para. 208 requires for the identified harm to be acceptable that public benefits must outweigh it. The public benefits of the appeal proposal, when weighed against the less than substantial harm to the designated heritage assets, do not outweigh the resultant harm. Given the importance that the NPPF places on conserving heritage assets and the impacts identified by Heather Hall, I afford **very substantial weight** to the harmful impact of the appeal proposal on the designated heritage assets.

THE BALANCED APPROACH TO DETERMINATION

7.49 In this section I set out the various issues relating to the appeal scheme set against the three strands of sustainability as set out in the NPPF – economic, social and environmental.

7.50 With regard to the matters which weigh in favour of the appeal proposal:

- (i) **Housing Land Supply:** The proposed development would bring substantial benefits in terms of contributions to housing supply and the provision of market and affordable housing (assuming a legally compliant s106 agreement is forthcoming) in the context of the Council's shortfall in housing land supply and the Government imperative to boost the supply of housing. This carries **significant social weight** and is a **positive impact** in the balancing exercise;
- (ii) **Affordable Housing:** The provision of affordable housing is also of **significant social weight** towards meeting affordable housing needs within the district and therefore again is a **positive impact** in the balancing exercise;
- (iii) **Construction Jobs:** There would be some contribution to economic growth through the provision of construction jobs which can have acknowledged economic benefits along the supply chain. At a national level the government is committed to securing economic growth through the planning system and confirms that significant weight should be placed on the need to support economic growth through the planning system. However, this is not unique as any similar development site would have associated construction jobs. Furthermore, these would be short term benefits during the course of construction and there is no evidence to demonstrate that these will necessarily offer local employment opportunities. I therefore give **limited economic weight** to this benefit and consider this to be a **neutral impact** in the balancing exercise.
- (iv) **Improved Local Spending:** Notwithstanding that the Appellant hasn't raised this as a benefit of the development, the impact on local spending

is still considered here. With regard to the weight afforded to the economic benefits of supporting the facilities and services within Lower Horsebridge, the proposals will increase the population in the area with an associated spending profile. This is not unique as any similar development site has the potential to generate an increased workforce/trip generation with associated spend. With regard to the local area, the nearest convenience store is part of the petrol station and therefore having regard to its location and through traffic, any additional spend from the development would be negligible in relation to the overall turnover. Spending is more likely to be at Hailsham but as an established District Centre these benefits are not likely to make any difference to the viability of the services within the town. I afford these benefits **limited economic weight** and **neutral impact** in the balancing exercise.

- (v) **Creation of Open Amenity Areas and Public Open Space including enhanced public access:** The provision of open amenity space, play areas and landscaping are positive social and environmental benefits but they are directly and proportionately related to the quantum of development proposed in order to meet the spatial needs of the development, which would in any case be expected on any new residential development. I afford these **social and environmental benefits no weight** and consider this to be a **neutral impact** in the balancing exercise.
- (vi) **Bio-Diversity and Ecological Enhancements:** Biodiversity and ecological enhancements within the development, are no different to the those secured on any new residential development. I afford these **environmental benefits limited weight** in the balancing exercise and consider this to be a **neutral impact** in the balancing exercise.

7.51 Turning to the opposite side of the balance:

(i) Spatial Considerations

The appeal scheme is not policy compliant in terms of the spatial growth strategy identified in the development plan which seeks to ensure that new development is located having regard to the established settlement

hierarchy and to ensure maximum sustainability, ease of access to services and to reduce the carbon footprint of development by locating the majority of growth in the form of sustainable urban extensions. The appeal scheme is sited outside of any development boundary, away from the edge of any settlement boundary and within open countryside.

By virtue of the distance of the appeal site from either settlement and clearly separated from both Lower Horsebridge and Hailsham by the intervening river corridors and their associated flood plains of the Lower Horsebridge Stream and the River Cuckmere, and the public open space of Welbury Meadows, the site is totally unrelated to either settlement and cannot be argued to be a logical extension of either Lower Horsebridge or Hailsham.

The appeal site would have a harmful urbanising impact on the character and appearance of the area. By virtue of its size and location the proposal has not been sensitively sited or designed. The location of the site divorced and unrelated to any settlement boundary and the shape of the site and resultant development grain would be discordant, constituting a radical departure from the existing settlement pattern of Lower Horsebridge and the linear sporadic development on the northern side of the A271.

This carries **very significant environmental weight against** the scheme and is a **negative impact in the planning balance**;

- (ii) **Overdevelopment:** The quantum of development proposed constitutes overdevelopment of the site, which will inevitably result in a development that is overly urbanised and highly uncharacteristic of the existing settlement pattern. As such, development would not be able to deliver a high quality, beautiful and sustainable development with a sense of place nor would it deliver a high standard of living for all future occupiers. This carries **very significant environmental and social weight against** the scheme and is a **negative impact in the planning balance**;

- (ii) **Impact on Landscape Character:** The proposal would result in a significant level of harm in landscape and visual terms. The harm is

permanent and cannot be mitigated. I afford significant weight to the harmful impact of the appeal scheme on the character and appearance of the landscape, the setting of Lower Horsebridge and the erosion of the landscape gap between the edge of Hailsham and Lower Horsebridge.

This carries **very significant environmental weight against** the scheme and is a **negative impact in the planning balance**;

(iii) Impact on Setting of Listed Buildings

The appeal scheme would constitute a permanent change to the visual quality of the heritage assets setting and would have a negative effect on the way in which they are experienced and appreciated. The proposals do not sustain and enhance, nor do they respond to local heritage character.

This carries **very significant environmental weight against** the scheme and is a **negative impact in the planning balance**;

7.52 Overall, I consider that the proposed development does not achieve the three objectives of sustainable development set out in paragraph 8 of the NPPF.

7.53 In summary, the balancing of competing interests is judgement based. The benefits which would result from the proposed development particularly the housing (both market and affordable) would be substantial, and I have given significant weight in the balancing decision to this. There are also more minor benefits from the Biodiversity Net Gain depending on the level of gain achieved/secured under condition or the legal agreement and minor temporary benefits from the creation of construction jobs. However, despite the acknowledged benefits of the appeal proposal, the disbenefits either individually or in combination, significantly and demonstrably outweigh those benefits. I have summarised those factors at paragraph 7.51 above and do not repeat them here.

8 CONCLUSION

- 8.1 The scheme subject of this appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 The scheme amounts to a breach of the development plan and policies GD2, DC17, EN1, EN2, EN8, EN27 and CS1 of the WLP and Strategic Planning Objectives SPO2, SPO3, and SPO13 and Policies WCS6, WCS7, WCS9, WCS13 and WCS14 of the Core Strategy. The balance of material considerations also weighs heavily against a grant of planning permission. In particular, the scheme's harms significantly and demonstrably outweigh the scheme's benefits. Further, the fact that the public benefits of the scheme do not outweigh the heritage harm provides a clear reason for refusal under paragraph 11(d)(i) NPPF. The Council therefore respectfully requests that permission is refused.