

**TOWN AND COUNTRY PLANNING ACT 1900
SECTION 78 (AS AMENDED)**

**LAND AT BIRD IN EYE FARM, SOUTH OF BIRD
IN EYE HILL (FRAMFIELD PARISH), UCKFIELD**

Appeal against the failure of Wealden District Council to determine an outline planning application within the statutory period for up to 190 dwellings, associated works, parking, landscaping, publicly accessible open space and SANG provision, with access from the B2102.

**PROOF OF EVIDENCE RELATING TO TOWN
PLANNING MATTERS**

Prepared by:

Steven Brown BSc Hons DipTP MRTPI

On behalf of:

Croudace Homes Ltd

croudacehomes

PINS Ref: APP/C1435/W/24/3356658

LPA Ref: WD/2024/1799/MAO

WBP Ref: 7336

June 2025



Woolf Bond Planning
Chartered Town Planning Consultants

CONTENTS

	Qualifications and Experience	2
1.0	Introduction	3
2.0	Appeal Site Planning History	14
3.0	Appeal Scheme Description	27
4.0	Development Plan and Planning Context	37
5.0	Main Issues	59
	1) <i>The acceptability of the Appeal Scheme in heritage terms.</i>	
	2) <i>Addressing third party objections.</i>	
6.0	The Planning Balance	88
7.0	Summary and Conclusion	96

Documents

- SB1** Ecology Technical Note, Ms Alexia Tamblyn (Ecology Partnership)
- SB2** Drainage and Flood Risk Technical Note, Mr Andrew Wren (Ardent)
- SB3** Hydrological Sequential Test Technical Note, Mr Chris Patmore (RPS)
- SB4** Landscape Statement, Mr Clive Self (CSA Environmental)
- SB5** Affordable Housing Analysis (Woolf Bond Planning) (June 2025)
- SB6** Application Chronology

QUALIFICATIONS AND EXPERIENCE

Steven Brown will say:

I hold a Bachelor of Science and Post Graduate Diploma in Town and Country Planning and I am a Member of the Royal Town Planning Institute.

I am the Managing Director of Woolf Bond Planning Ltd – Chartered Town Planning Consultants and I have been engaged in town planning with more than 20 years' experience as a private consultant acting for major house builders, development companies, estates and private individuals. Housebuilder clients include Croudace, Barwood Land, Bellway, City & Country, Cora, Dandara, Foreman Homes, Persimmon, Redrow Homes and Taylor Wimpey, as well as strategic land promoters, including CEG and Fairfax.

I am an expert planning witness, having appeared at numerous S.78 inquiries and Local Plan Examinations.

My involvement with the Appeal Site dates from 2015. During that time I have provided planning advice in relation to the evolution of the scheme design. I attended the Local Plan Examination in 2019 and appeared at the last s78 planning inquiry for this Site. I am well versed in the planning policy position in Wealden, including in relation to the numerous schemes that have been granted and allowed at appeal, including on account of the Council's continued inability to demonstrate a five year supply of deliverable housing land.

I have visited the Appeal Site and its surroundings on numerous occasions and I have examined the relevant plans and documents for the purpose of the appeal.

The evidence which I have prepared and provide for the appeal is true and has been prepared, and is given, in accordance with the guidance of my professional

institution and I confirm that the opinions expressed are my true and professional opinions.

1.0 Introduction

Scope of Evidence

- 1.1. This Appeal is made by Croudace Homes against the failure of Wealden District Council to determine an outline planning application within the statutory period for up to 190 dwellings, associated works, parking, landscaping, publicly accessible open space and SANG provision, with access from the B2102 (all matters reserved except for access) (LPA Ref: WD/2024/1799/MAO).
- 1.2. The Scheme is in outline with only the principle of developing the Site for up to 190 dwellings, provision of a SANG and the means of access to the Site to be determined as part of this outline application. Appearance, landscaping, layout and scale are reserved for subsequent determination.
- 1.3. My evidence addresses the planning balance under s38(6), and considers the acceptability of the Appeal Scheme in the context of the overarching planning policy context, drawing upon the evidence from the expert witnesses on the topic-specific considerations I reference below (ecology, flooding/drainage, heritage, highways and landscape).
- 1.4. As explained in the Addendum Statement of Common Ground (“SoCG”) (**CD4.4**), agreed between the Appellant and Wealden District Council (“WDC”), the impact of the Appeal Scheme in heritage terms is the only “live” issue for the purpose of determining the Appeal. All other matters, including the acceptability of the Scheme in ecology, landscape, highway, and flood/drainage terms, have been agreed.
- 1.5. Heritage matters are addressed in the proof of evidence prepared by Dr Chris Miele, who finds no harm to the significance of the Oast as a result of the Appeal Scheme. I adopt Dr Miele’s findings. However, I have also

assessed the alternative scenario, applying WDC's assessment of less than substantial harm. When so doing, I consider the public benefits from the Scheme outweigh the purported heritage harm, such that the NPPF paragraph 215 heritage balance is passed. As such, I do not find heritage is a footnote 7 strong reason for refusal. On the contrary, the Scheme results in some heritage benefit, as identified by Dr Miele, and I consider the Appeal should be allowed pursuant to the balance to be undertaken at paragraph 11(d)(ii) of the NPPF.

- 1.6. Given the objections raised by third parties, including Uckfield Town Council (**CD2.6**), Framfield Parish Council (**CD2.7**) and Town Legal (**CD2.4** and **CD2.5**), my evidence has also been informed by the evidence of Mr Matthew Stevens on highway matters, as well as the technical notes prepared by Alexia Tamblyn on ecology (**SB1**), Mr Andrew Wren on flooding/drainage matters (**SB2**), Mr Chris Patmore on hydrological sequential test matters (**SB3**) and Mr Clive Self on landscape (**SB4**).

The Appeal Process

- 1.7. Submission of the Appeal followed protracted correspondence with WDC post submission of the Application, with the Council citing s70A of the Town and Country Planning Act 1990 (as amended), suggesting they were minded to decline to determine the Application. It was suggested by WDC that the Appeal Scheme could be 'similar' to the previous appeal proposal. I consider such a stance unfathomable (See **CD3.2**, Appendix WB3), as the previous proposal was for up to 290 dwellings and a strategic SANG, on a site area significantly more than site area for the current Scheme. The Appeal Scheme is for 190 dwellings, on a much smaller site.
- 1.8. Submission of the Appeal Scheme was also informed by a pre-application process undertaken with the Local Planning Authority ("LPA"), where the Scheme was further revised prior to formal submission of the planning application.

- 1.9. I am of the view that the LPA's stance to the Appeal Application represents unreasonable behaviour that has resulted in the Appellant incurring unnecessary expense in advancing the Appeal.
- 1.10. As set out in the Planning Practice Guidance ("PPG") for Appeals, the aim of the costs regime is to, amongst other *things* "*encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay.*" (ID: 16-028-20140306)
- 1.11. As now agreed in the Addendum SoCG (**CD4.4**), despite the LPA's protestations in refusing to validate the planning application, they are left with a single ground of refusal on heritage.
- 1.12. In my professional opinion, and that of Dr Miele, that has no reasonable prospect of being sustained in light of the heritage considerations that inform the masterplan proposals and the public benefits derived from the Scheme that would, on any proper analysis, outweigh the alleged less than substantial harm to the setting of the Oast claimed by the WDC.
- 1.13. Informed by the findings of Dr Miele, heritage is not a strong reason for refusal.

Planning Context

- 1.14. The Appeal Site is located beyond, but immediately adjoining the settlement policy boundary for Uckfield as defined on the Local Plan Proposals Map. Accordingly, it is located in the countryside. In addition, the Site is not allocated for housing development. As such, the Appeal Scheme is contrary to the Development Plan. However, and having regard to the Section 38(6) balance, there are a number of material considerations that justify the grant of planning permission.

-
- 1.15. The development plan is out-of-date in terms of the spatial application of its housing policies by virtue of it being predicated on an out-of-date assessment of development needs¹, whilst, in addition, the Council is not able to demonstrate a five year supply of deliverable housing land.
- 1.16. As explained at paragraph 4.21 of the Statement of Common Ground (**CD4.1**), the Council accepts that the lack of a five-year supply of deliverable housing land means the most important policies for determining the Appeal Scheme are out of date.
- 1.17. In the circumstances, the presumption in favour of sustainable development (the tilted balance) at paragraph 11(d) of the NPPF is clearly engaged. This requires planning applications to be approved unless footnote 7 considerations provide a strong reason for refusing development (which they do not in this case); or any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Again, they do not.
- 1.18. As I have explained, and which position is understood to be agreed with WDC in so far as they raise no objection to the Appeal Scheme in relation to its location beyond a settlement boundary identified in the development plan, it is my position that the development plan policies for the supply of housing are out of date for two reasons (either one triggers the tilted balance at paragraph 11(d) of the NPPF):
- (i) the spatial application of settlement boundaries (which have been breached to meet current housing need); and
 - (ii) the lack of a five year supply of deliverable housing land.
- 1.19. Informed by Dr Miele's heritage evidence, there are no footnote 7 considerations that provide a strong reason for refusing the development proposed. This means the Appeal Scheme falls to be positively determined within the context of the balance to be undertaken at paragraph 11(d)(ii) of the NPPF.

¹ See Hopkins Homes paragraph 63 (**CD10.10**)

- 1.20. As I explain, the adverse impacts of granting planning permission relating to (i) the development of land beyond the settlement boundary; and (ii) loss of non-BMV agricultural land, do not significantly and demonstrably outweigh the benefits having regard to key policies for development at sustainable locations, making effective use of land, securing well designed places and providing affordable homes.
- 1.21. This is demonstrably a case where the weight to be attached to conflict with the development plan (on account of the location of the Site beyond the defined settlement boundary for Uckfield) can be reduced given the need to breach the settlement boundaries identified in the development plan to meet development needs (NPPF, paragraph 11(d)(ii) refers).
- 1.22. The particularly weighty material considerations in favour of this Appeal are clearly sufficient to outweigh the limited conflict with the out-of-date development plan.

The Council's Putative Reasons for Refusal

- 1.23. Section 4 of the Council's Statement of Case (**CD3.3**) includes two putative reasons for refusal, which I summarise as follows:
- (1) Highways: safe access.
 - (2) Heritage: less than substantial harm to a designated heritage asset.
- 1.24. As stated in the Addendum SoCG (**CD4.4**), it has subsequently been agreed that putative reason 1 (highways) has been addressed (the Highways SOCG at **CD4.2** refers) through the revised access design.
- 1.25. As recorded in section 5 of **CD4.4**, the only issue where the Appellant and WDC remain in dispute is in relation to heritage; and whether:

-
- (a) The application of the heritage policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed, or
 - (b) Whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

1.26. These matters are addressed in evidence.

Statements of Common Ground

1.27. To assist the Inspector, and to reduce the issues to be addressed in evidence, the Appellant, WDC and East Sussex County (“ESCC”) as the Local Highway Authority (“LHA”) have sought, where possible, to agree a position on relevant matters.

1.28. Topic-based Statements of Common Ground (“SoCGs”) have been prepared between the Appellant, WDC and ESCC (**CD4.2** only). They comprise as follows:

- (i) Planning (**CD4.1**)
- (ii) Highways (**CD4.2**)
- (iii) Heritage (**CD4.3**)
- (iv) Planning Addendum (**CD4.4**)

Areas of Agreement

1.29. As explained in section 4 of the Addendum SoCG (**CD4.4**), the matters now agreed between the Appellant, WDC and the LHA are extensive, comprising as follows:

1. It is accepted that the Council is not able to demonstrate a five-year supply of deliverable housing land against the Standard Method, and paragraph 11(d) of the NPPF applies on this basis.
2. The development policies for the supply of housing are out of date.
3. It is agreed that paragraph 11(d) of the NPPF applies.
4. It is accepted that the provision of up to 190 dwellings from the Appeal Scheme should be afforded substantial weight.
5. There is an under-delivery of affordable housing in the District and the provision of up to 67 affordable homes (35%) from the Appeal Scheme should be afforded substantial weight.
6. It is accepted that the previous appeal decision relating to the Site (dismissed by decision dated 12 October 2023 (PINS Ref: APP/C1435/W/22/3307820) (LPA Ref: WD/2021/2198/MAO)) is a material consideration.
7. In light of that appeal (PINS APP/C1435/W/22/3307820) it is agreed that the Appeal Site is in a sustainable location within walking and cycling distance from the town centre. It is further agreed that there is no basis for the appeal to be refused on locational sustainability grounds.
8. In transport terms, the degree of impact on Uckfield Town Centre is agreed and can be mitigated through the agreed financial contribution secured in the legal agreement.
9. There are no landscape objections to the Appeal Scheme.
10. It is agreed that there are no flooding/drainage reasons to withhold planning permission. It is also agreed by the parties that the sequential test submitted in support of the Appeal Scheme is on balance acceptable in scope, extent and in relation to its conclusions.

11. The impact of the Scheme in ecological terms, including on account of the additional surveys included at **CD13.1**, **CD13.2**, **CD13.3** and **CD13.4**, and those annexed hereto at **SB1** (which had previously been provided to and accepted by the Council) is acceptable.

12. It is accepted that the totality of the package of works on the Ancient Woodland, including:

- securing the buffer zone to the Ancient Woodland as per the landscape plan and SANG layout plan.
- the closure and blocking off of the existing path in the Ancient Woodland.
- the wider management of the Ancient Woodland.
- the delineation (and exclusion) of the root protection area to the T6 veteran Ash tree by post and rail fencing).

all to be secured in the s106², results in no overall harm to the irreplaceable habitat and the ecology within it.

13. It is accepted that Wealden District is a CIL Charging Authority and financial contributions will be secured at the reserved matters stage once the amount of chargeable floorspace is fixed.

14. It is agreed that the Appeal Site and open land on it forms part of the setting to the listed 'Oast' abutting the Site.

Areas of Disagreement

1.30. Based upon the extensive list of matters now agreed, as explained at paragraph 1.24 above, the only issue where there continues to be disagreement between the Appellant and WDC is in relation to the effect of the Appeal Scheme on the setting of the designated Grade II listed Oast.

² Now addressed through the imposition of draft condition 25.

-
- 1.31. Dr Miele's position for the Appellant is that there is no harm, with some overall benefits derived from the Appeal Scheme.
- 1.32. WDC's case is there is less than substantial harm at the moderate scale, which is not outweighed by the substantial benefits of the Appeal Scheme.
- 1.33. I adopt Dr Miele's evidence and consider there are no strong reasons for refusal, such that the Appeal Scheme should be positively determined under paragraph 11(d)(ii) of the NPPF.

Third Party Objections

- 1.34. Notwithstanding the extensive list of matters now agreed between the Appellant and WDC (as well as the LHA on highways), third parties continue to advance additional objections on the following grounds:
- 1) Sustainability of Location – Accessibility
 - 2) Suitability of the Access Design
 - 3) Drainage and Flood Risk
 - 4) Landscape Impact
 - 5) Ancient Woodland
 - 6) Ecology
 - 7) Biodiversity Net Gain
 - 8) Impact on Local Infrastructure
- 1.35. I address the third party objections in section 5 of my evidence below, with my evidence informed by the considerations in the accompanying evidence and technical notes at **CD5.1** to **CD5.12** and **SB1** to **SB4**.

Overarching Summary of the Appeal Scheme's Merits

- 1.36. Having regard to the relevant planning policy and material considerations, the acceptability of the Appeal Scheme may be summarised as follows:

- i. The development of the Appeal Site for a sustainable form of development should now be considered favourably in accordance with the advice at paragraph 11(d)(ii) of the NPPF, having regard to the importance of housing delivery in helping to meet the District's market and affordable needs and the delivery of economic, social and environmental objectives of the planning system.
- ii. In *Suffolk Coastal DC v Hopkins Developments Ltd* [2017] UKSC 37 (**CDX**) Lord Carnwath's judgement confirms at paragraph 63 that the weight to be attached to restrictive policies, such as countryside and landscape policies can be reduced where they are derived from settlement boundaries that in turn reflect out of date housing requirements. There are obvious parallels with Wealden where the adopted housing strategy derives from an assessment of housing need that pre-dated the NPPF.
- iii. The Council's spatial strategy is out of date and cannot meet its identified housing need without breaching the settlement boundaries identified in the development plan.
- iv. In addition, the Council accepts it cannot demonstrate an up-to-date five year supply of deliverable sites for housing. It claims a maximum 3.68 year supply (a shortfall of 2,270 dwellings) **CD4.1**.
- v. As such, and in accordance with paragraph 11(d) NPPF, the most important policies (including those relating to settlement boundaries) are to be regarded as out of date and the presumption in paragraph 11(d) of the NPPF applies.
- vi. For the reasons explained at paragraph 1.17 above, the tilted balance is engaged for any one of two scenarios to be applied to the consideration of the Appeal Scheme: (i) the spatial application of settlement boundaries (which have been breached in order to meet current housing need); and (ii) the lack of a five year supply of deliverable housing land.

- vii. There are no footnote 7 considerations in the NPPF that result in a clear reason for refusal. This includes on heritage grounds, and ancient woodland, as the Appeal Scheme will not result in heritage harm, and nor will it result in the loss or deterioration of ancient woodland such that the scheme is compliant with paragraph 193(c) of the NPPF.
 - viii. The Scheme represents a sustainable form of development.
 - ix. The Appeal Scheme involves the provision of significant benefits, including the delivery of market and 35% affordable housing, new public open space and materially in excess of 10% biodiversity net gain.
 - x. Not only are there no adverse impacts which significantly and demonstrably outweigh the benefits, but there are in fact significant benefits which justify the grant of planning permission.
 - xi. The Appeal Scheme is submitted in accordance with the NPPF and the Scheme should be allowed so as to permit a sustainable form of much needed new market and affordable housing in helping to meet the District's housing needs and to provide the additional benefits which have been identified.
- 1.37. Overall, it is my evidence, informed by the expert evidence provided by other witnesses for the Appellant, that the Appeal should be allowed.

Content

- 1.30. The remainder of my evidence is set out as follows:

- (i) Appeal Site Planning History
- (ii) Appeal Scheme Description
- (iii) Development Plan and Planning Context
- (iv) Main Issues
- (v) Planning Balance
- (vi) Summary and Conclusion

2.0 APPEAL SITE PLANNING HISTORY

First Appeal Decision (Feb 2009)

General

- 2.1. A previous scheme (considered some 16 years ago, against a fundamentally different planning policy context) proposing development of the Site for the erection of 197 dwellings, including affordable housing, with associated access, structural landscaping and recreation space was dismissed at appeal by decision dated February 2009 (PINS Ref: PP/C135/A/07/2053422) (LPA Ref: WD/2006/3564/MAO). The appeal decision is included at **CD14.1**
- 2.2. This earlier scheme related to a smaller part of the appeal site and did not include the area proposed as SANG.
- 2.3. The Secretary of State dismissed the earlier appeal (paragraph 52) on the basis “that there was more than a five-year supply of housing land and therefore no good case for releasing any of these greenfield sites on grounds of housing need at this time.”
- 2.4. As indicated, at the time of dismissing the earlier appeal, the development plan was found to be up to date, with the Council also being able to demonstrate a five-year supply of deliverable housing land. That is no longer the case. The planning policy context has changed substantially.
- 2.5. Paragraphs 18 and 19 of the SoS decision state as follows:

*“For the reasons given in IR655, the Secretary of State agrees with the Inspector that conclusions on housing land supply requirements should be based on the figures in the emerging SE Plan as this represents the most up to date position. For the reasons given in IR657-658, the Secretary of State agrees with the Inspector that the Council’s assessment of housing supply is robust. **She is satisfied that there is at present more than 5 year supply of housing in***

Wealden. She is further satisfied that the supply is higher in 'rest of Wealden' than for the district as a whole. Notwithstanding the fact that emerging SE Plan requirements are to be treated as a minimum (IR682), she therefore considers there is no good case to allow any of the three appeals on the basis of housing need at this time.

*The Secretary of State has considered the appeals in the light of paragraphs 69-72 of PPS3. In the light of her conclusion above, and the fact that these greenfield sites are not allocated in the overall land supply, she considers that they do not fall to be considered under paragraph 71. Paragraph 72 states that applications should not be refused solely on the grounds of prematurity; the Secretary of State's reasons for refusing all of the appeals are set out in this decision letter and summarized in the conclusions (paragraphs 51-55). **Given the existence of a 5 year housing land supply**, she considers that the damage to the plan-led system that would arise from granting permission for housing on any of these unallocated greenfield sites weights against all the schemes, and that it would be preferable for housing sites to come forward via the LDF process, and in tandem with a town centre traffic scheme. [My emphasis]*

- 2.6. At that time, it is clear that WDC could demonstrate the minimum five-year supply of housing land. As explained and accepted by the Council, this is no longer the case with a maximum supply of 3.68 years (**CD14.1** refers).

Landscape

- 2.7. Landscape considerations were considered in paragraph 27 of the SoS decision:

"She agrees with the Inspector, for the reasons given in IR689, that there are no cogent reasons to resist BIES [Bird in Eye South] proposals purely on landscape grounds."

- 2.8. IR Para 689 States:

"...any development on BIES would be very visible from the Community Hospital and nearby existing and approved residential areas off the Framfield Road, but it would not breach the skyline when looking eastwards, and could be designed (as shown by the DAS) to protect existing views of the listed oast house building at Bird In Eye Farm. Like BIEN, but unlike Downlands, it would appear as a natural and logical extension to the town, and not significantly separated, much

less divorced, from it by the Framfield stream. As with BIEN, I think that the landscape proposals would complement the form and layout of development shown in the DAS, and help provide a pleasing new urban edge to Uckfield. In sum, there are in my opinion no cogent reasons to resist the BIES proposals purely on landscape grounds. (My emphasis underlined)

- 2.9. Development of the Appeal Site for housing was considered by the Inspector to be acceptable in landscape terms. This is also the agreed position between the Main Parties for the purpose of determining the current Appeal.

Ecology

- 2.10. This assessment of the Secretary of State on ecology and nature conservation is set out in paragraph 33, where:

“For the reasons given in IR731-738, the Secretary of State agrees with the Inspector that there is no sound case for rejecting BIEN or BIES schemes on the grounds of any harm to ecological/nature conservation interests.”

Heritage

- 2.11. The impact of the scheme on heritage assets is addressed in paragraph 43 which concludes:

“The Secretary of State notes that there is a Grade II listed oast house immediately adjacent to BIES. Like the Inspector, the Secretary of State is satisfied that the setting of this building would not be materially harmed by the BIES proposals (IR792).”

Highways

- 2.12. Paragraph 742 of the Inspector’s Report confirms the accessibility of the site in terms of walking distance to the town railway station and bus station.

Conclusion

- 2.13. The overall conclusions with respect to the Appeal Site were set out in paragraph 55. This states:

“The Secretary of State has taken into account that the landscape and ecology considerations do not make this proposal unacceptable, but that there are some site-specific drawbacks in terms of transport sustainability and the town centre linkage. While she notes that the traffic impact would fall within the 300-unit headroom figure, and considers that the provision of affordable housing carries some weight in its favour, the Secretary of State considers that, overall, in the light of her conclusions on housing need, there are not sufficient material considerations in favour of the scheme to outweigh the conflict with the development plan.”

- 2.14. As explained above the planning policy context has evolved and substantial change has occurred since that time, which position has triggered the presumption in favour of sustainable development.
- 2.15. Based on the foregoing, although the previous scheme was refused on the basis of a lack of demonstrable housing need, at that time, the scheme was not refused on technical grounds.

Recent Dismissed Appeal (October 2023)

- 2.16. An application on a larger site was made in 2021, but subsequently dismissed at appeal in October 2023 (LPA Ref: WD/2021/2198/MAO and PINS Ref: 3307820). The particulars at **CD14.3** to **CD14.10** refer.
- 2.17. This 2021 Application related to a larger site than either the 2006 application or the current proposal, as it comprised up to 290 dwellings, on a circa 41ha Site, which included land to the south of Bird in Eye Shaw proposed as a strategic SANG.

2.18. Although the Appeal was dismissed, the Inspector found the Site to be a suitable location for development in terms of accessibility (paragraphs 49-53 of the appeal decision refer).

2.19. The Inspector dismissed the Appeal (**CD14.3**) in relation to the following technical matters:

- Highway Safety (paragraph 39), principally relating to the junction design of the larger scheme.
- Heritage (Paragraphs 54 – 62).
- Ancient Woodland (Paragraphs 15-30).
- Flood Risk (Paragraphs 40-45) in respect of development and engineering works in Flood Zones 2 and 3. In this respect, I note that the 2023 appeal scheme proposed a new path and replacement bridge through the ancient woodland south of the proposed housing, within (in part) Flood Zones 2 and 3.

2.20. The Inspector concluded in relation to the public benefits secured by the Scheme at paragraph 63 of the Appeal Decision as follows:

“...would include economic benefits derived from the provision of up to 290 homes of which 35% would be affordable housing and 5% self-build homes, in an area where there is an agreed and long-standing shortfall of housing land supply, the current figure being 3.92 years. These homes would drive economic growth in the area through the associated expenditure and job creation that new housing provides. Appropriate conditions also mean this development could come forward relatively quickly.”

2.21. However, the Inspector concluded at paragraph 72 of the decision that *“the matters which weigh in favour of the proposal, whilst substantial, do not outweigh the totality of the harm that I have found.”*

2.22. Although the previous appeal was dismissed on the grounds of harms identified in respect of ancient woodland, highway safety, flood risk, and heritage. Nevertheless, the principle of this site being a suitable and accessible location for housing development was established by the appeal decision.

The Appeal Scheme Proposal: Pre-application Engagement with WDC

- 2.23. A chronology of correspondence and events between the Appellant and WDC during the pre-application process and leading up to the Appeal being lodged is included at **SB6**. The supporting particulars are numbered **SB6.1** to **SB6.8**.
- 2.24. In March 2024 I submitted a pre-application request (and accompanying fee) to the LPA (on behalf of the Appellant) proposing a reduced scheme for up to 235 dwellings, on a smaller area of land (the northern part of the original application) (LPA Ref: PE/2024/0122/E). A copy of the illustrative layout is included on page 31 of the Design and Access Statement (**CD1.4**), which also explains the evolution of the Scheme design. A copy of the illustrative masterplan proposed at the pre-application stage is also included at **SB6.1**.
- 2.25. That proposal was informed by heritage advice from the Appellant's team.
- 2.26. A pre-application meeting was convened on 23rd May 2024. The LPA provided their written advice by letter dated 4th June 2024. A copy forms part of the particulars at **SB6.2**.
- 2.27. The formal pre-application advice received from the Council raised concerns relating to heritage matters (the impact on the setting of the 'Oast' within Bird in Eye Farm), the need to satisfy County Highways in relation to the access design, as well as ensuring an appropriate relationship between the scheme and impacts upon ancient woodland to the south and south west of the Site.
- 2.28. Compared to the earlier dismissed appeal scheme, the pre-application scheme removed the southern strategic SANG land and removed the need for pathways through the ASNW. In addition, all built form lies outside the 50m buffer to the ASNW and the 15m buffer was explained to be respected for all other engineering works such as the SUDS basins.

- 2.29. In addition, the buffer area is proposed to be planted with landscaping that will seek to avoid intrusions from residents within the 15m buffer zone, with recreation routes outside the 15m buffer zone, and with planting within it designed to prevent residential access to the ASNW.
- 2.30. Significant amendments were also made to the Scheme following receipt of the LPA's pre-application advice. This included amending the illustrative layout, omitting the internal access road to the west of the Oast, reducing the number of dwellings from up to 235 to up to 190; and revising the illustrative layout.
- 2.31. In my view, informed by the heritage advice received from Dr Miele, landscape advice from Mr Self, ecology advice from Alexia Tamblyn highway advice from Mr Stevens and drainage advice from Mr Wren, the Appeal Scheme has addressed the concerns raised by officers during the pre-application process, and provides for up to 190 dwellings (a reduction from the up to 235 dwellings proposed at the pre-application stage), whilst removing previously proposed development and an access road to the west of the 'Oast', thus providing for an enhanced setting; addressing the previously reported heritage concerns.
- 2.32. The Appeal Application for up to 190 dwellings was subsequently submitted to WDC on 31st July 2024³. Particulars were transmitted from the Planning Portal to the Council on 2nd August 2024. The Illustrative Site Layout Plan is included at **CD1.6**, with the Parameter/Land Use Plan at **CD1.8**. As recorded in **CD4.4**, these plans have been superseded by the plans at **CD5.5** and **CD5.6**.
- 2.33. A letter was then received from WDC dated 5th August 2024 acknowledging receipt of the planning application (**SB6.3** refers).

³ The sequential test submitted and confirmed as being received on 22nd August 2024.

- 2.34. A further letter was received from WDC dated 19th August 2024 citing s70A of the Town and Country planning Act 1990 (as amended) (**SB6.4** refers).
- 2.35. An opinion from A Tabachnik KC (39 Essex Chambers) was issued to WDC by email on 23rd August 2024 (**SB6.5** refers).
- 2.36. I spoke to Mr S Robins from WDC on 9th October 2024. As recorded in the email correspondence at **SB6.6**, Mr Robins claimed in that call that the Council considered it has a case (pursuant to s70A) to decline to determine the planning application submitted via the planning portal on 31st July 2024 (and released by the portal to the Council on 2nd August 2024) (LPA Ref: WD/2024/1799/O), albeit such a stance was in the officer's words "not without some risk".
- 2.37. It was relayed to the Appellant that over what was roughly the 7 week period since the Appellant's 23rd August 2024 response on section 70A (see the opinion issued to WDC (**SB6.5**), that the LPA had been in contact with their Counsel on a number of occasions, and that Counsel had reviewed a 'decline to determine report' concerning the application.
- 2.38. Mr Robins further advised that a decision would be taken on the grounds of trees, heritage, design and matters raised (albeit in a limited way) by East Sussex County Council. It was added that 'part of the problem' with the application was the purported conflict with some of the main issues raised by the Inspector in the previous appeal decision.
- 2.39. Mr Robins advised that should the Applicant withdraw the application by Friday 11th October 2024, the Council would be willing to enter into discussions to discuss a further revised scheme to address the Council's concerns.
- 2.40. Whilst in that call, I asked, without determining the Council's final position, if Mr Robins could advise as to the changes that would be deemed necessary to address the LPA's concerns.

- 2.41. Mr Robins added that the Council had issues with the development proposed in the northwest part of the Site as well as the proposed development parcel in the southwest part of the site.
- 2.42. Mr Robins intimated that development to the east of the commercial buildings was likely to be acceptable.
- 2.43. Mr Robins advised that, absent a withdrawal in what amounts to the 36 hours or so after our call, the Council intended to validate the planning application, retain the planning application fee (which was in the sum of circa [REDACTED]) and issue a report on its decision to decline to determine it. Mr Robins stated that Croudace Ltd had two days (until Friday 11th October) to advise if it intends to withdraw the application. If it advises it intends to do so, the application fee will be refunded. If not, the Council proposed to retain the fee when declining to determine the application.
- 2.44. As set out in **SB6.6** it was explained that Croudace Ltd considered the Council's proposed course of action to be both legally flawed and demonstrably unfair.
- 2.45. The Council's 19th August 2024 letter raising s70A as an issue, and requesting comments upon the Council's intention to decline to determine the application, by 1600 on Friday 23rd of August 2024 gave just four days to respond.
- 2.46. The Applicant responded with a legal opinion just before 0800 on the morning of Friday 23rd August 2024.
- 2.47. The Appellant did not hear substantively from the Council until the conversation held on 9th October 2024, almost seven weeks after the submission of our legal opinion.

- 2.48. The Appellant was then given less than two days to confirm if they were prepared to withdraw the planning application.
- 2.49. The Appellant considered this was a clearly unfair manner in which to proceed, and remained unable to understand the concerns that both purportedly triggered section 70A and justified the exercise of its discretion to decline the Council thinks it has (though noting that the Council itself was of the view such a decision is “not without some risk”). The Appellant asked the Council to afford them a proper opportunity to consider and comment on the decline to determine report while it is in draft. It was suggested this would not prejudice the Council in any way to do so.
- 2.50. The Appellant invited the Council (1) to provide at once the draft decline to determine report and any related counsel opinion on which the Council relies, and (2) to delay any decision to decline until 1600 on Friday 25 October 2024 (or until earlier receipt of any comments which the Applicant wishes to make, or confirmation that it does not wish to do so).
- 2.51. As the further correspondence at **SB6.7** confirms, the LPA responded by email dated 11th October 2024 advising they would extend the deadline until 18th October 2024 for Croudace to respond to the Council’s suggestion of withdrawing the application until 18th October 2024. That email also confirmed the Council would not be sharing the officer/counsel advice or draft (failure to determine) report.
- 2.52. Email correspondence then followed between Woolf Bond Planning and the LPA asking for updates (see also **SB6.7**). No substantive or conclusive response was received.
- 2.53. Thereafter, the Managing Director of Croudace Ltd (Matthew Norris) had an exchange of emails with the Director of Place at the Council (██████████). The last email was sent from Croudace on 1st November 2024, to which there has been no reply. The correspondence is included at **SB6.8**. The Appellant made clear that it would not withdraw the application.

- 2.54. At no time did the Appellant consider that the Council had any proper basis for exercising s70A powers to decline to determine the application. Apart from anything else, the application was demonstrably a good faith attempt to address the previous appeal decision.
- 2.55. I consider there is no justification for the Council's threats to use s70A, and that the Council should have engaged with the application on its merits. I note that the Council clearly entertained considerable doubts (at the very least) as to the exercise of s70A powers, as it failed to make a decline to determine decision over a period of around 4 months. I conclude this was because the Council understood it would be taking a risk if it did so. The Council should therefore have validated the application, put it on its website, and determined it.
- 2.56. The LPA's failure to validate the Appeal Application deprived the Appellant of the ability to address any consultation responses received from the statutory consultees. For example, highways matters could and would have been resolved through discussion with the relevant statutory consultees.
- 2.57. I am of the view that the LPA's stance to the Appeal Application represents unreasonable behaviour that has resulted in the Appellant incurring unnecessary expense in advancing the Appeal.
- 2.58. As set out in the Planning Practice Guidance ("PPG") for Appeals, the aim of the costs regime is to, amongst other things "encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay." (ID: 16-028-20140306).
- 2.59. As now agreed in the Addendum SoCG (**CD4.4**), despite the LPA's protestations in refusing to validate the planning application, they are left with a single ground of refusal on heritage. In my professional opinion, and that of Dr Miele, that has no reasonable prospect of being sustained in light

of the heritage considerations that inform the masterplan proposals and the public benefits derived from the Scheme that outweigh the less than substantial harm to the setting of the Oast claimed by the LPA.

2.60. I am firmly of the view that the Council is only maintaining that reason in an attempt to protect its costs position and that if it had validated the application, once the access issues were resolved, it would be moving to approve this highly beneficial scheme.

2.61. It is against this background that the Appellant will be seeking a full award of costs against WDC.

Pre-application Engagement with ESCC

2.62. Milestone Transport Planning, on behalf of Croudace Ltd (the Appellant), sought to advance a separate pre-application consultation with ESCC.

2.63. The chronology of events associated with that requested is included within **SB6**.

2.64. The ‘highways’ pre-application request was submitted in December 2023. There was then a significant delay as ESCC said they were not able to advise until they had discussed matters with WDC. Initial highways advice was subsequently received in August 2024. But it is plain that discussions on highways ground to a halt as from the Council threatening to use s70A to decline to determine the application.

Wheatcroft: Amended Plans

2.65. A Case Management Conference (“CMC”) was held on 11 February 2025.

2.66. Paragraph 4 of the CMC Summary Note references the ongoing dialogue between the Appellant and the LHA (ESCC).

- 2.67. Pursuant to the Inspector's direction at paragraph 6 of the CMC Note, the Appellant and the LHA worked collaboratively in relation to the approach to be taken to the access design.
- 2.68. As explained in section 1 above (see also **CD4.2** and **CD4.4**), this joint working has resulted in agreement being reached with the LHA in relation to the access design and highway safety. As recorded, all locational sustainability, access design and highway safety matters are now agreed between the Appellant, the LHA and WDC.
- 2.69. A summary of the key changes between the access plan(s) submitted with the Application and the revised Scheme as now agreed with the LHHA, which plans have been accepted by the planning Inspectorate, is provided at paragraphs 2.6 to paragraph 2.11 of the Addendum SoCG (**CD4.4**).
- 2.70. An agreed schedule of the Application/Appeal plans is also included in the Addendum SoCG (**CD4.4**) (section 2 of the same refers).

3.0 APPEAL SCHEME DESCRIPTION

General and Plans

3.1. The Illustrative Site Layout Plan (**CD5.5**) has been developed and informed following a thorough review of the opportunities and constraints afforded by the Site, including in response to the pre-application advice received from WDC, professional consultant advice, particularly from Dr Chris Miele, and post appeal validation engagement with ESCC which has resulted in agreement being reached on a revised access arrangement, which address ESCC's previous access design and highway safety concerns.

3.2. The Appeal Scheme description is as follows:

“Outline application for the erection of up to 190 dwellings, with associated works, parking, landscaping, publicly accessible open space and sang provision, with access from the B2102”

3.3. Only the principle of developing the Site for up to 190 dwellings, the proposed informal open space, SANG, and the means of access are to be determined as part of this outline application.

3.4. Appearance, landscaping, layout and scale are reserved for subsequent determination.

3.5. As explained at paragraphs 2.15 and 2.16 of the Addendum SoCG (**CD4.4**), the Appeal Scheme is set out in the following plans:

The Scheme

1. Site Location Plan No. PRB/BIE/201C (**CD1.5**)
2. Proposed Access Plan No. 23138/001J (**CD5.2**)
3. Shared Footway/Cycleway Plan No. 23138/004F (**CD5.3**)
4. Overall Access Strategy Plan 2318/006H (**CD5.4**)

Supporting Plans

5. Illustrative Site Layout Plan No. 292403-TOR-SK-102 (**CD5.5**)
6. Opportunities & Constraints Plan No. PRB/BIE/203C (**CD1.7**)

-
7. Parameter Land Use Plan No. 292403-TOR-SK-103 (**CD5.6**)
 8. Indicative Storey Heights Plan No. 292403-TOR-SK-104 (**CD5.7**)
 9. Indicative Streetscene Plan No. PRB/BiE/205D (**CD1.9**)
 10. Landscape Strategy and SANG Design Plan No. CSA/2646/123F (**CD5.8**)
- 3.6. It is agreed that Plans (1) to (4) comprise the Application Plans for the purpose of assessing the Scheme.
- 3.7. Plans (5) to (10) are submitted for illustrative purposes, but provide context for the assessment of the potential impact of the Scheme upon the Site and surrounding area.
- 3.8. The plans at (1) to (4) above are included in agreed draft condition 4 as the plans to be approved.
- 3.9. Agreed draft condition 5 includes a requirement for the development to be carried out in general accordance with the Illustrative Parameter/ Land Use Plan No. 292403-TOT-SK-103 (Plan (7) above). This will ensure the development follows the agreed land use principles and overall layout established at outline stage.

Access Design

- 3.10. As explained in **CD4.2** and **CD4.4**, the agreement reached with the LHA as to the acceptability of the access design as shown on Plan 23138/001J (**CD5.2**) (was initially Rev A (**CD1.13** (Appendix 7)) has resulted in the following changes from the originally submitted access design:
- 1) The Site Access roundabout has been reduced in scale to a 28-metre diameter 'Compact' 3-arm roundabout, designed in accordance with DMRB CD116, sited midway along the Appeal Site frontage to the B2102 Bird in Eye Hill.
 - 2) A 40mph speed limit is to be introduced on the B2102 Bird in Eye Hill between Lantern Cottage (to the east of the Site Access) that will extend for a distance of 538 metres west towards Uckfield town centre

to a relocated termination point for the existing 30mph speed limit, 42 metres east of its current location on the B2102 Framfield Road.

- 3) A 3-arm mini roundabout is to be constructed 45 metres south of the Site Access roundabout, facilitating access to the proposed residential units to the north-west of the Appeal Site, the retained commercial uses in Bird in Eye Farm as well as the main body of the residential units to the south and east of the Appeal Site and SANG. This is a slight revision on the initial proposed access arrangements for this internal part of the Appeal Site.
- 4) Vehicular access to Nos. 18/19 Bird in Eye Hill is to be retained off the Site's internal road network, south of the Site Access roundabout. (For the avoidance of doubt, the Appellant has power under relevant land transfers to make this minor adjustment to the relevant access/egress rights through its land, and it materially improves the safety of vehicular access to/from Nos 18/19 as compared with the current situation.)
- 5) The alignment of the shared footway / cycleway between the proposed residential development and Framfield Road has been adjusted within the Appeal Site to reduce gradients, where achievable / introduce level platform areas to enhance facilities for active travel users.

3.11. As recorded at paragraph 2.7 of the Addendum SoCG (**CD4.4**), it is agreed that the key fundamentals and principles of the initial access proposals are not materially changed. In particular:

- 1) There is no proposed change to the red line site boundary, or to the locations where access is to be taken from.
- 2) The proposed vehicular access into the Site remains a 3-arm roundabout located in essentially the same place.
- 3) As previously, the Site Access roundabout incorporates geometry to accommodate the swept path of larger HGVs for all movements, including turning requirements for larger vehicles accessing / egressing

the retained commercial uses on the Appeal Site. Further, the Site Access roundabout can be constructed wholly within land controlled by the Appellant and the publicly maintainable highway boundary, including areas that will need to be managed to maintain visibility splays. In addition, the southern arm of the Site Access is provided with cycle lanes, refuge islands and dropped kerbs, and the earthworks associated with the construction of the Site Access roundabout ensure the delivery of the requisite visibility splays in the horizontal and vertical planes.

- 4) And as before, the agreed scheme maintains the bus stop works on the B2102 Framfield Road comprising provision of weather protection shelters with seating and RTPI. The agreed scheme also maintains the installation of improved dropped kerbs and tactile paving at the junctions of the B2102 Framfield Road with Selby Road, Keld Avenue, Harcourt Road and Alexandra Road.

- 3.12. The agreement reached with the LHA as to the acceptability of the Appeal Scheme in highway terms, including locational sustainability and securing a safe means of access, is of particular relevance when assessing highway objections advanced by the third parties, which matter I return to in addressing their comments in section 5 of my evidence below.

The Masterplan Approach

- 3.13. Evolution of the Illustrative Site Layout Plan (**CD5.5**) has been informed by a contextual appraisal of the local area, the findings of the site-specific technical studies undertaken to inform the layout design and an assessment of relevant planning policy considerations.
- 3.14. The creation of a view corridor between Uckfield and the 'Oast' is a key component of the Application scheme, thus preserving the setting of the Grade II listed Oast.
- 3.15. Analysis of the Site's topography and drainage requirements has informed the siting of a large proposed balancing pond towards the south-western corner of the site, outside the ancient woodland.

- 3.16. The Masterplan vision is to create a high-quality development that has a strong sense of character and identity whilst linking seamlessly and positively with the adjoining development of Uckfield to the west.
- 3.17. The Masterplan approach, including in relation to design, is underpinned by a thorough contextual appraisal of the site and its surroundings.
- 3.18. The vision is to be achieved through the following design principles included in the masterplan design:
- i. The creation of a sustainable living environment with a mix of residential accommodation.
 - ii. A place with a varied character that responds to the local vernacular and built context to provide a sense of place.
 - iii. A sustainable development which responds to best practice, with house type designs to be approved at the reserved matters stage that will seek to minimise energy use, sustainably manage water, responsibly source materials and manage waste and ecology.
 - iv. Opening up views of the 'Oast' a unique heritage asset thereby enhancing its significance and setting.
 - v. Enhancing the landscape edge to the boundaries of the site, in particular the eastern boundary that will further enclose the development in conjunction with the ancient woodland to the south.
 - vi. A development which preserves and enhances biodiversity by retaining natural features on the site and reinforcing them by creating opportunities for new habitat areas, including tree planting.
 - vii. To encourage and enhance the opportunities for sustainable movement, through the provision of pedestrian and cycle linkages to neighbouring facilities and public transport routes within Uckfield.
 - viii. Creation of landscape rich SANG area together with numerous walking routes and footpaths for future residents and the wider community.
- 3.19. The principal elements of the scheme are summarised as follows:
- i. The scheme provides for up to 190 dwellings, to include an appropriate mix of house types, within a landscaped setting.
 - ii. The scheme will include a mix of housing tenures, including 35% affordable housing provision.

-
- iii. Buildings heights will be in conformity with existing dwellings in the vicinity of the proposal; at a maximum height of 2.5 storeys (**CD5.7** refers).
 - iv. Vehicle access is provided from Bird in Eye Hill.
 - v. public footpath provision to facilitate sustainable travel into Uckfield and the associated services, facilities and public transport links.
 - vi. SuDS.

3.20. The component parts of the Scheme are summarised as below.

Access and Layout

3.21. Vehicular access to the proposed dwellings will be provided by a 3-arm roundabout from Bird in Eye Hill (**CD5.2**). A separate means of pedestrian/cycle access is provided in the north-western corner of the Site (**CD5.3**). The overall access arrangements are shown on the Access Strategy Plan (**CD5.4**).

Dwelling Mix and Tenure

3.22. As set out above, the Appeal Scheme provides for a total of up to 190 dwellings, including the provision of a policy-compliant 35% affordable dwellings. This would generate up to an additional 67 affordable houses, a substantial benefit in its own right.

3.23. Although submitted in outline, with only the principle of the development and means of access to be considered, it is nevertheless important to consider the underlying need to provide for a range of house size, mix and tenure.

3.24. The Wealden Local Housing Needs Assessment (“LHNA”) (August 2021, **CD6.11**) states that the district needs predominantly 2 and 3 bedroom properties that together make up approximately 70% of total need for both market and affordable home ownership dwellings.

-
- 3.25. The Appeal Scheme will provide for a range of dwelling sizes and types. This will include 5% self-build, which provision is to be secured through the S106 agreement and which matter (and justification for) is included at paragraphs 3.22 to 3.34 of the Council's CIL Compliance Schedule (June 2025). This includes the demand generated from the Council's Self-Build and Custom Housebuilding Register.
- 3.26. As with dwelling mix; the illustrative layout allows for a series of smaller blocks which incorporate design elements such as natural surveillance to ensure the scheme is designed to reduce crime. As such, development of the Site can accord with Policies HG5 of the Local Plan and the overarching aims of the Core Strategy.

Design

- 3.27. The house type designs, to be considered at the reserved matters stage, do not need to replicate any existing patterns of development or utilise particular materials but should achieve a cohesive appearance sympathetic to the properties within the eastern parts of Uckfield.
- 3.28. As shown on the Illustrative Site Layout Plan (**CD5.5**), the overall layout and form of the development has been designed to be sympathetic to the urban edge location of the site. This includes the creation of a new landscape buffer to the Site boundaries.

Density

- 3.29. The Illustrative Site Plan provides for up to 190 dwellings which equates to a net density of approximately 30dph on the circa 6.2 hectares that are to be developed for housing.
- 3.30. This density will ensure the new dwellings complement and integrate with the local area in terms of scale, massing and layout, whilst sympathetically responding to the Site's edge of settlement location.

Landscaping Strategy and SANG

- 3.31. Although landscaping is a reserved matter, the accompanying Land User Parameter Plan (**CD5.6**) and the Landscape Strategy and SANG Design Plan (**CD5.8**) provides for a landscaped buffer to the Site boundaries.
- 3.32. The SANG proposals can be quantified as follows:
- 8.7ha of SANG land
 - A walking route extending to circa 2.5km
- 3.33. Applying 2.4 residents per dwelling factor to 190 dwellings gives 456 residents. Using the metric of 8ha of SANG per 1,000 population (which metric is applied by Natural England and WDC), the Site would require 3.65ha of SANG provision. It is proposed that this Site offers around 8.76ha of SANG land, with an additional 3.95ha of other open space. This is a benefit of the Scheme, which attracts moderate weight.
- 3.34. The delivery of the SANG and future ownership of the land will be secured by means of a planning obligation(s) and/or through the imposition of appropriately worded conditions.
- 3.35. The SANG secures a significant recreational benefit for future residents whilst also securing biodiversity enhancements through additional habitat creation. In addition, the SANG may attract some visits from existing residents in the area, who will thereby also benefit from its provision. This is the reason a SANG car-park accommodating 9 spaces has been agreed in principle with the LHA.
- 3.36. Enhancement of existing habitats and creation of new areas of woodland and tree planting, wildflower meadows and new ponds will provide a varied walking experience as well as increasing habitat diversity and net gains for biodiversity.
- 3.37. Interpretation boards will be incorporated containing information regarding habitats and species present as well as walking routes, in addition to

pathway signage to guide users. Dog bins will also be provided at key access points and within the parking area.

- 3.38. A summary of the acceptability of the Appeal Scheme in landscape terms is included in the Landscape Statement prepared by Clive Self (**SB4**).
- 3.39. I consider this matter further in section 5 below.

Land Uses

- 3.40. The proposed land uses are summarised in Table 1 below.

Table 1: Proposed Land Uses

Land use	Hectares (Ha) (Approx.)
Land for housing only (190 dwellings)	6.2ha
SANG	8.7ha
Other open space (including ancient woodland buffer)	5.2ha
Works within the highway	0.1ha
Total	20.1ha

Scheme Benefits

- 3.41. The key benefits of the proposed scheme can be summarised below:
- Provision of up to 190 new dwellings in a sustainable location.
 - Contribution towards the provision of much-needed market and affordable housing.
 - Contribution towards meeting the demand for self/custom build housing.
 - Appropriate landscaping strategy throughout the site and proposed SANG which will contribute to a sense of place.
 - Appropriate landscaping strategy throughout the Site and proposed SANG which will contribute to a sense of place.
 - Provision of accessible open space in excess of the policy requirement(s).

- Creation of new vistas from which to appreciate the unique ‘Oast’ heritage asset.
- Securing economic benefits (section 6 below refers).
- Highway safety and sustainability benefits (see section 4 of Mr Stevens’ proof).

4.0 THE DEVELOPMENT PLAN AND PLANNING CONTEXT

General

- 4.1. This section of my evidence summarises the planning policy position, against which the acceptability of the Appeal Scheme falls to be determined.
- 4.1. It should be read alongside the agreement reached with WDC in **CD4.1** and **CD4.4**, with paragraph 5.3 of the latter confirming WDC's position is that the only conflict between the Appeal Scheme and the development plan (sufficient to justify a refusal of the Appeal Scheme) is with policies EN1 and EN27 of the Wealden Local plan 1998 and Spatial objective SPO2 of the Wealden Core Strategy Local plan (2013). These policy references relate solely to heritage matters. As such, WDC take no issue with the Appeal Scheme in relation to any other policy(ies) of the development plan.
- 4.2. In the circumstances, the development plan matters that remain in dispute between the Appellant and WDC are particularly narrow, and relate to heritage matters only.

The Section 38(6) Test

- 4.3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. This represents the s.38(6) 'balance'.
- 4.4. The Appeal Site is located adjoining, but ultimately beyond the settlement policy boundary as defined on the Local Plan Proposals Map. Accordingly, it is located in the countryside. In addition, the Site is not allocated for housing development. As such, **the Appeal Scheme is contrary to the Development Plan.**
- 4.5. However, given the pressing need for housing, the fact that the Core Strategy is more than five years old and the policies for the supply of

housing are out of date (**CD4.4**, paragraph 4.1(2) refers), it is unsurprising that WDC take no in-principle issue with development of the Appeal Site for housing, given the need to breach the ‘out of date’ settlement boundaries to meet identified housing needs.

- 4.6. In the context of the approach to be undertaken when carrying out the s38(6) balance, there are a number of material considerations that justify the grant of planning permission.
- 4.7. Save for the location of the Appeal Site beyond the out of date adopted settlement boundary for Uckfield, the Appeal Scheme accords with the spatial (providing for development in sustainable locations) and development management policies of the development plan.
- 4.8. However, and in so far as the settlement/development boundary relates to an out of date housing need, the weight to be attached to this policy conflict is significantly reduced.
- 4.9. In the circumstances, where the only development plan conflict is the location of the Site adjacent to but beyond the settlement boundary for Uckfield, in a scenario where the Council is unable to demonstrate a five-year supply of deliverable housing land, the most important policies for determining the application are out of date.
- 4.10. The Appellant’s case is the heritage assessment undertaken pursuant to the requirement at paragraph 208 of the NPPF does not provide a strong reason for refusing the development. In addition, and as explained, the adverse impacts of granting permission on land beyond the settlement boundary and loss of grade 3b agricultural land cannot be said to demonstrably, let alone significantly, outweigh the many benefits. In the circumstances, planning permission should be granted in accordance with the approach set out at paragraph 11(d)(ii) of the NPPF.
- 4.11. The Council also acknowledges it is unable to demonstrate a five-year supply of deliverable housing land, and whilst the Site is beyond the settlement policy boundary for Uckfield, as defined in the development plan, the Council nevertheless assessed the Site as being potentially suitable in a

previous version of its HELAA (**CD6.12**). This no doubt informed the LPA's original advice for the Appellant to advance a planning application for development of the Site.

- 4.12. For the reasons explained, the material considerations clearly tilt the balance in support of the grant of planning permission, including the Council's acceptance that they cannot demonstrate a five year supply of deliverable housing land, the significant need for housing, the grant of planning permission by the Council and at appeal for housing on land beyond the settlement boundaries as defined in the Development Plan, the proposed review of the settlement boundaries in the emerging Local Plan Review; and the content of the NPPF.
- 4.13. It is demonstrably the case that the adverse impacts of granting permission cannot be said to demonstrably, let alone significantly, outweigh the many benefits. In the circumstances, planning permission should be granted.

The Achievement of Sustainable Development

- 4.14. Section 39 of the 2004 Act identifies the requirement for decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development. These requirements must be considered in light of the NPPF, including the 3 roles of sustainability set out at paragraph 8 (economic, social and environmental). However, and as set out at paragraph 9 of the NPPF, the three roles are not a checklist and their values are considered in light of that context. I have regard to this requirement when undertaking my planning balance.

The Development Plan

General

- 4.15. The Development Plan comprises the following:
- Wealden Local Plan Saved Policies (1998) (saved 2007) (**CD6.2**)
 - Wealden Core Strategy Local Plan (2013) (**CD6.1**)
 - Affordable Housing Delivery Local Plan (2016) (**CD6.3**)

- 4.16. Aa explained, the settlement boundaries as set out within the Proposals Map for the Wealden District were identified to meet the housing needs from Policy WCS1 of the Core Strategy.
- 4.17. The boundaries were drawn at that time to meet a need for at least 9,440 dwellings over the period 2006 to 2027. This equates to 450dpa within that part of the District outside of the SDNP. This was the level of growth set for the district in policy H1 of the former South East Plan (2009).
- 4.18. In so far as the Core Strategy is more than five years old, and in accordance with the requirements in paragraph 78 and footnote 39 of the NPPF, the housing requirement falls to be determined by the local housing need derived from the application of the standard method.
- 4.19. The Standard Method tables published (12 December 2024) by central government alongside the new NPPF identifies that the District's local housing need figure is 1,433dpa. This represents a significant uplift on the 450dpa figure in the adopted Core Strategy.
- 4.20. In so far as the settlement boundaries were not identified in relation to the current housing need, they operate as a constraint to development. Moreover, and in so far as the housing requirement on which the settlement boundaries were defined cannot be said to be consistent with the NPPF, the weight to be attached to any conflict with them can and should be reduced. Indeed, as Lord Gill observed in **Hopkins Homes Ltd v SSCLG** [2017] UKSC 37 (**CD10.10**) at [83]:

"If a planning authority that was in default of the requirement of a five-years supply were to continue to apply its environmental and amenity policies with full rigour, the objective of the Framework could be frustrated"

Wealden Local Plan Saved Policies (1998) (saved 2007)

- 4.21. Paragraph 14 of the Eastbourne Road, Lower Willingdon appeal decision (**CD11.3**) considers the weight to be attached to saved policies from the Local Plan, stating as follows:

“Saved policies GD2 and DC17 of the LP seek to restrict development to within defined development boundaries. The proposed development is outside of the development boundaries, but these were drawn to accommodate the level of housing required at the time the LP was adopted, which is far below the level now required. If these policies continue to be strictly applied, they will inevitably prevent the delivery of much needed housing in the district, in conflict with the objectives of the National Planning Policy Framework (the Framework). This would be particularly troubling given the Council’s poor record of housing delivery and current housing land supply of just 3.66 years at best. For all of these reasons, policies GD2 and DC17 are out of date. Whilst the proposal is in conflict with them, I attach the conflict only very limited weight.”
(My emphasis underlined)

- 4.22. I adopt that position in relation to my assessment of the Appeal Scheme.
- 4.23. Policy GD2 of the Local Plan states development outside the settlement boundaries will be resisted unless it accords with specific policies in the Plan.
- 4.24. As set out above, this policy is to be afforded only very limited weight as it inconsistent with the NPPF.

Core Strategy

- 4.25. The Core Strategy was adopted in February 2013 and covers the period 2006 to 2027 (**CD6.1**).
- 4.26. Policy WCS1 (Provision of Homes and Jobs 2006 – 2027) makes provision for some 4,525 net additional dwellings within the district reflecting the findings of the 2007 Strategic Housing Market Assessment alongside the requirements of policy H1 of the former South East Plan⁴. Policy WCS2 (Distribution of Housing Growth 2006 – 2027) seeks to allocate those additional dwellings throughout the district with Uckfield earmarked for 1,000 new allocations in addition to the 742 already committed or built).

⁴ This required 450dpa within the district from 2006 to 2026.

-
- 4.27. Policy WCS4 set out a number of strategic development areas with SD1 (Land at West Uckfield) seeking to allocate the 1,000 dwellings in one strategic area.
- 4.28. It is nevertheless highly material that the housing provision figures within Policy WCS2, and subsequently WCS4, do not represent full objectively assessed need when assessed against the annual requirement set by the standard methodology which is in excess of 1,400 dwellings a year as confirmed by central government⁵.
- 4.29. It is evident therefore that Policies WCS1, WCS2 and WCS4 are out of date and that significant additional housing is required on greenfield sites. This is confirmed in paragraph 5.8 which states **“it is inevitable that there will have to be a substantial use of greenfield land to meet existing and future housing needs....”** This has been further accepted in the decisions by the Council and through appeals on subsequent applications.
- 4.30. In so far as the housing requirement of Core Strategy Policy WCS1 is expressed as a minimum, the Appeal Scheme is in accordance with it.
- 4.31. Policy WCS2 sets out the spatial approach to the distribution of the housing requirement identified in WCS1. It indicates that at least 1,742 dwellings are to be delivered at Uckfield, including 1,000 dwellings on allocations. The allocations are set by policy WCS4.
- 4.32. Other applicable policy considerations from the Core Strategy which evidence for the Appellant will explain the scheme is in accordance with, include, WCS12 (Biodiversity), WCS13 (Green Infrastructure) and WCS14 (Presumption in Favour of Sustainable Development).
- 4.33. In ***Hopkins Homes Ltd v SSCLG*** [2017] UKSC 37 Lord Carnwath said [63] **(CD10.10)** the Inspector was “clearly entitled” to reduce the weight to be attached to restrictive policies, such as countryside and landscape policies, where they are derived from settlement boundaries that in turn

⁵ The tables published by central government indicates that the District’s annual need according to the Standard Method is 1,433dpa.

reflect out of date housing requirements. There are obvious parallels with Wealden District.

- 4.34. In addition, the Council cannot demonstrate an up-to-date five year supply of deliverable sites for housing. As such, and in accordance with paragraph 11(d) and footnote 8 of the NPPF, the most important policies (including those relating to settlement boundaries) are to be regarded as out of date.
- 4.35. In the case of Wealden District, the Council has been granting planning permissions for housing development outside of settlement areas that are in breach of countryside and landscape policies to meet market and affordable housing needs and maintain a rolling five-year land supply. They include those at footnote 6 below⁶. Schemes have also been allowed at appeal (including those at **CD11.1** to **CD11.14**).
- 4.36. In ***Wokingham BC v SSCLG*** [2019] EWHC 3158 (Admin) (**CD10.3**) Lang J held at [60] that the fact that a settlement boundary had been set to an out of date housing requirement figure was a relevant consideration when determining the weight to attach to a conflict with it, even if there were a temporary five-year land supply by virtue of breaching those boundaries.

Summary

- 4.37. The countryside and landscape policies are not meeting current housing needs based on the definition of built-up areas as defined in the development plan. On this basis, and as accepted by the Council, reduced weight applies to the conflict with saved policies GD2 and DC17 of the Wealden Local Plan.
- 4.38. As an overarching assessment, I pause to note the following considerations:

⁶ Including since January 2020, resolutions of the Council with respect of applications off Walshes Road, Crowborough (WD/2020/0743/MAO and WC/2020/0596/MAO), At Straight Half Mile, Maresfield (WD/2017/0694/MAO), east of Benhall Mill Road, Tunbridge Wells (WD/2017/0143/MAJ), Friday Street Farm, Oak Tree Lane, Eastbourne (WD/2020/1391/MAO) and land north of Eastbourne Road (WD/2024/2955/MAO) (**CD11.14**)

-
1. The spatial policies for the supply of housing do not meet current housing needs; and the Council has been granting planning permissions for the development of sites for housing beyond the settlement boundaries as defined in the Core Strategy.
 2. Accordingly, the settlement boundaries defined under GD1 and GD2 are not sufficient to meet current housing need and the weight to be given to the conflict with this policy is reduced.
 3. Although the Appeal Site is within the countryside, it is not a valued landscape nor are there any other constraints on site that would preclude such a development as proposed. As such, and although there is some conflict with EN8, the weight attached to this minor policy conflict is reduced in so far as the policy is not consistent with the NPPF and greenfield sites beyond defined settlement boundaries are required to be developed if housing needs are to be met.
 4. The Scheme provides a safe means of access.
 5. The Site is in a sustainable location.
 6. The loss of subgrade 3b agricultural land should be afforded no more than limited weight (as it is not best and most versatile (“BMV”) land.
 7. Even if the Appeal Scheme results in some heritage harm (as alleged by the Council), which is a consideration of great weight, the public benefits are overriding.
 8. The requisite mitigation measures are secured by condition and/or through the planning obligation such that the impacts of the scheme can be adequately mitigated.

Conflict with the Development Plan

- 4.39. Although I conclude that the proposal is broadly consistent with the aims of the development plan (in seeking to provide for growth at the most sustainable locations), the Appeal Scheme is nevertheless in conflict with the development plan when taken as a whole on account of its countryside status. However, given the analysis I set out above, **conflict with Local Plan policies GD2, EN8 and DC17 attracts only very limited weight.**
- 4.40. Importantly, WDC is not suggesting the Appeal Scheme should be refused on this basis. They take no issue with the Appeal Scheme in this regard.

-
- 4.41. As with Saved Policies GD2, EN8 and DC17 of the Local Plan, Policies WCS2 and WCS4 of the Core Strategy are also inconsistent with the requirement in the Framework to boost significantly the supply of housing land as they are based on housing projections which are out of date. As such, the weight given to these policies in the overall planning balance must logically be significantly reduced, reflecting the approach endorsed at paragraphs 63 and 83 of the *Hopkins* judgment (above).
- 4.42. For the reasons I have explained, I am of the opinion that **conflict with Core Strategy policies WCS2, WCS4 and WCS5 attract only very limited weight.**
- 4.43. Section 4 of the SoCG at **CD4.1** summarises the main development plan policies of relevance to the Appeal Scheme, explaining those considered to be most important and those considered to be out of date.
- 4.44. As explained in the Addendum SoCG (**CD4.4**, section 5) and paragraph 4.2 above, it is WDC's case for the inquiry that the only conflict between the Appeal Scheme and the development plan (sufficient to justify a refusal of the Appeal Scheme) is with policies EN1 and EN27 of the Wealden Local Plan 1998 and Spatial objective SPO2 of the Wealden Core Strategy Local plan (2013). These policy references relate solely to heritage matters. As such, WDC take no issue with the Appeal Scheme in relation to any other policy(ies) of the development plan.
- 4.45. As I have found that the Appeal Scheme is in conflict with the Development Plan, for the reasons I have explained, I have then gone on to assess whether there are any material considerations that justify granting planning permission.
- 4.46. The material considerations are numerous, including the fact that the Local Development Plan cannot meet its identified housing need without breaching the settlement boundaries.
- 4.47. As such, of the policies most important for determining the Appeal Scheme, WCS2, GD2 and DC17 are out of date due to their lack of consistency with the NPPF.

- 4.48. The conclusions drawn from recent committee reports, and from a review of the current development plan policies are set out below:
- i. Countryside policy (GD2) of the Local Plan is too restrictive when considered against the requirements of the NPPF and as such should be afforded significantly less weight;
 - ii. The Core Strategy Policies related to housing provision do not provide for an NPPF consistent objectively assessed housing need and as such the settlement limits set in the Saved Local Plan Policies are out of date.
 - iii. The corresponding weight to be attached to such policies is therefore reduced.
 - iv. The Council cannot currently demonstrate an up to date 5 year housing land supply; the effect of this is even more acute following the need to prepare a Housing Action Plan as the Council have failed the Housing Delivery Test.
 - v. The Council's own Core Strategy accepts the need to use greenfield sites to accommodate additional housing needs; which is exacerbated as since the Core Strategy was adopted the need for housing has increased further still.
- 4.49. The Council has accepted that limited weight applies to the conflict proposals with Development Plan policies GD2 and DC17. Furthermore, it has been established above that the basket of most important policies is to be considered out of date as they are inconsistent with the NPPF, in conjunction with the lack of a deliverable five-year supply of housing land.
- 4.50. It is considered that whilst the Scheme is located within the countryside, adjoining but ultimately beyond the settlement boundary for Uckfield, these restrictive policies are inconsistent with the NPPF and attract limited (and in some instances very limited) weight. As such, the numerous benefits, particularly in increasing the supply of market and affordable houses and enhancing the setting of the unique 'Oast' heritage asset, clearly outweigh any minor disbenefit.

Material Considerations

National Planning Policy Framework

- 4.51. The National Planning Policy Framework (NPPF) was most recently updated in December 2024. It is a material consideration of particular standing in the determination of planning applications.
- 4.52. The content of the NPPF as it relates to the proposed development of the application site is addressed in the order set below:
- The presumption in favour of sustainable development
 - Decision making
 - Delivering a sufficient supply of homes
 - Promoting healthy and safe communities
 - Promoting sustainable transport
 - Achieving well-designed places
 - Meeting the challenge of climate change, flooding and coastal change
 - Conserving and enhancing the natural environment
 - Conserving and enhancing the historic environment
- 4.53. Paragraph 8 of the NPPF identifies that there are three dimensions to sustainable development, comprising (a) economic, (b) social; and (c) environmental.

Economic Role

- 4.54. The economic role requires the planning system to, inter alia, ensure that sufficient land of the right type is available in the right places and at the right time to support growth. This is achieved with the Appeal Scheme on the basis that it is located within a sustainable location, within walking and cycle distance to local services and facilities.

-
- 4.55. The Scheme also provides for housing development of the type and mix required to meet identified needs.
- 4.56. The Scheme further addresses the economic role in terms of increased LPA Revenues, Construction impacts (increased GVA, jobs etc.) and increased expenditure in the local area.

Social Role

- 4.57. The social role requires the planning system to provide the supply of housing required, creating a high-quality built environment, accessible to local services and reflecting the community's needs. All these requirements can be achieved with the Appeal Scheme. This includes the provision of 35% affordable housing, together with publicly accessible SANG.

Environmental Role

- 4.58. The environmental role requires the planning system to protect and enhance the natural, built and historic environment. This can be achieved with the proposal in a location that will not result in any significant adverse effects upon the character of the surrounding area, including in landscape terms.

Decision Making

- 4.59. In setting out the presumption in favour of sustainable development, paragraph 11 of the NPPF adds at paragraph 11(d) that where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless (i) policies in the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development; or (ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits.

-
- 4.60. I explain earlier in my evidence why I consider that the policies for the supply of housing (both in terms of the housing requirement and the associated settlement boundaries) are materially out of date.
- 4.61. Section 4 of the NPPF sets out the approach to decision-making. Paragraph 39 makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.
- 4.62. The Site is located in a sustainable location and will improve the economic and social conditions of the area. It will also help to provide an enhanced landscaped edge to the settlement and new biodiversity habitats.

Delivering a Sufficient Supply of Homes

- 4.63. Paragraph 61 sets out the Government's objective of significantly boosting the supply of homes.
- 4.64. Paragraph 62 sets out the approach to determining the minimum number of homes needed, which should be informed by a local housing need assessment conducted using the standard method in national planning guidance.
- 4.65. It is also added that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.
- 4.66. Paragraph 72 sets out the need to provide a five year supply of deliverable sites for housing. It also requires sites for years 6-10 and beyond.
- 4.67. Paragraph 78 requires LPAs to demonstrate a five year supply of deliverable housing land. Pursuant to footnote 8, the lack of a five year supply triggers the presumption at paragraph 11(d).

- 4.68. This Appeal Scheme for up to 190 dwellings would make a notable contribution towards the shortfall in supply, including the provision of 35% affordable housing.

Promoting healthy and safe communities

- 4.69. Paragraph 103 sets out support for enabling access to a network of high-quality open spaces and opportunities for sport and recreation.
- 4.70. Paragraph 105 also requires planning policies and decisions to protect and enhance public rights of way and access including taking opportunities to provide better facilities for users.
- 4.71. These requirements are met by the Appeal Scheme.

Promoting Sustainable Transport

- 4.72. Section 9 sets out the approach to providing for sustainable growth.
- 4.73. Paragraph 110 states as follows:

‘The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.’

- 4.74. The Appeal Site is located adjoining an identified settlement, within safe and convenient walking distance to local services and facilities.
- 4.75. As set out at 5.1 (point 7) of the Planning Statement of Common Ground (CD4.1), the locational sustainability of the Appeal Site is agreed. Future residents will be able to access services and facilities within the town by sustainable transport modes (including walking, cycling and bus).

- 4.76. Accordingly, the Scheme is consistent with paragraph 109. In addition, there is no conflict with paragraph 116 of the NPPF as the Scheme would not have an unacceptable impact on the highway safety or the road network, such a planning permission should not be prevented or refused on highway grounds.
- 4.77. Furthermore, Mr Stevens explains that the highway improvements through the proposed linking of the traffic light controlled town centre junctions will bring about a betterment to the existing highway conditions.
- 4.78. Mr Stevens's evidence further explains the justification for the Appeal Scheme in highway terms.

Achieving Well-Designed Places

- 4.79. Section 12 sets out the approach to achieving well-designed places.
- 4.80. Paragraph 131 states that the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It is added that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 4.81. Paragraph 136 adds that trees make an important contribution to the character and quality of urban environments, with planning policies and decisions to ensure opportunities are taken to incorporate trees within developments.
- 4.82. The outline scheme incorporates a number of trees whilst the detailed design is a matter that can be controlled at the reserved matters stage.

Meeting the challenge of climate change, flooding and coastal change

- 4.83. Section 14 relates to development, flood risk and climate change, setting out the approach to minimising the risk from flooding.
- 4.84. A Flood Risk Assessment and Drainage Strategy has been prepared and ensures that relevant policy and guidance is satisfied.
- 4.85. The Appeal Scheme will not cause any increase in flooding beyond the Site. Surface water will be attenuated on-site in a network of swales and attenuation basins.
- 4.86. A sequential test has been undertaken in support of the Appeal Scheme. Section 6 below refers.

Natural Environment

- 4.87. Section 15 sets out the approach to conserving and enhancing the natural environment.
- 4.88. Paragraph 193 sets out a number of principles to be applied in the determination of planning applications. It includes a requirement at (c) that where development results in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees), it should be refused unless there are wholly exceptional reasons.
- 4.89. As set out in section 4, paragraph 4.1(12) to the Addendum SoCG (**CD4.4**), WDC agrees that the Appeal Scheme will not result in the loss or deterioration of ancient woodland and/or ancient or veteran trees.
- 4.90. As to landscape considerations, the Site is not located within any formal designations for the most valued landscapes. The accompanying LVIA (**CD1.15**), as amplified in the Landscape Statement prepared by Mr Clive Self (**SB4**), confirms that the proposals have responded to the key

landscape features and sensitivities of the Site and will deliver landscape benefits in the form of new planting and environmental enhancements within the SANG and open spaces.

- 4.91. The proposal retains and enhances the majority of the existing landscape features, including established ancient woodland to the south and west. The SANG will act to contain development on the eastern side of the town, while providing a significant recreation resource for future residents, and opportunities for new planting and habitat creation.
- 4.92. The Scheme will also be expected to result in a substantial biodiversity net gain through on-site habitat creation and enhancement measures.
- 4.93. These provisions have resulted in the agreement reached with WDC as to the acceptability of the Appeal Scheme in landscape, ecological and ancient woodland terms (**CD4.4** refers).

Historic Environment

- 4.94. Section 16 sets out the approach to conserving and enhancing the historic environment.
- 4.95. The Appeal Site boundary wraps around the cluster of buildings associated with Bird in Eye Farm, now largely in commercial use. As **CD4.3** records, the Appeal Site is within the setting of the Grade II Listed 'Oast'.
- 4.96. As I explain in my evidence, my consideration of the Appeal Scheme in heritage terms has regard to the approach set out at section 16 of the NPPF, including the requirements at paragraphs 207, 208, 201, 212, 213 and 215.

Government Announcements

- 4.97. The NPPF should also be read in the context of a number of Government and Ministerial Statements which have emphasised the importance on the timely delivery of housing development.

- 4.98. As the Written Ministerial Statement (“WMS”) (12 December 2024) (**CD12.2**), made by the Minister of State for Housing and Planning explains, publication of the revised NPPF marks the next step in the Government delivering on their promise to radically reform the planning system.
- 4.99. The WMS states that the measures set out in the revised NPPF reflect the Government's commitment *“not to duck the hard choices that must be confronted to tackle the housing crisis because the alternative is a future in which a decent, safe, secure and affordable home is a privilege enjoyed only by some rather than being the right of all working people.”*
- 4.100. In the circumstances, the Appeal Scheme is advanced on a Site that the LPA agrees is a sustainable location for growth (with easy walkable access to the services and facilities of one of the largest settlements in the District) and one that is demonstrably in the public interest.
- 4.101. Insofar as the development plan is agreed as being manifestly out of date, the Council is tasked with meeting the mandatory local housing need derived from the application of the new standard method.
- 4.102. The Appeal Site affords a logical location in helping to meet identified needs for housing, where all but heritage matters are agreed with WDC.

Five Year Housing Land Supply

- 4.103. As explained in the Planning SoCG (**CD4.1**), in so far as the strategic policies from the Core Strategy are more than five years old, it is agreed, by operation of paragraph 78 and footnote 39 of the NPPF, that **the housing requirement falls to be measured against the local housing need figure calculated using the current standard method.**
- 4.104. As such, the starting point when calculating the five year requirement is the minimum 1,433 dwelling annual requirement derived from the application of the Standard Method.

- 4.105. As a result of the Housing Delivery Test (“HDT”) results published on 12 December 2024, it is agreed that it is appropriate to apply a 20% buffer to the requirement.
- 4.106. The agreed minimum five year requirement for the period **1st April 2024 to 31st March 2029 is 8,598 dwellings.**
- 4.107. The agreement reached with WDC is that the Council is not able to demonstrate a five year supply of deliverable housing land for the period 1st April 2024 to 31st March 2029.
- 4.108. As such, it is common ground that the Council is not meeting the requirements at paragraphs 61 or 78 of the NPPF. In the circumstances, the policies which are the most important for determining the application are out-of-date.
- 4.109. The agreed housing land supply position is summarised in Table 1 of **CD4.4**, which I reproduce below.

Table 1: The Agreed Five-Year Housing Land Supply Position

Step	Agreed Position
Minimum 5yr Req. 1 April 2024 to 31 March 2029	8,598
Deliverable Supply	6,328
Extent of Shortfall	-2,270
No. Years Supply	3.68yrs

- 4.110. As recorded at paragraph 4.1(4) to **CD4.4**, the provision of up to 190 dwellings from the Appeal Scheme attracts substantial weight.

Affordable Housing

- 4.111. The Appeal Scheme proposes the on-site provision of 35% affordable homes, achieving a policy-compliant level of affordable housing provision.
- 4.112. As recorded at paragraph 4.29 of the Planning SoCG (**CD4.1**), there is chronic under delivery of affordable housing in Wealden.

- 4.113. In the circumstances, it is unsurprising that paragraph 4.1(5) to **CD4.4**, the provision of up to 67 affordable homes (35%) from the Appeal Scheme attracts substantial weight.
- 4.114. Paragraphs 20(a), 61 and 63 of the NPPF sets a strong emphasis on the delivery of sustainable development including affordable homes, within the context of the Government's aim to "boost significantly the supply of homes".
- 4.115. The affordable housing analysis at **SB5** provides an analysis of the demand for affordable housing in Wealden, including the increasing affordability ratios.
- 4.116. The acute affordable housing need reinforces the merits of the Appeal Scheme with the on-site provision of up to 67 affordable dwellings.
- 4.117. I consider that substantial weight is attributable to the benefits associated with the provision of affordable housing as part of the Appeal Scheme, which matter I consider further in section 6 below.

Emerging Local Plan

- 4.118. A draft (Regulation 18) version of the Local Plan (published March 2024) was consulted upon in Spring 2024 (**CD6.8**). Paragraph 4.27 therein states that "**local housing need calculation for Wealden District is a minimum of 1,200 homes per year**".
- 4.119. However, as this draft version pre-dates the changes to the NPPF made in December 2024 it cannot be considered NPPF compliant as it did not use the latest version of the Standard Method to calculate housing need. As a result, whilst expressed as a minimum, the need identified in the draft Local Plan is substantially well below the revised standard method figure of 1,433 dwellings per annum stated by central government in December 2024.
- 4.120. As explained in the Local Development Scheme ("LDS") (March 2025) at **CD6.10** a Regulation 18 draft consultation Local plan is not expected to be

published for consultation until end 2025, with possible adoption in 2027. Even if that were a realistic timescale, the emerging Local Plan carries no weight, in determining the outcome of the Appeal.

Housing and Economic Land Availability Assessment “(SHELAA)” (2019)

4.121. The Appeal Site was positively assessed by the Council in their Strategic Housing and Economic Land Availability Assessment “(SHELAA)” (2019) (Site Ref 002/1410) (**CD6.12**) which notes that the site is potentially suitable in principle for housing development (identifying a capacity of 197 dwellings).

4.122. Page 354 of **CD6.12** states in relation to heritage matters as follows:

“Directly adjacent to the site at the main Bird-in-Eye Farm is a Listed Farmhouse. However, the design and layout of any scheme could ensure that the setting of this building is not materially harmed.”

4.123. This finding is echoed in Dr Miele’s findings for this Appeal.

Strategic Housing and Economic Land Availability Assessment “(SHELAA)” (February 2024)

4.124. The Appeal Site was also assessed by the Council in their Strategic Housing and Economic Land Availability Assessment “(SHELAA)” (February 2024) (Site Ref 002/1410) (**CD6.13**). Appendix 4 concludes that the Appeal Site is not suitable for housing, which assessment relies upon the conclusions of the previous Appeal Inspector. The Site Summary states, *“The site was subject to a planning appeal (on the grounds of non-determination) for 290 (net) dwellings under planning reference WD/2021/2198/MAO, but this was dismissed in October 2023. The Planning Inspector in that appeal confirms that harm was identified in respect of ancient woodland, highway safety, flood risk, and heritage which individually are significant and cumulatively carry substantial weight.”*

4.125. As now agreed with WDC, ancient woodland and flood risk matters have been addressed. As agreed with WDC and the LHA, highway safety has

been addressed. This just leaves heritage. For the reasons Dr Miele explains, the Appeal Scheme does not result in harm to the setting of the Oast. I adopt his findings.

5. THE MAIN ISSUES

Introduction

- 5.1. This section of my evidence assesses the acceptability of the Appeal Scheme in the context of 38(6) as well as relevant material considerations.
- 5.2. I have carried out my assessment using a series of main issues. I then draw my findings together to undertake the planning balance.
- 5.3. As explained in the Addendum Statement of Common Ground (“SoCG”) (**CD4.4**), the impact of the Appeal Scheme in heritage terms is the only “live” issue between the Appellant and WDC. All other matters, including the acceptability of the Scheme in ecology, landscape, highway, and flood/drainage terms, have been agreed.
- 5.4. Heritage matters are addressed in the proof of evidence prepared by Dr Chris Miele, who finds no harm to the significance of the Oast as a result of the Appeal Scheme. I adopt Dr Miele’s findings. However, I have also assessed the alternative scenario, applying WDC’s assessment of less than substantial harm. When so doing, I consider the public benefits from the Scheme outweigh the purported heritage harm, such that the NPPF paragraph 215 heritage balance is passed. As such, I do not find heritage is a footnote 7 strong reason for refusal. On the contrary, the Scheme results in some heritage benefit, as identified by Dr Miele, and I consider the Appeal should be allowed pursuant to the balance to be undertaken at paragraph 11(d)(ii) of the NPPF.
- 5.5. I have also given due consideration to the objections raised by third parties, including Uckfield Town Council (**CD2.6**), Framfield Parish Council (**CD2.7**) and Town Legal (**CD2.4** and **CD2.5**). In seeking to address the points raised by the third parties, my evidence has also been informed by the evidence of Mr Matthew Stevens on highway matters, as well as the technical notes prepared by Alexia Tamblyn on ecology (**SB1**), Mr Andrew Wren on flooding/drainage matters (**SB2**), Mr Chris Patmore on hydrological sequential test matters (**SB3**) and Mr Clive Self on landscape (**SB4**).

- 5.6. As I have explained, there are **no technical objections from the statutory consultees**, including ESCC Highways. It is agreed that the Appeal Site is sustainably located.
- 5.7. Only the third parties continue to raise an objection (**CD2.1 to CD2.7**).
- 5.8. I have not seen anything in the representations from the third parties that justifies a decision other than approving the Appeal Scheme.
- 5.9. Having regard to the Inspector's main issues and other relevant matters I have identified, I structure my assessment of the Appeal Scheme as follows:
- 1) *The impact of the Appeal Scheme in heritage terms*
 - 2) *Assessing the third party objections*
 - (i) *The principle of development outside the settlement boundary*
 - (ii) *Sustainability of location – accessibility*
 - (iii) *Suitability of the access design*
 - (iv) *Drainage and flood risk*
 - (v) *Landscape impact*
 - (vi) *Ecology (including impacts on ancient woodland and biodiversity net gain)*
 - (vii) *Impact on local infrastructure*
- 5.10. My assessment is set out below.

Main Issue 1: The Impact of the Appeal Scheme in Heritage Terms

Context

- 5.11. As recorded at paragraph 5.1 of the Addendum SoCG (**CD4.4**), the heritage impact of the Appeal Scheme is the only "live" issue between the Appellant and WDC. All other matters are agreed.
- 5.12. Heritage impacts are also raised as an issue by the third-party objectors.

- 5.13. The disagreement between the Appellant and WDC on heritage matters relates to the impact of the Appeal Scheme upon the setting of the Oast, a grade II listed building which is located central to the Appeal Site, albeit not within the Appeal Site itself.
- 5.14. As explained in the Heritage SoCG (**CD4.3**), WDC's position is that the Appeal Scheme will result in a moderate level of less than substantial harm to the setting of the listed building.
- 5.15. Dr Miele's position for the Appellant is that the proposals do not cause harm to the setting of the listed building.

The Grade II Listed Oast

- 5.16. The Oast is an example of a hop kiln which included internal flues, with a furnace below, to heat the drying floor where the hop blossoms were laid out to dry.
- 5.17. It is agreed that the setting nevertheless contributes to the appreciation of the Oast given its agricultural association.
- 5.18. The complex of buildings within which the Oast is located has largely been converted to form a small business cluster. As such, the Oast's immediate setting has fundamentally changed since its inception.

The Previous Appeal Decision

- 5.19. The previous appeal decision can be found at Core Document **CD14.3**. The illustrative site layout plan for that scheme can be found at **CD14.6**.
- 5.20. Although the Appellant and WDC agreed in a SoCG for that appeal that the scheme for up to 290 dwellings and a strategic SANG would result in no harm to the listed building, the Inspector concluded differently, with paragraph 61 of the decision finding less than substantial harm to the setting and significance of the Oast.

Policy Considerations

5.21. WDC's position is that the Appeal Scheme is in conflict with Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, Paragraphs 212 – 217 of the NPPF, Policies EN1 and EN27 of the Wealden Local Plan 1998, Spatial Planning Objective SPO2 of the Wealden Core Strategy Local Plan 2013, and Chapters 5, 7 and 12 of the Wealden Design Guide 2008 (Supplementary Planning Document).

5.22. I disagree with WDC's assessment.

66(1) of the Planning (Listed Building and Conservation Areas) Act 1990

5.23. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the witnesses for the Appellant have paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

The NPPF

5.24. As the Appeal Scheme results in no harm to the setting of the Oast, it is acceptable in the context of paragraphs 212 to 217 of the NPPF. However, even were the alternative position to be taken, that there was some less than substantial harm (at the moderate end of the spectrum (WDC's view)), I consider the public benefits demonstrably outweigh the harm such that the heritage balance at paragraph 215 of the NPPF is passed.

Development Plan

5.25. Policies EN1 and EN27 of the Wealden Local Plan 1998, Spatial Planning Objective SPO2 of the Wealden Core Strategy Local Plan 2013, and Chapters 5, 7 and 12 of the Wealden Design Guide 2008 (Supplementary Planning Document) are relied upon by WDC in maintaining its heritage objection to the Appeal Scheme.

- 5.26. The Appeal Scheme satisfies the requirements at EN1 on account of the acceptability of the Scheme design and layout respecting the setting of the Oast.
- 5.27. Policy EN27 relates to design. The Appeal Scheme satisfies the requirements of this policy on account of (i) the scale, form, site coverage, density and design of the development and the use of materials (to be determined at the reserved matters stage) and the need for landscaping to respect the character of adjoining development and, where appropriate, promote local distinctiveness; (ii) the proposed development does not create an unacceptable adverse impact on the privacy and amenities of adjoining developments; (iii) the Appeal Scheme ensures a satisfactory environment for the future occupants, including adequate provision for daylight, sunlight, privacy, garden space and/or appropriately landscaped amenity areas; (iv) the development should not constitute an unacceptable backland or 'tandem' form of development; and (v) regard has been paid to crime prevention measures whenever possible and appropriate.
- 5.28. SPO2 states that WDC will ensure that the intrinsic quality of the historic environment is protected and that Wealden's environmental, heritage and cultural assets are used appropriately to encourage suitable tourism development and support inward investment.
- 5.29. As Dr Miele's evidence explains, as the Appeal Scheme does not result in any harm to the setting of the Oast, the cultural asset is protected.
- 5.30. In the alternative scenario, taking WDC's finding of less than substantial harm at the moderate end of the spectrum, I find the public benefits (detailed in section 6 below) would outweigh the harm when carrying out the NPPF paragraph 215 balance. In that scenario, there would be some conflict with SPO2. However, the lack of a NPPF balance in the policy wording means the objective is not consistent with the Framework. This reduces the weight to any conflict.
- 5.31. Whilst not part of the development plan, WDC also rely upon chapters 5, 7 and 12 of the Wealden Design Guide 2008. I deal with the points arising

here.

- 5.32. I have reviewed the content of the design guide and conclude that the Appeal Scheme is manifestly in accordance with requirements contained therein, including in relation to chapter 5 (character appraisal of sites and their settings) and chapter 7 (new residential development).
- 5.33. Chapter 12 relates to alterations and extensions to listed buildings, which matters are not applicable to the determination of the Appeal Scheme as no works are proposed to the Oast. As Dr Miele explains, the Appeal Scheme does not result in any harm to the setting of the Oast.

Dr Miele's Evidence

- 5.34. Dr Miele's evidence explains, his involvement in the Appeal process (section 3 of his evidence refers). As he explains, his heritage advice has informed the evolution of the Appeal Scheme design.
- 5.35. The immediate setting of the Oast comprises the open land to the west and the former farmyard which now functions as a small business centre.
- 5.36. As Dr Miele's evidence explains, the open character of the land to the west of the Oast, currently grazed by horses, contributes to the significance of the Oast.
- 5.37. As Dr Miele explains, the proposed development has been designed to avoid any harmful impact on the Oast.
- 5.38. To provide new and enhanced public views of the listed building from within the Appeal Site, the illustrative layout includes an area of public open space alongside the western boundary of the Oast. This area extends to 3.51ha and is of a size that allows the Oast to be seen and understood as a former agricultural building.
- 5.39. Draft condition 32 requires the provision of a public heritage display or interpretation board on the Site. This will enhance the public understanding and appreciation of the Site's heritage interest, in accordance with Spatial Planning Objective SPO2 of the Wealden Core Strategy Local Plan 2013.

- 5.40. For the reasons Dr Miele explains, and which position I adopt, the Appeal Scheme would provide new opportunities to see and experience the listed building.
- 5.41. At present, there are only limited, off-site public views of the Oast from the west, such that the Appeal Scheme would provide an opportunity for an increased appreciation and understanding of the listed building within the Appeal Site itself.
- 5.42. The proposed layout provides for new and enhanced views of the Oast as part of the masterplan and these new views are considered a heritage benefit because they would open up and enhance the setting to the listed building within the south and east of the site.
- 5.43. Although the development proposals represent a further change to this historic rural setting, while also introducing significant public open space to the west, they allow for an increased appreciation of the listed building, better revealing its significance.
- 5.44. As Dr Miele's evidence explains, the development proposals will result in no harm to the significance of the listed building, with its special architectural and historic interest preserved.
- 5.45. Informed by Dr Miele's evidence, I conclude that the Appeal Scheme is acceptable in heritage terms, resulting in **no harm** to the setting of the Oast.

The Alternative Scenario: Finding of Less than Substantial Harm

- 5.46. Based on Dr Miele's evidence, as no harm has been identified, with some benefit created through an enhancement to the setting of the Oast on account of facilitating public access; removing car parking adjacent to the Oast which is seen in views from the west; and the introduction of an interpretation board to better reveal the heritage asset's significance, paragraph 215 of the NPPF is not engaged. At the present time, there is no public access to the Appeal Site.

- 5.47. Notwithstanding this position, even were the Inspector to accept WDC's finding of less than substantial harm, thus engaging the 'heritage balance' at paragraph 215 of the NPPF, this would require any harm to be weighed against the public benefits of the proposal.
- 5.48. I have carried out the heritage balance and, in that scenario, taking WDC's case of less than substantial harm at the moderate end of the spectrum of harm, I am of the view that the many public benefits (economic, social and environmental), demonstrably outweigh the alleged heritage harm that has been identified (to which great weight is attached in accordance with paragraph 212 of the NPPF).
- 5.49. Overall, in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the witnesses for the Appellant have paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Main Issue 2: Assessing the Third Party Objections

- 5.50. I have addressed heritage matters in my 'Main Issue 1' section above.
- 5.51. In addition to the heritage impacts raised by the third-parties, and which matter is the only "live" issue between the Appellant and WDC, the third party objectors also raise a number of 'other' issues.
- 5.52. I give due consideration to the objections raised by third parties below, including those from Uckfield Town Council (**CD2.6**), Framfield Parish Council (**CD2.7**) and Town Legal (**CD2.4** and **CD2.5**).
- 5.53. I address the third-party objections under a series of categories/sub-headings as follows:
- (i) *The principle of development outside the settlement boundary*
 - (ii) *Sustainability of location – accessibility*
 - (iii) *Suitability of the access design and highway safety*

- (iv) *Drainage and flood risk*
- (v) *Landscape impact*
- (vi) *Ecology (including impacts on ancient woodland and biodiversity net gain)*
- (vii) *Impact on local infrastructure*

5.54. As I have explained, in seeking to address the points raised by the third parties, my evidence has also been informed by the evidence of Mr Matthew Stevens on highway matters, as well as the technical notes prepared by Alexia Tamblyn on ecology (**SB1**), Mr Andrew Wren on flooding/drainage matters (**SB2**), Mr Chris Patmore on hydrological sequential test matters (**SB3**) and Mr Clive Self on landscape (**SB4**).

5.55. As I have explained, (i) there are **no technical objections from the statutory consultees**, including ESCC Highways; and (ii) I have not seen anything in the representations from the third parties that justifies a decision other than approving the Appeal Scheme.

5.56. My assessment is set out below.

(i) Principle

5.57. The presumption in favour of sustainable development (or ‘tilted balance’) at paragraph 11(d) of the NPPF is engaged on account of the inconsistency between the development plan and the NPPF. This includes in relation to the spatial application of its policies being out of date; and in relation to the lack of a five year supply of deliverable housing land. Either issue separately triggers the presumption in favour of sustainable development.

5.58. The Council acknowledges that planning settlement boundaries as defined in the development plan may need to be breached to satisfy the local housing need identified through the standard method.

5.59. As to five-year housing land supply, as per the Statement of Common Ground the Council only has a 3.68 year supply, equating to a shortfall of

2,270 dwellings. As such, and on their own assessment, the Council is not able to demonstrate a five-year supply of deliverable housing land.

5.60. This housing land supply position is acknowledged in the 19 December 2024 appeal decision relating to the erection of three self-build dwellings on St Marks Road, Tunbridge Wells Appeal Ref: APP/C1435/W/24/3342914.

5.61. A copy of the decision is included at **(CD11.8)**. Paragraphs 15 states as follows:

“The Council is unable to demonstrate a five-year supply of deliverable housing land. The Council’s supply position as of April 2023 was said to be 3.83 years. There is no information before me to indicate that this situation has significantly changed in the interim. As such, the Council’s spatial strategy, which has previously acknowledged a need to build outside development boundaries in order to provide the housing required, is not achieving the level of housing growth expected by national policy.”

5.62. Paragraphs 19 and 20 then states:

“As the Council cannot demonstrate a five-year housing land supply and because there are no policies in the Framework which offer a clear reason for refusal, Paragraph 11(d)(ii) of the Framework is engaged.”

“The Framework’s policies seek to boost the supply of housing. In numerical terms 3 new houses is a modest number of dwellings but is an important benefit in an area that has an under provision of housing.”

5.63. Finally, Paragraph 22 concludes:

“Overall, the limited adverse impacts of the site’s location outside the planning boundaries do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development, and this indicates that permission should be granted.”

5.64. Similarly for Appeal Ref: APP/C1435/W/24/3341961 **(CD11.15)**, in a decision dated 14 January 2025 relating to four dwellings at Street End Lane, Broad Oak, the Inspector notes (Paragraph 20):

The Council is currently unable to demonstrate a 5-year supply of deliverable housing land. At the time of the Council's appeal submission it was said to have less than 4 years' supply and the officer report references a 3.92 years supply. I have not been presented with any additional details in this regard. The Council also acknowledges that the current planning boundaries for the district will need to be breached in order to deliver the houses required to meet government targets.

- 5.65. At Paragraphs 26 and 27 the Inspector goes on to conclude that:

The Council's appeal statement acknowledged that the policies relating to the Council's spatial strategy were out of date and that Paragraph 11 of the Framework would be engaged. In light of the latest Framework policies regarding housing land, the Council cannot demonstrate a supply that accords with national policy, and so this too would require the proposal to be considered in accordance with Paragraph 11.

The Framework's policies seek to boost the supply of housing. In numerical terms the proposal is a modest addition to the supply. However, in the context of a spatial strategy which is acknowledged as not being able to meet its objectives and which does not accord with national policy, four new houses carries considerable weight.

- 5.66. Other decisions have concluded in a similar manner to the Horam appeal Inspector in relation to the historic and ongoing out of date policy position that prevails within Wealden. Those decisions are included at **CD11.2** to **CD11.15**.

- 5.67. Paragraph 27 of the Jubilee Drive, Polegate appeal decision (June 2023) (**CD11.6**) included the following assessment of the policy position:

"The site is outside the development boundaries. Therefore, the development would conflict with policies GD2 and DC17 of the WLP. However, given the lack of a housing land supply, restrictive policies preventing the development of housing are out of date. As such I afford only limited weight to the conflict with these policies, Nevertheless, this does not mean they do not apply and overall the proposal conflicts with the development plan as a whole. I do not find harm with regard to the accessibility

*of the site or living conditions of future occupiers, however the lack of harm in these regards is a neutral factor.”
(My emphasis underlined).*

- 5.68. The aforementioned appeal decisions provide an important context for the determination of this Appeal.
- 5.69. As articulated in the Executive Summary to the recent Report to Planning Committee in March 2025 on the Eastbourne Road planning application for up to 145 dwellings and SANG (LPA Ref: WD/2024/2955/MAO) (**CD11.14**), WDC’s assessment of the policy position is as follows:

“The site is contrary to Saved Policies GD2 and DC17 of the adopted Wealden Local Plan 1998, by virtue of its location outside the development boundary as set out on the proposals map of that plan. These policies, however, are out of date and have been superseded by policies contained in the adopted Core Strategy Local Plan (CSLP) 2013 which recognised the need to breach development boundaries to meet identified housing need. The strategic housing policies and development boundaries (GD2, DC17, WCS1 and WCS2) in the WCSLP and WLP are out of date given the level of need on which the plans were based on and the age of the policies.

The Council cannot demonstrate a five-year supply of deliverable housing land and there is a clear need for housing within the housing market area, including a need for affordable housing.

The proposed development would provide 145 dwellings, 35% of which would be affordable (51 units), meeting the policy requirements of AFH1 and 5% (7 units) self-build/custom built units meeting an existing demand for such accommodation on the Council’s self-build register helping the Council fulfil its statutory duties in this respect. In view of the Government’s objective of significantly boosting the supply of homes, this would clearly be a benefit of the scheme. In the context of the lack of a five-year housing land supply, the proposed housing constitutes a significant benefit that weighs very heavily in favour of the development in the planning balance.

Furthermore, the absence of a five-year housing land supply triggers the operation of Paragraph 11d of the Framework. Paragraph 11d (ii) applies for the reasons set out in the main body of the report (having regard to a positively concluded Appropriate Assessment). This sets

out that that 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 the Framework taken as a whole. This is known as the 'tilted balance' in consideration towards housing supply.

Policy WCS14 of the WCSLP is clear that decisions should apply a presumption in favour of sustainable development. Having regard to WCS14 of the Core Strategy and the guidance contained within paragraph 11d(ii) of the NPPF, which advise that an application should be granted planning permission unless significant and demonstrable harm arising from the development can be demonstrated, no significant or demonstrable harm arising from the proposed development has been identified. Therefore, the presumption in favour of sustainable development is applicable and the application should be approved. “

- 5.70. In the circumstances, the weight to be attributed to the conflict between the location of the Appeal Site adjacent to, but beyond, the settlement policy boundary for Uckfield is significantly reduced.
- 5.71. In addition to the above, the Appeal Scheme is agreed as being in a sustainable location (satisfying paragraphs 110 and 115 of the NPPF) in helping to meet identified housing needs. Furthermore, there is no landscape objection to the Scheme from WDC.
- 5.72. Although I conclude that the Appeal Scheme would conflict with policies GD2 and DC17 of the Local Plan Core Strategy, given the lack of a housing land supply, and the need to breach settlement boundaries to meet identified housing needs, the restrictive policies preventing the development of housing are out of date. As such, I afford only limited weight to the conflict with these policies.

(ii) Locational Sustainability

General

- 5.73. Informed by the conclusions reached by the previous Inspector (paragraph 52 of the appeal decision refers **(CD14.3)** and the subsequent agreement reached on the acceptability of the scheme in highway and locational

sustainability terms (**CD4.2** and **CD4.4** refer), and for the reasons explained in the evidence prepared by Mr Stevens, the Appeal Site affords a sustainable location in helping to meet identified housing needs.

- 5.74. The Appeal Site is within walking and cycling distance from Uckfield town centre. Mr Stevens expands upon the sustainable location of the Appeal Site in section 3 of his evidence.
- 5.75. Both the NPPF and Policy EN2 seek to ensure new development is located where it will encourage sustainable transport.
- 5.76. National Travel Survey data reveals the majority of trips (80%) under one mile (1.6km) are undertaken on foot, and 15% of journeys between 1 and 5 miles (1.6 to 8km) are usually undertaken on foot.
- 5.77. Providing new homes on the Appeal Site, within 1.2km of the facilities available within Uckfield, gives a real opportunity for a material number of trips to be made on foot and by bicycle thereby contributing towards sustainable modes of transport and corresponding reduction in traffic emissions.
- 5.78. Access can be gained to local shopping facilities, health facilities, eating and drinking establishments, schools and nurseries.
- 5.79. A shared footway/cycleway link from the site will be provided to the existing footway on Bird in Eye Hill.
- 5.80. Bus stops and Uckfield railway station are located within easy walking distance from the site, providing access to frequent bus and rail services to the surrounding area.
- 5.81. As I have also explained, Uckfield is one of the three designated District Centres listed in the Adopted Core Strategy Local Plan (**CD6.1**). This is the highest settlement tier located within Wealden District (Table 1 and Figure 2 of the adopted Core Strategy Local Plan refers (**CD6.1**)).

- 5.82. Table 1 in **CD6.1** describes Uckfield as “*an accessible settlement by road and public transport containing a range of shops, employment opportunities and facilities including secondary school. Not reliant upon other centres within the District to meet day to day needs, but requires support from other secondary or primary centres to meet the needs of residents*”.
- 5.83. As Mr Stevens’s evidence explains, the Appeal Scheme secures a safe and appropriate means of access to enable future residents to safely access the town centre by walking, cycling and bus.
- 5.84. As such, the Appeal Scheme accords with saved policies GD2, WN1, EN2, TR3 or TR13 of the Local Plan 1998, or spatial objectives SP07 and SP015 and policies WCS7 and WSC14 of the Wealden Core Strategy Local Plan, nor would it conflict with the guidance within chapter 9 of the NPPF.

(iii) Suitability of the Access Design and Highway Safety

General

- 5.85. As **CD4.2** explains, which matters are expanded upon in Mr Stevens’s evidence, the Scheme’s highway impacts have been assessed and agreed as being acceptable, subject to securing the necessary mitigation through the legal agreement in the form of a series of planning obligations.
- 5.86. **CD4.2** sets out the full extent of the matters agreed with the LHA, with **CD2.3** confining the LHA has no objection to the Appeal Scheme.
- 5.87. This agreement was reached pursuant to lengthy dialogue between the parties as the other acceptability of the Scheme design, including works to be undertaken to the highway under s278.
- 5.88. Section 3 of my evidence summarises the access design.
- 5.89. Mr Stevens’s evidence explains why the Appeal Scheme can be safely accessed. I adopt his findings.

Access Design

- 5.90. The proposed access design, the acceptability of which is agreed between the Appellant, WDC and LHA is shown on 3 no. plans to be approved under draft condition 4. They are included at **CD5.2**, **CD5.3** and **CD5.4**.
- 5.91. A 3-arm roundabout is proposed from the B2012 Bird in Eye Hill/Framfield Road.
- 5.92. A separate 3.0m shared footway/cycle way within the Site will connect with the B2102 Bird in Eye Hill in its north west corner.
- 5.93. The 3.0m shared footway/cycleway will then extend along the B2102 Bird in Eye Hill to connect to the existing bus stops and will accommodate safe crossings to the existing carriageway.

Highway Impacts

- 5.94. In turning to the potential highway impacts, development of the site for up to 190 dwellings and SANG could generate in the region of 148 two-way movements during the morning peak hour, and 152 two-way movements during the evening peak hour.
- 5.95. Capacity assessments have been undertaken at the two critical town centre signalised junctions and at the site access.
- 5.96. To accommodate the increase in traffic from the proposed development in the town centre, the Appeal Scheme will secure funding towards a Signal Optimisation system that will link up a series of traffic signal-controlled junctions and crossings within the town centre network. This will optimise vehicle movement and queuing.
- 5.97. With the introduction of the Signal Optimisation system, the Appeal Scheme can bring about real improvements to the highway conditions within Uckfield, thereby representing a material benefit arising from the scheme.

Planning Obligations and Highway Mitigation

5.98. A considerable package of measures, agreed between the Appellant and the LHA, is proposed to mitigate the impact of the development, which matters are summarised as follows:

- A reduced, 40mph speed limit introduced on Bird in Eye Hill
- Bus stop improvements on the B2102, to include shelters with seating and Real Time Passenger Information (RTPI) screens;
- Provide shared footway/cycleway from the Site to Bird in Eye Hill.
- The provision of a Mini Mobility Hub (“MMH”) within the Site to provide:
 - EV car club vehicle
 - E-bike hire
 - Travel information displays
 - Cycle repair apparatus
 - Delivery lockers
- Travel Information Packs (“TiPs”) to all households, to include a travel voucher to the value of [REDACTED] per household on first occupation.
- Car-club scheme
- Framework Travel Plan

Summary

5.99. With the proposed mitigation measures in place, the Appeal Scheme will not have a severe impact on highway safety and the flow of traffic along Bird in Eye Hill or within Uckfield town centre thereby complying with Policies SPO2, SPO12, SPO13 and Policy WCS14 of the Wealden Core Strategy Local Plan, Saved Policies TR3 and TR16 of the saved Local Plan (1998) and the relevant parts of the NPPF relating to highway and locational sustainability matters, including, but not limited to paragraphs 110, 115 and 116.

(iv) Drainage and Flood Risk

General

5.100. As I explained in section 1 above, and as agreed in **CD4.1** and **CD4.4**, the Council does not take any issue with the drainage, flood risk or sequential test issues arising in relation to the Appeal Scheme.

5.101. **CD4.4**, paragraph 4.1(10) confirms WDC's position as follows:

"It is agreed that there are no flooding/drainage reasons to withhold planning permission. It is also agreed by the parties that the sequential test submitted in support of the Appeal Scheme is on balance acceptable in scope, extent and in relation to its conclusions."

5.102. However, interested parties continue to oppose the scheme on drainage, flood risk and sequential test grounds.

5.103. In responding to their comments and objections, I rely upon the analysis contained in the technical Notes prepared by Mr Andrew Wren (**SB2** and **CD5.12**), the Technical Note prepared by Mr Chris Patmore (**SB3**), as well as the application documents at **CD1.26** (FRA and Drainage Strategy) and **CD1.36** (Sequential Test (RPS)).

5.104. I set out my response under a series of sub-headings as follows:

- Flood Risk
- Drainage Strategy
- Sequential Test

5.105. I address each issue in turn below.

Flood Risk

5.106. In January 2025 the Environment Agency ("EA") published new mapping for fluvial and surface water flood risk, which also includes an allowance for climate change.

- 5.107. These changes have been reflected in the aforementioned documents (**CD4.4, CD5.12, SB2 and SB3**).
- 5.108. The Appeal Site is classified as falling entirely almost within Flood Zone 1 (Figure 5-1 of the FRA explains).
- 5.109. Only the proposed drainage pipe outfall in the western part of the Site is within flood zones 2 and 3. This applies to only 0.05% of the Site. The outfall is essential utility infrastructure which has to be located in a flood risk area for operational reasons (to provide a surface water outfall to the adjacent watercourse).
- 5.110. No other part of the Appeal Site to be developed is within flood zones 2 or 3 and nor is any part of the Site to be developed subject to medium (1:100) or high (1:30) year surface water flood risk. Whilst there are a limited number of small areas of low surface water flood risk (1:000) on the Site, they are not proposed to be developed.
- 5.111. The FRA demonstrates that the proposals are consistent with the aims of the NPPF and the Planning Practice Guidance to the NPPF along with the aims of local flood risk policy. The Site will not be at significant risk of flooding or increase the flood risk to others.

Drainage Strategy

- 5.112. The Surface Water Drainage Strategy has been developed using best practice Sustainable Drainage System (SuDS) techniques. Guidance on suitable techniques and methods has been obtained from the EA, the Non-Statutory Technical Standards for Sustainable Drainage Systems, East Sussex County Council's Local Flood Risk Management Strategy and '*The SuDS Manual*' (CIRIA C753) amongst other sources.
- 5.113. As set out in the outline drainage strategy (**CD5.12**), the proposed development will manage surface water runoff, utilising sustainable drainage methods including attenuation basins, swales and highway swales. The outfall is proposed into the existing watercourse with the discharge rate limited to match the existing greenfield runoff rates or less

for the Site.

- 5.114. The drainage strategy plan has been updated to reflect the amended access design, Appendix A to **CD5.12** refers.
- 5.115. Foul water, or effluent, flows from the site will be managed in a new sewer network, which is anticipated to connect into the existing public foul sewer network in Framfield Road/Bird in Eye Hill.
- 5.116. Overall, the Drainage Strategy demonstrates that the proposed development is safe and in accordance with the requirements of national and local planning policy.

Sequential Test

- 5.117. Paragraph 173 of the NPPF requires a sequential risk-based approach to be undertaken to individual applications in areas known to be a risk now or in the future from any form of flooding.
- 5.118. As paragraph 174 of the NPPF explains, the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. It adds that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 5.119. Paragraph 175 adds that *“the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).”* Paragraph 175 is materially different from paragraph 162 of the September

2023 NPPF (the version extant at the time of the 2023 appeal)⁷.

- 5.120. As all residential-related development (classed as a more vulnerable use in Annex 3 to the NPPF), including the proposed access arrangements and dwellings, are located entirely within Flood Zone 1, there is in fact no requirement to undertake a sequential test for the Appeal Scheme. Only essential utility infrastructure, comprising minor works associated with the surface water drainage outfall to the watercourse, is proposed in flood zone 2 and 3. This water is a water compatible use (Annex 3 of the NPPF refers) and is de minimis both in scale and effect.
- 5.121. In *Wathen-Fayed v SoS* [2023] EWHC 92 (Admin) (**CD10.12**), the Court noted held that whether to apply the sequential test was ultimately a question of planning judgement for the Inspector. In that case, the LLFA did not request a sequential test, the development site was in Flood Zone 1 and areas of surface water flooding within the development envelope were capable of being dealt with through a scheme condition. The position is similar here.
- 5.122. However, a sequential test has nevertheless been undertaken and submitted in support of the Appeal Scheme at the time of the Application (**CD1.36**). The conclusions are updated by the content of **SB3**, which reflects the latest EA flood mapping data.
- 5.123. As the sequential test prepared by RPS concludes (**CD1.36** and **SB3**), there are no other reasonably available sites within the search area on which the appeal proposal can be located, such that the sequential test has been passed.

⁷ NPPF(2023) (para 162): *The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.*

- 5.124. Paragraph 3.7 of **SB3** explains the Appeal Site is ranked 5th in “Table 3: Sequential Test sifting – Stage 3 Site flood risk analysis – Percentage of Site within Flood Zone 3 and at Surface Water 1 in 30 year risk”, prior to the consideration of other planning aspects.
- 5.125. Paragraph 3.8 of **SB3** adds that the four sites with the highest rankings based on hydrological impacts alone remain the same as those identified in the 2024 report. The Appeal Site has maintained its 5th rank, and no additional sites have been identified with a higher ranking following the updated assessment.
- 5.126. The 4 x sites (with dwelling capacity for each site in brackets) from Table 1 of **SB3** comprise as follows:
- Land south of Maresfield (150 dwellings)
 - Harrison’s, South of London Road, East Hoathly (150 dwellings)
 - Land at White House Farm, London Road, Uckfield (240 dwellings)
 - Land at Hesmonds Stud, Eat Hoathly (375 dwellings).
- 5.127. For the reasons explained in Table 4 to the Sequential Test (**CD1.36**), none of the 4 x sites were suitable and reasonably available. As further explained at Appendix B to **SB3**, the assessment of the availability of the sites has been reviewed, 10 months from the findings in **CD1.36**. The conclusions that none is suitable and reasonably available remains robust.
- 5.128. The Sequential Test applies the approach at paragraph 7-028-20220825 of the PPG which gives a definition of ‘reasonably available sites’ as:
- “those in a suitable location for the **type of development** with a **reasonable prospect that the site is available** to be developed **at the point in time envisaged for the development**. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered ‘reasonably available’” (My emphasis in bold).*
- 5.129. As set out in **CD4.4** (paragraph 4.1(10) refers), WDC accepts that there are no flooding/reasons to withhold planning permission. This includes in relation to the findings of the sequential test.

5.130. Finally, the Mead Realisations / Redrow High Court Judgement (**CD10.13**) is relevant in this context. In that case, opposition to Redrow's scheme argued that only "the" most sequential preferable site can come forward for development even in the face of significant housing need.

5.131. LJ Holgate dealt with this in the Judgement where paragraph 174 concludes that:

"A similar analysis applies in the determination of planning applications. Where there is an unmet need, for example a substantial shortfall in demonstrating a 5 year supply of housing land, that shortfall and its implications (including the contribution which the appeal proposal would make to reducing that shortfall) are weighed in the overall planning balance against any factors pointing to refusal of permission (including any failure to satisfy the sequential test). If the total size of sequentially preferable locations is less than the unmet housing need, so that satisfying that need would require the release of land which is not sequentially preferable, that too may be taken into account in the overall planning balance. But these are not matters which affect the carrying out of the sequential test itself. Logically they do not go to the question whether an alternative site is reasonably available and appropriate (i.e. has relevant appropriate characteristics) for the development proposed on the application or appeal site. Instead, they are matters which may, for example, reduce the weight given to a failure to meet the sequential test, or alternatively increase the weight given to factors weighing against such failure".

5.132. In the unlikely event the Inspector considers there are sequentially preferable sites available, it remains the case that the immediate housing need cannot be met in full by relying on those sites alone. A substantial shortfall in the Council's five year housing land supply position would remain.

5.133. As such, any alleged failure of the sequential test should not be determinative. Consistent with the judgement of Holgate J in the *Redrow/Mead* case, it is a matter to be weighed in the planning balance.

5.134. Even in a scenario where the Appeal Scheme fails the sequential test, which finding would be inconsistent with the agreement reached between the Appellant and WDC, planning permission should still be granted.

(v) Landscape Impact

5.135. As I explained in section 1 above, and as agreed in **CD4.1** and **CD4.4**, the Council has not raised an objection to the Appeal Scheme in landscape terms. This is not surprising given the position reached in the determination of the previous appeal (**CD14.3**) and the findings of the LVIA submitted with the Appeal Scheme (**CD1.15**).

5.136. **CD4.4**, paragraph 4.1(9) confirms WDC's position as follows:

"There are no landscape objections to the Appeal Scheme."

5.137. The previous Appeal Inspector also found there was an absence of landscape harm (**CD14.3**, paragraph 67 refers).

5.138. In responding to the issues raised in the third party representations, I rely upon, and refer the Inspector to, the landscape analysis contained in the Statement prepared by [REDACTED] at **SB4**, the agreement reached with WDC (**CD4.4**) and the findings of the previous Inspector (**CD14.3**, paragraph 67)

5.139. Section 4 of [REDACTED] Statement addresses the issues raised in the Town Legal representations issued in May 2025 (**CD2.5**).

5.140. As [REDACTED] explains, the Appeal Site is currently used for horse-grazing. It is adjoined by existing housing along Bird in Eye Hill, and within it lies Bird in Eye Farm, which has a number of commercial enterprises. This part of the site overlooks Uckfield, from where the town can be seen rising up the opposite slope from Framfield Stream.

5.141. Importantly, the Appeal Site is not designated for its landscape character or quality.

5.142. Views of the Appeal Site are available from parts of the town to the west and for a short section of Bird in Eye Hill when adjacent to the Site.

- 5.143. The landscape-led design will provide housing in the northern part of the site only, while protecting and retaining the vast majority of the existing woodland, trees and hedgerows. The illustrative layout provides a wide viewing corridor to the Grade II Listed Oast.
- 5.144. The new housing would be set away from the Ancient Woodland and veteran trees, beyond a buffer of approximately 50m.
- 5.145. Open, landscaped areas are to be retained either side of the retained hedgerow and tree belt. These areas will be part of the extensive new public open space around the housing parcels. Trees are proposed to be planted, for amenity value as well as for biodiversity benefits, within the open space. Street trees will provide visual and wildlife connectivity between the streets and public open space.
- 5.146. In addition, the large area of SANG will provide a significant resource for the future occupants of the Scheme, and residents in Uckfield. It will also provide biodiversity benefits.
- 5.147. Section 3 to [REDACTED] Statement states in relation to the landscape components of the Appeal Scheme as follows:
- Housing in the western part of the Site to be set back from the steeper slopes on the valley side in order to allow open views to the Oasthouse;
 - New landscaping on the valley sides will have an informal character and will include areas of meadow grassland. A Locally Equipped Area of Play will also be provided. All existing high and moderate quality trees and hedgerows are to be retained and enhanced. A SANG will also be provided in the eastern part of the Site and on the lower slopes to the south and west. The SANG will also include a 2.5km walking route.
- 5.148. Section 5 of [REDACTED] Statement summarises the acceptability of the Appeal Scheme in landscape terms.
- 5.149. It is evident from the above that landscape considerations have been an integral element of the design process, including for the reasons explained in the accompanying LVIA (**CD1.15**).

5.150. As paragraph 6.6 of the LVIA concludes, “*Beyond the Site itself, landscape / townscape effects will be very limited due to the Site’s visual containment.*”

5.151. I consider the Appeal Scheme satisfies the requirements of saved policies EN8, EN12, EN13, EN14, EN27, TR13, LR1 and LR3, as well as Core Strategy Spatial objective SPOo13, and Core Strategy policies WCS12, WCS13.

5.152. For the reasons I explain above, there is an absence of landscape harm, which is a neutral factor in my planning balance.

(vi) Ecology

5.153. As I explained in section 1 above, and as agreed in **CD4.1** and **CD4.4**, the Council is not objecting to the Appeal Scheme in ecological or ancient woodland grounds.

5.154. **CD4.4**, paragraph 4.1(11) and 4.1(12) confirms WDC’s position as follows:

*11.The impact of the Scheme in ecological terms, including on account of the additional surveys included at **CD13.1**, **CD13.2**, **CD13.3** and **CD13.4**, is acceptable.*

12.It is accepted that the totality of the package of works on the Ancient Woodland, including:

- *Securing the buffer zone to the Ancient Woodland as per the landscape plan and SANG layout plan*
- *the closure and blocking off of the existing path in the Ancient Woodland*
- *the wider management of the Ancient Woodland*
- *the delineation (and exclusion) of the root protection area to the T6 veteran Ash tree by post and rail fencing)*

all to be secured in the s106, results in no overall harm to the irreplaceable habitat and the ecology within it.

5.155. Notwithstanding the agreed position reached with WDC as to the acceptability of the Appeal Scheme in ecological and ancient woodland terms, third-party representors continue to object.

5.156. Their objections have been comprehensively addressed by Ms Alexia Tamblyn in her Statement appended to my evidence at **SB1**.

5.157. As Ms Tamblyn explains, third party concerns have been raised with regard to the perceived impacts on ancient woodland, including the degradation of ancient woodland habitats and adjacent habitats and impacts on protected species. Concerns were also raised regarding the loss of existing habitats and farmland. As Ms Tamblyn concludes, the purported impacts are unfounded. Rather, there is potential for benefits in terms of biodiversity gain and the long term management of habitats, that can occur in tandem with the development proposals.

5.158. In terms of the ancient woodland, buffer zones have been created so that there is no built development within 50m of the ancient woodland (other than SuDS), and no footpaths within 15m. As a result, the potential for harm to the ancient woodland (identified by the previous Appeal Inspector) has been removed.

5.159. To assist the Inspector, I reproduce Ms Tamblyn's conclusions from her Statement at **SB1** as follows:

- The habitats found on site are dominated by modified grassland fields, with some areas of hedgerows and an area of lowland deciduous woodland. The site is managed for grazing and silage. There are no naturalised ancient woodland habitat edges and the habitats on site are dominated by grassland which is common and widespread and of limited ecological value.
- The ancient woodland, Bird in Eye Shaw, is located outside the red line boundary. The lowland deciduous woodland is located within the red line boundary. These features are being maintained in situ and are to be enhanced as part of the proposals.
- The ancient woodland will be protected and buffered from any development. There is no direct loss of woodland habitat. Indirect impacts have been mitigated through the design of the site, the 50m buffer from the ancient woodland, opportunities for on site recreation, and buffer planting. No impacts are therefore predicted on the integrity of the ancient woodland.
- It is considered that the design of the site and the mitigation proposed, including sensitive lighting scheme, ensures that species present on site are able to maintain their presence on site in the long term.

- It is considered that there is enough space in the retained and enhanced habitat to support such species and for them to utilise in the future;
- The BNG assessment identified that the development of the site would result in a net gain. This will be achieved through the provision of new habitats such as SUDS, new scrub and woodland planting, a new orchard habitat, new tree planting and species-rich grassland creation.

5.160. For the reasons Ms Tamblyn explains in the BNG Update (June 2025) included at **SB1**, the proposed planting and habitat enhancement result the following net gains:

- A net gain of 18% in habitat units and a 26% net gain for linear features in that part of the Appeal Site proposed to accommodate built form and publicly accessible open space; and
- A net gain of 129% net gain for habitat units and a 26% net gain in hedgerow units for the proposed SANG area

5.161. For the reasons that have been agreed with WDC, and as explained by Ms Tamblyn in **SB1**, the Appeal Scheme is acceptable in ecological and ancient woodland terms.

(vii) Impact on Local Infrastructure

5.162. Matters of detail, including in relation to the likely financial contributions are to be agreed as part of the preparation of a legal agreement.

5.163. Subject to meeting the necessary tests at paragraph 58 of the NPPF, it is considered that the following (which list is not exhaustive as the S106 remains in progress at the time of settling my evidence) will be provided for in a legal agreement:

- i. Affordable Housing (up 35%) (up to 67 dwellings)
- ii. Provision and management of SANG land
- iii. A financial contribution towards the Ashdown Forest SAMM

- iv. Off- site highway improvement works
- v. On-site public open space provision
- vi. Sustainable Transport/Travel Plan

5.164. Wealden District is a CIL Charging Authority and financial contributions will also be secured at the reserved matters stage once the amount of proposed floorspace is fixed.

Summary

5.165. For the reason I have explained, the evidence for this inquiry has addressed the issues raised by the third parties. Accordingly, I have not seen anything in the representations from the third parties that justifies a decision other than approving the Appeal Scheme.

6.0 PLANNING BALANCE

General

- 6.1. This section assesses the significant merits of the Scheme in relation to the three sustainability tests set out at paragraph 8 of the NPPF and clearly shows that whilst there are considered to be some slight adverse impacts, these considerations are plainly incapable of outweighing, let alone significantly and demonstrably outweighing, the many benefits of the Scheme.
- 6.2. Paragraph 9 of the NPPF states (amongst other things) the assessment of the sustainability roles should not be undertaken in isolation, because they are mutually dependent.
- 6.3. A planning balance exercise has been carried out in accordance with the guidance at paragraph 9 of the NPPF and sets out a combined analysis in relation to the sustainability roles (economic, social and environmental).

Economic

- 6.4. The Appeal Scheme satisfies the economic role of sustainability including through the provision of housing to support growth and the associated provision of infrastructure, to be secured through preparation of the S106 agreement and by on-site provision of 35% affordable housing.
- 6.5. The Appeal Scheme generates a series of local and District-wide economic benefits including through (i) construction of the scheme and the range of employment generated as a result; and (ii) the ongoing expenditure from the households purchasing and occupying the new homes.
- 6.6. The principal economic benefits arising from the Appeal Scheme are summarised below:

-
- i. Increased house building in an area where there is an acute need for new housing that in turn drives economic growth further and faster than any industry. In this regard the proposals will contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is being made available in the right place and at the right time to support growth.
 - ii. The provision of up to 190 new homes in the district where there is an established need housing given the demonstrable shortfall in the five year housing land supply position.
 - iii. The Scheme will deliver up to 67 much-needed affordable homes (35%) that will meet identified needs that are otherwise not being met.
 - iv. Meeting general housing needs is a significant benefit, consistent with the Government's objective of significantly boosting the supply of housing.
 - v. For the economy to function, sufficient housing is required in the right locations and at the right time. This site represents a location where there would be no significant impact upon the landscape, historic environment nor on the amenity of neighbouring properties.
 - vi. Based on a multiplier of 3.4 jobs per new home⁸, the appeal scheme for 190 dwellings is estimated to create or support up to 646 direct, indirect and induced jobs from the homes built on the site. In addition to direct and on-site employment, it is widely recognised that the house building industry has a large supply chain.
 - vii. Increased expenditure in the local area will support local FTE jobs.
 - viii. Helping to deliver a significant boost to the local economy through 'first occupation' expenditure of up to ██████⁹. This is expenditure on new furniture and other household goods that residents spend as 'one-offs' when moving into a new home
 - ix. Generating a further significant economic boost of ██████ from residents moving into the District's existing housing stock which were vacated so that the owners could move into the new homes proposed on land south of Bird in Eye, Uckfield. This is a result of the spending on renovations, household goods, removals, surveys, estate and legal fees that are associated with the purchase of existing rather than new homes within the District's housing stock¹⁰.

⁸ See page 8 of the Homes Builders Federation "Economic Footprint of UK Housebuilding" (Sept 2024)

⁹ Research carried out by OnePoll on behalf of Barratt Homes (August 2014) indicates an average spend of ██████ per dwelling – updated at Feb 2025 to ██████ via Bank of England Inflation Calculator.

¹⁰ Research in 2020 by HBF and Knight Frank on "Economic Benefits of housing market activity" shows a contribution per house sale/purchase transaction of ██████. The 2021 Census indicates

- x. In terms of household expenditure, data from ONS Family Expenditure Survey (FYE 2023 Edition) shows that the 'average UK household spend' is █████ per week (Table A33) (or █████ per year), whereas in South East England it is 16.4% higher than the UK average (Table A33). This means average weekly spend per household is █████ (or █████ per annum). For the appeal scheme at Bird in Eye providing up to 190 dwellings, the total gross expenditure is estimated to be over █████ per year to the economy. A proportion of this household expenditure is anticipated to be spent in local shops and services and will help sustain the existing services in Wealden District including those in Uckfield. The expenditure will include that a proportion of that spent on areas including food & non-alcoholic drinks (█████ per week); alcoholic drinks etc. (█████ per week); recreation and culture (█████ per week), household goods and services (█████) and miscellaneous goods and service i.e. hairdressing & beauty treatments (█████ per week).¹¹ Given the current economic challenges facing the UK these are significant economic benefits.
- 6.7. By providing land of the right type, in the right place, and at the right time to support economic growth, the development of up to 190 dwellings on the site satisfies the objectives at paragraph 8 of the NPPF and assists in the aims of the NPPF in helping to build a strong and competitive economy.
- 6.8. This is further emphasised in the Government's November 2011 Paper 'Laying the Foundations: A Housing Strategy for England' where paragraph 11 states *"getting house building moving again is crucial for economic growth – housing has a direct impact on economic output, averaging 3 per cent of GDP in the last decade. For every new home built up to two new jobs are created for a year"*.
- 6.9. The economic benefits are to be accorded **moderate weight** in the planning balance.

that 1,851 households which moved home within the preceding year had lived in the district and were within owner occupied, shared ownership or private rented tenures. This is 17.6% of the 10,509 households which had a different address the previous year. With 65% market homes on the site, the equivalent of 21.7 homes within the wider district will be released through residents moving to the site ($190 \times 0.65 \times 0.176$). The █████ generated per move would be uplifted to █████ taking account of the Bank of England's inflation calculator. At █████ generated per move into an existing home elsewhere in the district, this is an additional boost of over █████.

¹¹ Figures based upon SE Regional data in Table A33

Social

- 6.10. The Appeal Scheme satisfies the social role, in helping to support strong, vibrant and healthy communities, including through providing the supply of housing required to meet identified needs in open market and affordable sectors. This is a significant benefit. In addition;
- 1) Future residents will be within easy walking and cycling distance to a wide range of other uses, including the shops and services in Uckfield town centre.
 - 2) The Appeal Scheme will, to be agreed at the reserved matters stage, provide a range of housing types and size.
 - 3) The Scheme secures high quality residential environment together with extensive SANG land, children's play park and other areas of open space consistent with development plan policy.
 - 4) The Scheme would deliver a policy compliant 35% affordable housing contribution.
- 6.11. The details of the layout and house type design are to be agreed through the determination of a subsequent reserved matters application(s), with the detailed scheme to reflect the particular need for housing at that time.
- 6.12. Any increased pressure upon local services will be mitigated through the planning obligation(s) and/or capital receipts secured through CIL.
- 6.13. Overall, the social benefits of the scheme can be afforded **substantial weight** in the overall planning balance.

Environmental

General

- 6.14. In terms of the environmental role, the Application Site is not located on land designated for its landscape value. The accompanying reports demonstrate that the scheme will not have any material impact on existing ecology and

will in fact significantly enhance the biodiversity characteristics of the Site, resulting in a significant biodiversity net gain of circa:

- 18% in habitat units and a 26% net gain for linear features in that part of the Appeal Site proposed to accommodate built form and publicly accessible open space; and
- A net gain of 129% net gain for habitat units and a 26% net gain in hedgerow units for the proposed SANG area

SANG

- 6.15. The Ashdown Forest Special Protection Area (“SPA”) is designated for the presence of protected bird species, Dartford Warbler and Nightjar.
- 6.16. The SPA is vulnerable to recreational disturbance through damage to the qualifying species’ habitat, and disturbance to ground nesting birds.
- 6.17. The Appeal Site is within a 7km radius from the SPA, which surveys have shown most visitors to the SPA originate from. Without sufficient SANG mitigation, the Appeal Scheme could contribute to additional visitors and recreational pressure to the SPA.
- 6.18. The SANG provisions are agreed with WDC as being appropriate.

Agricultural Land

- 6.19. Paragraph 187(b) of the NPPF ensures, inter alia, that planning policies and decisions recognise the benefits that the best and most versatile agricultural land can bring.
- 6.20. The Agricultural Land Classification Report submitted with the Appeal Application (**CD1.16**) concludes that the Appeal Site is comprised entirely of subgrade 3b agricultural land. As such the loss of such land would not compromise wider agricultural interests thereby complying with the aims of paragraph 187(b) of the NPPF.

- 6.21. I attach limited weight to the harm occasioned by the loss of grade 3(b) agricultural land.

Trees and Woodland

- 6.22. The retention of existing boundary trees and hedges and the areas of ancient woodland around the Site and the sensitive set back of the development will ensure the proposed built form is subsumed positively into the landscape character of the area.
- 6.23. The improvement of the built environment in heritage terms, and the enhancement of the settlement edge through the introduction of a substantial woodland buffer is viewed as a significant benefit of the proposal.
- 6.24. The proposals would deliver sustainable homes allowing the fulfilment of this important objective whilst at the same time moving to a low carbon economy and securing an environmentally sustainable form of new residential development.
- 6.25. On the basis of the above, there are environmental benefits which would arise from the proposals, to which, on balance, **moderate weight** should be attached to in the overall planning balance.

Planning Balance: Harms and Benefits

- 6.26. The planning balance in so far as it relates to harms and benefits is summarised below.

Harm	Weight
Outside settlement boundary	Very limited weight
Loss of Grade 3b agricultural land	Limited weight
Benefit	Weight
Provision of up to 113 market homes	Substantial weight
Provision of up to 67 affordable homes	Substantial weight
Provision of 5% self-build homes (up to 10 dwellings) [as part of the 113 market homes]	Moderate weight
Economic benefits. Creation of jobs during the construction phase and increased spend during the operational phase –	Moderate weight
Provision of BNG in excess of 10%	Moderate weight
Provision of recreational open space and SANG land exceeding requirements.	Moderate weight
Highway safety/accessibility improvements and proximity to local services.	Moderate weight to the locational merits of the Site, enabling residents to walk and cycle to local services and facilities; with the Site located adjoining the principal urban area within the District. As part of this analysis, I include the highway safety and accessibility improvements for existing residents of the area in my weighting of ‘moderate’. This includes (see for further details section 4 of Mr Stevens’ proof of evidence) on account of the cycle/pedestrian link up the Framfield Road, reduced speeds in the B2012, replacing a sub-standard junction at Bird in Eye Farm, MOVA to improve traffic flows in the town centre, a bus contribution and infrastructure improvements.
Heritage	Moderate weight to the increased opportunity to appreciate the Oast, removal of parking from its setting and the provision of a heritage interpretation board.

- 6.27. It is clear from the above summary that whilst there are considered to be some slight adverse impacts, these considerations are plainly incapable of outweighing, let alone significantly and demonstrably outweighing, the many substantial benefits of the Scheme.
- 6.28. My assessment identifies a substantial range of public benefits that clearly and demonstrably outweigh the limited harms I have identified.

7.0 SUMMARY AND CONCLUSION

Development Plan

- 7.1. The Appeal Scheme proposes an outline application for up to 190 residential dwellings (with 35% affordable housing), associated landscaping, informal open space and SANG, with access from the B2102 (all matters reserved except for access) (LPA Ref: WD/2024/1799/MAO).
- 7.2. Development of the Site for up to 290 dwellings (including affordable housing), with associated access, landscaping, recreational space and strategic SANG was previously dismissed at Appeal (Oct 2023) (PINS Ref: APP/C1435/W/22/3307820) (LPA Ref: WD/2021/2198/MAO) (**CD14.1**).
- 7.3. At the time of dismissing the earlier appeal, the development plan was found to be out of date, with the Council also not being able to demonstrate a five year supply of deliverable housing land. These circumstances remain unchanged.
- 7.4. The earlier appeal was dismissed on the grounds of harm to ancient woodland, highway safety, flood risk, and heritage. The changes made in the current Appeal Scheme fully address all of those previous concerns.
- 7.5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement for planning applications to be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 7.6. In this instance, the location of the Appeal Site beyond the settlement boundary for Uckfield as defined in the Local Plan, means the Appeal Scheme is in conflict with the development plan.
- 7.7. For the reasons summarised in Table 2 of my evidence (above), of the policies most important for determining the Appeal, the Appeal Scheme is in conflict with saved Local Plan policies GD2 and DC17 and UC1. It is also

in conflict with Core Strategy policy WCS2.

- 7.8. As I have found that the Appeal Scheme is in conflict with the Development Plan, I have then gone on to assess whether there are any material considerations that justify granting planning permission.
- 7.9. Along with the publication of the revised NPPF in December 2024, the development plan is now out of date in terms of the spatial application of its housing policies, whilst, in addition, the Council is not able to demonstrate a five-year supply of deliverable housing land.
- 7.10. As accepted by the Council, the development plan is not based upon a NPPF compliant assessment of housing need and cannot be said to be up to date in respect of its housing requirement or in relation to policies that seek to restrict development within the defined settlement boundaries.
- 7.11. In the circumstances, the presumption in favour of sustainable development (the tilted balance) at paragraph 11(d) of the NPPF is engaged. This requires planning applications to be approved unless footnote 7 considerations provide a clear reason for refusing development (which they do not); or any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Again, they do not.
- 7.12. This is demonstrably a case where the weight to be attached to conflict with the development plan (on account of the location of the site beyond the defined settlement boundary for Uckfield) can be reduced on account of the need to breach the settlement boundaries identified in the development plan to meet ongoing development needs. The weighty material considerations in favour of the Appeal Scheme are clearly sufficient to outweigh the identified conflict with the development plan policy.
- 7.13. Either of (i) the lack of consistency between the housing requirement and settlement boundaries with the NPPF; or (ii) the lack of a deliverable five year supply of deliverable housing land triggers the presumption in favour of sustainable development at paragraph 11(d) of the NPPF.

7.14. On the basis of the foregoing, whilst under the application of 38(6), there is a *prima facie* conflict with development plan in terms of the location of the Appeal Site beyond the defined settlement policy boundary for Uckfield, the settlement boundaries upon which the spatial policies operate are out of date by virtue of having been drawn to accommodate non-NPPF compliant development needs, quite apart from issues of five-year land supply. All this goes to reduce the weight of any policy breach identified.

7.15. Based on the foregoing, the weight to be attached to the conflict between the Appeal Site and its location adjoining but ultimately beyond the settlement policy boundary for Uckfield is significantly reduced.

Summary

7.16. The benefits are many and manifest, not least the provision of housing and affordable housing when the Country and the District faces a housing crisis, which government policy is seeking to address. The Site is sustainably located and the Scheme will contribute to meeting the substantial need for market and affordable housing in the current five year period.

7.17. When carrying out the overall planning balance, in the context of the presumption in favour of sustainable development at paragraph 11(d) of the NPPF, the material considerations in favour of the Scheme (provision of market and affordable housing, economic benefits, social benefits and environmental benefits) outweigh the conflict with an out of date settlement boundary, heritage harm if (contrary to the Appellant's and Dr Miele's primary case) there is any (which carries great weight); and loss of Grade 3b agricultural .

7.18. For the reasons set out above, the Appeal should be allowed.
